


UNIVERSAL PERIODIC REVIEW SUBMISSION FOR ZIMBABWE

NGO SUBMISSION



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Human Rights Foundation

The Human Rights Foundation (HRF) is a nonpartisan nonprofit organization that promotes and protects human rights globally, with a focus on closed societies. HRF unites people in the common cause of defending human rights and promoting liberal democracy. Our mission is to ensure that freedom is both preserved and promoted around the world.

We focus our work on the founding principles of the human rights movement, those which are enshrined in the 1948 Universal Declaration of Human Rights and the 1976 International Covenant on Civil and Political Rights.

HRF's Center for Law and Democracy (HRF-CLD) promotes legal scholarship in the areas of comparative constitutional law and international law, with a focus on international human rights law.

Introduction

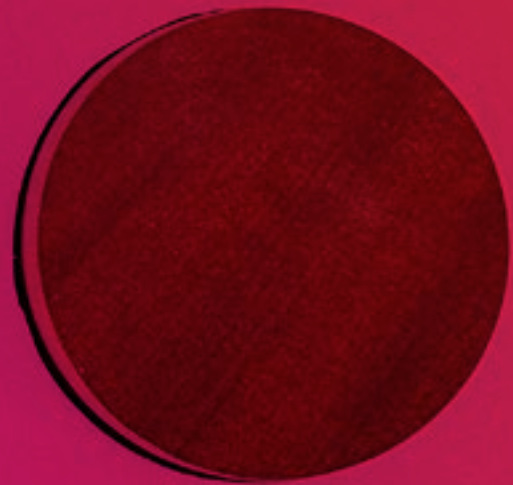
This submission was prepared by HRF, for the Universal Periodic Review (UPR) of Zimbabwe. In this submission, HRF evaluates Zimbabwe's implementation of recommendations made during its previous UPR, as it relates to the current human rights situation in the country, which is characterized by systematic, widespread, and gross violations of human rights, including: arbitrary arrests, detentions, violations of due process, enforced disappearances, ill-treatment, torture, and extrajudicial killings, as well as targeted gender-based violence.

Follow-Up on the Previous Review

1. The most recent UPR of Zimbabwe by the United Nations Human Rights Council took place on November 2, 2016. The Human Rights Council considered and adopted the report on Zimbabwe during its 10th meeting, on November 4, 2016.¹ A total of 263 recommendations were made to Zimbabwe, with the government accepting 154 recommendations and noting 109.²
2. Although Zimbabwe accepted the vast majority of recommendations which covered a range of issues, it has not made significant progress in implementing these recommendations.
3. One of the most common recommendations by UN Member States was that Zimbabwe should ratify particular international conventions and remove reservations to core human rights instruments. Despite the number of States that made these recommendations, critically, Zimbabwe has yet to:
 - a. ratify the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) and the Optional Protocol of the Convention against Torture;
 - b. ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
 - c. ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
 - d. ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
 - e. ratify the International Convention for the Protection of All Persons from Enforced Disappearance (ICPED); and

- f. ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty.
4. As a member state of the United Nations, Zimbabwe has committed to protecting, promoting, and respecting the individual rights and fundamental freedoms laid out in the Universal Declaration of Human Rights (UDHR). Zimbabwe has also ratified the International Covenant on Civil and Political Rights (ICCPR).
5. Zimbabwe's Constitution formally guarantees the protection of several human rights (see *infra Zimbabwe's National Framework For Protecting Human Rights*). However, despite these constitutional guarantees, in practice, individuals in Zimbabwe are routinely subjected to human rights violations, not least by the very existence of laws that criminalize and impinge upon their fundamental freedoms.

ZIMBABWE'S
NATIONAL FRAMEWORK
FOR PROTECTING HUMAN
RIGHTS



Zimbabwe's National Framework for Protecting Human Rights

6. Zimbabwe's Constitution³ contains several key provisions relating to the protection of the fundamental rights and freedoms of its citizens.
7. In relation to the respect for human dignity and protection from inhuman treatment, Zimbabwe's Constitution states in Section 24:

No person shall be subjected to any form of torture, cruel or inhuman or degrading treatment or punishment.

8. In relation to the rights of individuals against arbitrary arrest and detention, Zimbabwe's Constitution states in Section 49:

1. *Every person has the right to personal liberty, which includes the right—*

- a. *not to be detained without trial; and*

- b. *not to be deprived of their liberty arbitrarily or without just cause.*

2. *No person may be imprisoned merely on the ground of inability to fulfil a contractual obligation*

9. In relation to the equal protection of individuals under the law, Zimbabwe's Constitution states in Section 56:

1. *All persons are equal before the law and have the right to equal protection and benefit of the law.*

2. *Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.*

3. *Every person has the right not to be treated in an unfairly discriminatory manner on such grounds as their nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, political affiliation, opinion, custom, culture, sex, gender, marital status, age, pregnancy, disability or economic or social status, or whether they were born in or out of wedlock....*

10. In relation to the freedoms of expression, religion, assembly and association, Zimbabwe's Constitution states:

Section 58. Freedom of assembly and association

1. *Every person has the right to freedom of assembly and association, and the right not to assemble or associate with others.*
2. *No person may be compelled to belong to an association or to attend a meeting or gathering.*

Section 59. Freedom to demonstrate and petition

Every person has the right to demonstrate and to present petitions, but these rights must be exercised peacefully.

Section 60. Freedom of conscience

Every person has the right to freedom of conscience, which includes--

1. *freedom of thought, opinion, religion or belief; and*
2. *freedom to practise and propagate and give expression to their thought, opinion, religion or belief, whether in public or in private and whether alone or together with others.*

Section 61. Freedom of expression and freedom of the media

1. *Every person has the right to freedom of expression, which includes--*

- a. *freedom to seek, receive and communicate ideas and other information;*
 - b. *freedom of artistic expression and scientific research and creativity; and*
 - c. *academic freedom.*
 2. *Every person is entitled to freedom of the media, which freedom includes protection of the confidentiality of journalists' sources of information....*
11. In relation to the right to due process and a fair trial, Zimbabwe's Constitution states in Section 69:
1. *Every person accused of an offence has the right to a fair and public trial within a reasonable time before an independent and impartial court.*
 2. *In the determination of civil rights and obligations, every person has a right to a fair, speedy and public hearing within a reasonable time before an independent and impartial court, tribunal or other forum established by law.*
 3. *Every person has the right of access to the courts, or to some other tribunal or forum established by law for the resolution of any dispute.*
 4. *Every person has a right, at their own expense, to choose and be represented by a legal practitioner before any court, tribunal or forum.*

ZIMBABWE'S POLITICAL BACKGROUND



Zimbabwe's Political Background

12. Zimbabwe declared independence from the United Kingdom in 1979 after a guerilla uprising and lengthy struggle for freedom.⁴ For 37 years, Zimbabwe was led by President Mugabe, until his resignation in 2017.⁵ In spite of international condemnation, President Mugabe rigged the 2002 election to ensure his re-election, and the 2008 and 2013 elections were "severely flawed" and far from free and fair.⁶
13. Similar to other authoritarian regimes, Zimbabwe is a country that combines "democratic rules with authoritarian governance."⁷ On paper, the country is rooted in democratic principles and electoral politics; however, in practice, power is wielded through violence and intimidation tactics. Former President Mugabe was able to consolidate power for his ruling party, ZANU-PF, through the use of brute force and threats, and by subsequently offering presidential amnesty to perpetrators of human rights abuses following the election.⁸
14. In 2017, President Mugabe was ousted in a military coup and replaced by Emmerson Mnangagwa, who won the election on July 30, 2018 amidst a wave of protests. This transition did not, however, change the pattern of persecution and prosecution experienced by human rights activists, dissidents, opposition leaders, and journalists. Although promises of change were made, President Mnangagwa has largely followed in his predecessor's footsteps and has continued to carry out severe and violent crackdowns against political opponents, media that are critical of the government, and other dissenters.
15. The COVID-19 pandemic has served to provide the Zimbabwean government greater allowance with which to stymie opposition, repress the people, and mismanage economist assets. Furthermore, endemic corruption, weak rule of law, and poor protections for workers and land rights continue to plague the nation.⁹

ARBITRARY ARRESTS,
DETENTIONS, AND
VIOLATIONS OF DUE
PROCESS



Arbitrary Arrests, Detentions, and Violations of Due Process

16. The government's campaign to quell dissent and imprison government critics has been revitalized under President Emmerson Mnangagwa,¹⁰ as his administration remains highly intolerant of peaceful dissent and freedom of expression.¹¹ While Section 49 of Zimbabwe's Constitution ensures every person's right "not to be detained without trial" and "not to be deprived of their liberty arbitrarily or without just cause,"¹² other legislation effectively weakens these prohibitions, and abductions, arrests, and detentions have become frequent and systematic. For example, the government has new enforced security laws, such as the Criminal Law Act and the Public Order and Security Act, to arbitrarily arrest and detain political and civil society activists, labor leaders, and journalists perceived as opposing the government.¹³
17. In July 2020, prominent journalist and critic Hopewell Chin'ono and opposition leader Jacob Ngarivhume were arrested after they called for nationwide anti-corruption protests.¹⁴ Chin'ono broke headlines for exposing alleged COVID-19 procurement fraud within the health ministry, concerning 60 million dollars worth of medicine.¹⁵ Both were charged with incitement to commit public violence under the Criminal Law (Codification and Reform) Act.¹⁶ Upon his release, Chin'ono was effectively banned from using social media, and he revealed in media interviews that he had been held in an overcrowded cell in a high-security prison for six weeks.¹⁷ After Chin'ono published a tweet insinuating that the Chief Justice of Zimbabwe, Luke Malaba, had intervened to deny Chin'ono bail, Chin'ono was rearrested in November 2020 for allegedly breaking bail conditions.¹⁸ In January 2021, Chin'ono was arrested for a third time for "communicating falsehoods,"¹⁹ after tweeting that police had beaten an infant to death while enforcing COVID-19 lockdown rules. Police denied the accusation.
18. Award-winning Zimbabwean author and Booker Prize nominee, Tsitsi Dangarembga, was arrested in the country's capital, Harare, during an anti-gov-

ernment protest in July 2020 which condemned government corruption and high levels of economic inflation.²⁰ The government regarded any participation in the protests as participation in an insurrection and cited coronavirus restrictions for banning the demonstration.²¹

19. The Mnangagwa administration has severely cracked down on the major opposition party, the Movement for Democratic Change (MDC) Alliance. In May 2020, activists Cecilia Chambery, Netsai Marova, and member of parliament Joanna Mamombe, were abducted by suspected state agents after participating in a peaceful protest condemning the government's inability to support vulnerable communities during the pandemic.²² They were assaulted and sexually abused, before being left in a remote location. While receiving treatment for their injuries at a hospital, the trio was arrested and charged with making false reports about their abduction.²³
20. On March 28, 2021, plainclothes officers disrupted an MDC Alliance meeting in Raffingora before arresting three party officials accused of violating COVID-19 prevention regulations. MDC Alliance spokesperson Blessing Mandava observed that "it is quite evident the law is being applied selectively to shut out the democratic space and give the regime ample space to manoeuvre without any hindrance."²⁴
21. Pro-democracy activist Makomborero Haruzivishe was sentenced to 14 months in jail, one week after being convicted for inciting public violence and resisting arrest. Haruzivishe is a long-time outspoken critic of Zimbabwe's government who has been jailed three times, the first time for 24 months on a count of incitement, and later, for 12 months, for resisting arrest.²⁵
22. On April 6, 2021, journalist Samuel Takawira was assaulted and arrested while filming a group of police officers outside of Harare Magistrates' Court, where MDC Alliance activist Haruzivishe Makomborero was being sentenced for inciting public violence.²⁶ Zimbabwe Lawyers for Human Rights confirmed that Takawira sustained injuries due to the abuse.²⁷ He was sentenced to 14 months' imprisonment for inciting public violence and resisting arrest.²⁸

ENFORCED
DISAPPEARANCES

Enforced Disappearances

23. The prohibition of enforced disappearances is expressly stated in Article 1 of the ICPED.²⁹ However, Zimbabwe is neither a State Party to the ICPED, nor has any domestic legislation been passed that specifically outlaws enforced disappearances in Zimbabwe, leaving victims of enforced disappearances with no avenues by which to seek justice and reparation.³⁰ In March 2017, the Zimbabwean government rejected several recommendations made by UN Member States calling for the country's ratification of the ICPED.³¹ The State's rejection of the ICPED and other human rights instruments that criminalize enforced disappearances, demonstrates Zimbabwe's lack of political will to reform domestic laws to end enforced disappearances.³²
24. Zimbabwe has a history of enforced disappearances, which remain prevalent in the country. During the 1980s, more than 20,000 people from the Ndebele population were forcibly disappeared by the Zimbabwe National Army.³³ Today, enforced disappearances are frequent in the lead-up to election periods, as a means of terrorizing citizens and opposition parties. During one of the most contested elections in 2008, hundreds of activists were forcibly disappeared, and during the 2013 elections, 30 people were allegedly forcibly disappeared.³⁴
25. Political activists, opposition members, and journalists are frequently targeted with enforced disappearances by state agents. Three female opposition activists and youth leaders from the MDC Alliance, for example, were forcibly disappeared in May 2020 after engaging in anti-government protests during the COVID-19 pandemic lockdown. Joana Mamombe, Cecilia Chinembiri, and Netsai Marova were abducted and detained by unidentified men, tortured, sexually assaulted, and forced to drink each other's urine.³⁵ They were subsequently arrested for "faking" their abduction, and since May 2020, have been arrested and detained several more times.³⁶ Following this incident, the Office of the High Commissioner for Human Rights stated that Zimbabwe has a "pattern of disappearances and torture that appear aimed at suppressing protests and dissent."³⁷

EXTRAJUDICIAL
KILLINGS, TORTURE,
AND ILL-TREATMENT

Extrajudicial Killings, Torture, and Ill-Treatment

26. Zimbabwe has not acceded to the CAT, nor the Rome Statute which established the International Criminal Court's jurisdiction to prosecute individuals for the following crimes under international law: genocide, war crimes, crimes against humanity, and the crime of aggression.³⁸ Furthermore, Zimbabwe has not implemented domestic legislation that explicitly prohibits extrajudicial killings, torture, and ill-treatment.
27. The Zimbabwean government, members of the security forces, the former ruling party – the Zimbabwe African National Union–Patriotic Front (ZANU–PF) – and members and groups allied with the ZANU–PF, continue to commit human rights violations, including extrajudicial killings, torture, and ill-treatment.³⁹ They target supporters of the MDC opposition party, and those who are critical of the ZANU–PF.⁴⁰ Countless survivors of torture and ill-treatment, along with the family members of those arbitrarily killed, await accountability from the Zimbabwean authorities.
28. In July 2017, shortly before former President Mugabe was ousted in a military coup, dissidents, including human rights activists, journalists, and opposition members, were harassed, threatened and/or arbitrarily arrested by the police during protests.⁴¹ Many of these state-sanctioned crimes have not been addressed, and widespread impunity therefore persists.
29. In August 2018, at least six protesters were shot and killed in post-election violence by security forces.⁴² An independent investigation into the events found that security forces had used disproportionate force toward the protesters, while blaming opposition members for inciting violence.⁴³
30. In January 2019, Zimbabwean security forces used excessive and lethal force against protesters during a three-day nationwide protest. The protests were a result of President Mnangagwa's announcement that there

would be a 150 percent rise in fuel prices. Horrifyingly, at least 17 people were killed and at least 17 women raped. In addition, over 80 people were shot and injured, and over 1,000 people were arbitrarily arrested.⁴⁴ The protests were followed by a slew of arbitrary arrests of activists and opposition leaders, many of whom also faced beatings and other forms of torture.⁴⁵

31. In August 2019, Samantha Kureya, a popular Zimbabwean comedian and government critic, was abducted by unidentified armed men, beaten, stripped, and made to drink sewage.⁴⁶ It is believed that Zimbabwean security services were responsible.⁴⁷
32. In September 2019, Dr. Peter Magombeyi, then-leader of the Zimbabwe Hospital Doctors Association, and who spoke up for better salaries for public health workers, was abducted, held in a basement, and tortured by three unidentified men.⁴⁸ The Zimbabwean government accused Dr. Magombeyi of faking his own abduction, in an attempt to prevent him from receiving medical treatment outside of the country.⁴⁹
33. During anti-corruption protests in 2020, security guards raided the home of Mduduzi Mathuthu, a prominent journalist and editor of Zimlive. They also arrested his family members, and tortured his nephew, Tawanda Muchehiwa, who sustained serious injuries, including an acute kidney injury.⁵⁰ Subsequently, the leader of the Zimbabwe National Students Union, Takudzwa Ngadzire, was attacked, assaulted, and kidnapped by unidentified men while speaking at a press conference to protest the torture of Muchehiwa.⁵¹

**GENDER-BASED
VIOLENCE**



Gender-Based Violence

34. At the international and regional level, Zimbabwe is a party to the 1979 CEDAW, the African Charter on Human and Peoples' Rights (ACHPR), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), the African Charter on Rights and Welfare of the Child, and the Southern Africa Development Community Protocol on Gender and Development, among other regional and international instruments that are aimed at ensuring gender equality.⁵² The Criminal Procedure and Evidence Act is one of the main legal mechanisms with which to combat gender-based violence (GBV) in Zimbabwe, though major shortcomings in the law hinder access to justice and effective remedies against GBV.⁵³
35. As a result, GBV is a widespread issue in Zimbabwe: 47% of women in Zimbabwe experience physical or sexual violence, 33% of girls experience sexual violence before they turn 18, and less than 3% of survivors receive professional help.⁵⁴
36. A comprehensive study by the International Commission of Jurists exposed major limitations in the process of reporting cases and convicting perpetrators of GBV.⁵⁵ Police regularly partake in 'judicial stereotyping,' whereby officers ask accusatory questions to shame and blame victims for "putting themselves in a position resulting in abuse."⁵⁶ Furthermore, police officers have openly admitted that they did not want to investigate reports against their own superiors or politically-connected individuals, raising legitimate concerns of a lack of independence and justice in Zimbabwe's police force.⁵⁷
37. Gender-based violence has been exacerbated during the COVID-19 pandemic. According to established organizations such as the Msasa Project and the Zimbabwe Gender Commission, there has been a 50% increase in GBV cases, resulting from a combination of factors, including depleted income, loss of social comfort, and quarantined lifestyles.⁵⁸ Gender expert Sibisiwe Bhebhe, of the Bulawayo-based Women's Media for Development Foundation, noted that, within the context of pandemic-related economic

problems in Zimbabwe, men have violently “vent[ed] out their frustrations on women and children they live with.”⁵⁹ While women and girl-child victims are in lockdown with their abusers, they find little relief from domestic violence. Their suffering is compounded by the fact that domestic violence response centers have reached their capacity in Zimbabwe, and the government has failed to properly respond to this growing GBV crisis linked to the pandemic.⁶⁰

RECOMMENDATIONS



WE WANT
BETTER
REFORM
OUR
INSTITUTIONS



#FREE OUR
JOURNALISTS
WE WANT A BETTER
ZIMBABWE
FOR ALL

Recommendations

38. HRF calls on Zimbabwe's government to:

- a. Protect, respect, and promote, without reservation, the rights of all individuals to freedom of expression and association, and ensure that activists, journalists, and opposition groups can operate peacefully and safely within Zimbabwe, without fear of retribution in the form of censorship, harassment, arbitrary arrest and detention, torture, ill-treatment, extrajudicial killings, and enforced disappearances, among other types of punishment;
- b. Commit to ratifying critical international human rights instruments, including, but not limited to: the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and the Optional Protocol of the Convention against Torture; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; and the International Convention for the Protection of All Persons from Enforced Disappearance ICPED;
- c. Protect the due process rights of every accused person to a fair, speedy, and public trial;
- d. Ensure that, absent compelling evidence of criminal conduct, individuals who have been arbitrarily detained, in violation of their rights to freedom of expression and association, are released, and that those in detention receive humane treatment;
- e. Allow the African Commission on Human and Peoples' Rights Special Rapporteurs on extrajudicial killings, freedom of expression, and access to information, to conduct unannounced and unobstructed site visits;
- f. Strengthen its commitment to gender equality, including by:
 - i. addressing gaps in domestic legal mechanisms (e.g., the Criminal

RECOMMENDATIONS

- Procedure and Evidence Act) to improve GBV victims' access to justice and effective remedies against GBV;
- ii. addressing widespread limitations in the process of reporting cases of GBV and convicting perpetrators of GBV, including ending judicial stereotyping and the frequent failure to investigate reports against police force members and politically-connected individuals;
 - iii. increasing access to professional support services for survivors of GBV; and
 - iv. increasing the number of accessible domestic violence response centers, particularly within the context of the COVID-19 pandemic;
- g. Cooperate with regional and international human rights mechanisms by allowing the special procedure mandate holders to carry out an independent assessment of the human rights situation in Zimbabwe and advise the government accordingly; and
- h. Engage in constructive national dialogue with all political, social, and religious groups – particularly opposition groups – in Zimbabwe in order to generate a sustainable solution to ensuring peace and protection of human rights within the country.

ENDNOTES

**#FREE
ZIMBABWE**

*Zimbabwean
lives
matter*

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