Who will defend the human rights defenders?
A report on the harassment of human rights activists in Zimbabwe
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“We declare that the GoZ must ensure the protection of CSO's and HRDs and not impede their legitimate activities which promote and advance implementation and fulfillment of human rights obligations by the state and non-state actors,” Zimbabwe CSOs. 18/01/2013

“We condemn recent attacks against human rights defenders in Zimbabwe, including arbitrary arrests, intimidation and harassment. We are concerned about the crackdown on non-governmental organisations and dissenting voices seen as critical of Robert Mugabe's rule and apparently politically motivated prosecutions, ahead of the elections which are expected to take place later this year,” OCHR, 2013

“The EU Delegation expresses deep concern regarding recent incidents of harassment of human rights defenders, journalists and members of civil society in Zimbabwe... calls on the GoZ to take all necessary measures to ensure that no-one is subjected to harassment or intimidation for addressing human rights issues. The freedom of assembly, association and expression are essential components in any democracy,” EU, 12/11/2012
Introduction

Zimbabwean human rights defenders (HRDs) compliment the role of the state in promotion of human rights. They however go further to demand and seek state accountability on human rights violations. The state has responded to this role by systematically harassing and intimidating them through police summons, disruption of assemblies and protests, police violence, propaganda and slandering, threats of closure, and deterrence from participating in international and regional meetings. This report details and critiques state attacks against HRDs between January 2012 and February 2013, a period during which political parties have been gearing for a referendum and elections. Such attacks demonstrate the need for the protection of human rights defenders, without whom Zimbabwean citizens will be heavily vulnerable to violations. The report illustrates that not only are Zimbabwean citizens at the mercy of perpetrators of human rights violations, but those who try to defend the citizens are also against a more formidable opponent, the state.

Background

Electoral periods in Zimbabwe have always been associated with political violence that has been, with some evidence, shown to be state-sponsored. HRDs have monitored and exposed the role of the state in human rights violations. Court challenges, documentation and representations at regional and international human rights mechanisms have been used to expose the state and make it accountable for human rights violations committed against citizens. For this, the state has in response tried to clamp down on the activities of HRDs in order to muffle their voices and keep acts of violence away from the public glare. Several have been arrested on trumped-up charges that have been thrown out of the courts for lack of evidence. Others have been physically assaulted or intimidated in various ways.

A referendum and national elections are anticipated in 2013. Political violence, designed to cause voter intimidation and perhaps coerce voters to involuntarily opt for a particular political party, has been the norm and is also anticipated. Such violence has
in the past however discredited the electoral outcome and led different stakeholders declaring the results not free and not fair. Political violence, abuse of human rights and lack of respect for the rule of law also led to the international isolation of Zimbabwe and targeted measures against certain individuals and companies responsible for the situation. HRDs have consistently monitored and exposed human rights violations. Fear of exposure and accountability has resulted in spirited attempts by the state to limit or bar the operations of the HRDs and their organisations and whip them to either follow what the political elite wants or stop their work all together. Consequently, harassment, intimidation and persecution under the guise of prosecution, all amounting to state-sponsored violence against HRDs are some of the tactics that have been systematically employed by the state. Understandably, the state has over the years been more cautious about overt political violence especially after the formation of the Government of National Unity. Regrettably one of the resolutions made at the December 2012 ZANU PF people’s conference in Gweru was that the party would ensure that Government enforces the de-registration of errant NGOs deviating from their mandate. Reading between the lines it is apparent that organisations that expose excesses of human rights violations by government are “errant” and “deviating from their mandate”.

The whereabouts of a Zimbabwe HRD, Paul Chizuze, who disappeared under suspicious circumstances in February 2012, is still unknown. This has a chilling effect on other HRDs who operate under similar conditions where enforced disappearances appear to be the norm. Regardless of the formation of the inclusive government and the incorporation of political representation from former opposition political parties in the Justice and Home Affairs Ministries, power and dominance has been retained by the former ruling party, which still retains control of the state security apparatus that has been accused before of committing gross human rights violations against the citizens. Some of the cases in this report illustrate the violations against HRDs.
Attacks of human rights defenders

• On 19 February 2013 the Zimbabwe Election Support Network (ZESN) head offices in Harare were raided by 7 police details from the Law and Order section. The officers led by detective Assistant Inspector Mudyirwa had a search warrant authorizing the police to look for and seize any subversive material, documents, gadgets or recordings and any illegal immigrants.

• On 13 February 2013 Zimbabwe riot police arrested and assaulted nine members of the Women of Zimbabwe Arise (WOZA), who staged a lunchtime protest outside Parliament building in central Harare.

• On 11 February 2013, police besieged the offices of Zimbabwe Peace Project (ZPP)¹ ostensibly searching for illegal entry of goods, persons or communication equipment.

• On 6 February 2013, police arrested two National Youth Development Trust (NYDT) members in Lupane, Matabeleland North Province, and charged them with contravening Section 40 of the Criminal Law (Codification and Reform) Act (Chapter 9:23) for allegedly possessing voter registration receipts.

• On 2 February 2013, ZANU PF aligned youth militia group Al Shabaab threatened human rights defenders Nkosilathi Moyo and Jasper Maposa with death forcing the two to go into hiding in fear for their lives.

• On 14 January 2013 ZimRights Director Mr. Okay Machisa was arrested on fabricated charges of conspiracy to commit fraud, forgery and publishing falsehoods in contravention of section 31 of the Criminal Law (Codification and Reform) Act and committing fraud and forgery in contravention of section 137 of the same Act.

• On 13 December 2012 Leo Chamahwinya and Dorcas Shereni from ZimRights were arrested allegedly for conducting illegal voter registration.

¹ ZPP monitors and documents human rights violations.
• On 23 August 2012 the director of Gays and Lesbians of Zimbabwe (GALZ) was arrested for operating an “unregistered” organization.

• In August 2012 police raided and disrupted the launch of the 2011 LGBTI Rights Violations Report detailing abuses against the gay community in Zimbabwe at the Gays and Lesbians of Zimbabwe offices. A group of 31 male and 13 female members were arrested and assaulted with baton sticks, open hands and clenched fists at Harare police station. The police filed no charges against them.

• On 25 July 2012 the Executive Director of the Forum Abel Chikomo appeared in court facing charges of operating an unregistered organization, despite the Forum having been legally constituted as a common law univesitas.

• On 14 February 2012 Masvingo Provincial Governor Titus Maluleke “banned” the activities of 29 NGOs in the province on allegations that they failed to register their operations with his office.

• In February 2012, the Attorney General filed an appeal requesting the Supreme Court to allow a late appeal by his office against the acquittal of Mr. Alec Muchadehama and Ms. Constance Gambara, arising after they allegedly unlawfully secured Mr. Muchadehama’s clients’ release on bail. Mr Muchadehama represented victims of state-sponsored abduction and torture Ms. Jestina Mukoko, (Executive Director - ZPP and board member of the Zimbabwe Human Rights Forum) and Mr. Andrison Manyere, freelance journalist, in 2009.

• Throughout 2012 police repeatedly arrested members of Women of Zimbabwe Arise (WOZA) as they conducted peaceful protests related to human rights and the economic situation.

Analysis

All violations or attacks against HRDs appear to be state sponsored, or at least state complicit is apparent. Government appears to be bent on stopping human rights monitoring and evidence-based generation of information on human rights violations. The CSU, which provides medical and psychosocial support to victims of organised
violence and torture, seems to have been targeted because it forms part of the NGO evidence-based approach in collecting, verifying and acting on cases of human rights violations. This evidence is incriminating to government. Victims assisted by the CSU are referred to other organisations for public interest litigation where they can sue the perpetrators for, among other things, loss, pain and suffering. The harassment of the Zimbabwe Human Rights NGO Forum, also an evidence-based NGO in collecting, verifying and acting on cases of human rights violations, is similarly an act of intimidation designed to curb exposure of the state’s excesses in human rights violations. Successive legal victories against the state on human rights violations cases have exposed its role in political violence. The raids are clear attempts aimed at deterring HRDs from assisting victims and dissuade them from asserting their rights. The vulnerability of HRDs to attacks instills fear, which will cascades to members of the Zimbabwean community that counts on the assistance of these defenders to protect them from violations. Fear restricts public participation in governance and the capacity of citizens to demand transparency, accountability and fulfillment of their rights from government.

HRDs, although vulnerable to human rights violations like other citizens have a vantage point in that they have enhanced awareness of human rights and how to claim them\(^2\) and any attack on HRDs attracts more attention from the press and human rights watchdogs. Such attention is unwanted by the state. Like other individuals HRDs are capable of violating the law and are not immune to questioning and arrests by law enforcement agents. The timing and manner of their arrests raises questions. The prosecutions of HRDs against charges that appear fabricated almost always get thrown out of the courts, although the arrested defenders would have endured lengthy periods on remand. Such patterns suggest the state is antagonistic to HRDs and is abusing resources at its disposal, law enforcement and manipulation of the justice system. In fact, this is mere persecution in the name of prosecution. As argued in an earlier Zimbabwe Human Rights NGO Forum report “Treatment of human rights defenders: a

\(^2\) legal support and litigation assistance is more readily accessible to human rights defenders
key benchmark to the credibility of forthcoming referendum and elections”, government actions are a warning to both organised and general civil society that the elections will be carried out according to its own terms and dictates, and fear will as always be instilled into the electorate.

The raids on CSOs and arrests of HRDs in January and February 2013 appear to be part of a “massive crackdown” on the NGO community in Zimbabwe following resolutions made at the ZANU PF People’s Conference held in Gweru in December 2012. This calculated and persistent onslaught on HRDs by the state bodes ill for HRDs in Zimbabwe. Not only is the state abdicating its responsibility to protect and promote human rights, it is actively violating human rights and attacking those who are trying to ensure there is respect for fundamental liberties. The question then is, who will defend the human rights defenders?

Who will defend the human rights defenders?

The government, the public, human rights institutions and stakeholders that include the media and the community of human rights defenders, can and ought to defend HRDs. Defenders get their mandate from Zimbabweans and the UN Declaration on HRDs. Zimbabweans similarly have the duty to defend HRDs and the following recommendations can be made for specific actors:

The Government of Zimbabwe

Political parties in government can seek for accountability and transparency in human rights and promote the efficient and non-partisan functioning of institutions that promote and protect human rights. As demanded by Zimbabwe CSOs in a joint statement after the arrest of Okay Machisa, the Government of Zimbabwe should urgently take measures to ensure the protection of CSO’s and HRDs and not impede their legitimate activities, which promote and advance implementation and fulfillment of human rights
obligations by the state and non-state actors

The Zimbabwean public

Communities should engage in monitoring of human rights, participate in governance issues, and collaborate with human rights defenders and express disapproval through forums available to them when agents of the state violate the rights of human rights defenders and community members alike.

Human rights defenders
Under the ethos “United we stand and divided we fall”, the HRD community should express solidarity with other human rights defenders under siege.

Human rights institutions
These should be responsive to the communications submitted to them by human rights defenders and act accordingly within their mandates to promote and protect the human rights of HRDs.

Violence perpetrators
These should acknowledge the dignity of fellow beings and the sacred nature of life, appreciating that immunity from prosecution is temporary because the arm off the low has a long reach.

The media
The media should capture and keep the public focused on violations against HRDs.

Conclusion
Zimbabwe HRDs have provided a pulverized citizenry with hope, a sense of protection and opportunities for redress against consistent state sponsored human rights violations. The state has ineffective checks and balances to contain human rights
violations. In the absence of HRDs the state would have free reign to commit human rights violations. Consistent attacks on defenders have effects on their operational viability and motivation. The crackdown on defenders is designed to alienate citizens from their only source of hope and assistance and it is the responsibility of all interested in the rights of Zimbabweans to play their part. It is anticipated that such attacks will be unceasing and the vigilance and solidarity of all HRDs is essential for non-state actors to remain active and committed to the human rights cause.