

HUMAN RIGHTS VIOLATIONS

Women's rights to be free from violence are enshrined in various human rights treaties. Under these treaties, some of the rights to which women are entitled include; life, liberty and security, freedom from torture and cruel degrading or inhuman treatment or punishment. In line with its international obligations, Zimbabwe ratified CEDAW in 1991. Zimbabwe is party to the ACHPR, which in article 18 calls on all member states to ensure the protection of the rights of women in Africa. The government can be commended for signing the domestic violence bill into law but the law does not protect women against politically motivated gender violence.

The police assaulted and fought running battles with the people who had gathered to for a prayer meeting and arrested the leaders of the two MDC factions and other people who were at the prayer meeting, Grace Kwinjeh, and Sekai Holland were also among the people who were arrested, there by violating their freedom to assemble. The arrested people were also tortured in the police cells and sustained serious injuries.

The assaults raise fundamental questions on the extent to which an individual can exercise her democratic right to affiliate and work within a political party of her choice. There is still a lot of intolerance for different political views, and the onus is on all members of the police force to foster a culture of political tolerance, as this case manifests a lack of it.

Further, of significance is that violence is perpetrated against women in both the domestic and public spheres. Gender based violence is a serious violation of women's rights and dignity and cannot be tolerated in whatever form or whatever level. Women must be treated with respect in their private and public lives and this kind of brutality on woman is uncalled for.

It is worrying that the few women who brave the patriarchal political environment to exercise their political rights are subjected to such abuse. It instills fear in and discourages those interested to contest for political office.

Women's fight for representation in decision-making positions at the political party and parliament levels is always a tough one. It is with this in mind that we are deeply concerned with violent behavior as it reduces women's involvement in political processes at a time when we are fighting for equal representation and participation.

The fact that it is the members of the police force, who are supposed to protect these women as citizens of Zimbabwe, who perpetrated the assault shows that there is something wrong.

It saddening to note that woman such as the wife of Gift Tandare, an MDC activist, who was shot by the police at the time he was exercising his fundamental rights of association and assembly, lost her husband after the police, for standing for what he believed in, shot him. Nelson Chamisa's partner was also emotionally disturbed due to her husband's brutal and barbaric attack by the so-called unknown people at the Harare international airport. Sekai Holland was first hit in the face, her glasses being smashed, then a woman repeatedly jumped on her with booted feet - fracturing or breaking three of her ribs. Her clothes were covered in blood both her own and that of others suffering the same brutality she sustained multiple fractures and a ruptured bowel due to severe blunt trauma to the abdomen and because of that She passed out several times. Grace Kwinjeh had her right ear lobe split, she also sustained serious bruises on her body and 12 women from Mufakose were arrested and others who had come to visit their relatives and give them food were also arrested and assaulted. As is if that was not enough 2 women had a miscarriage due to the brutal treatment they received whilst in cells. The injuries sustained by these women were worsened by the denial of timely access to medical treatment by the police, which led to an infection of deep soft tissue on Sekai's left leg. This kind of treatment to women and other activists who were assaulted is inhuman and degrading and it is against this background that we say it is uncalled for and the torturers should be brought to book

The state, through its enforcement agents, created conditions of brutality; reportedly subjected those arrested to torture and denied them access to their lawyers and to medical assistance, despite a high court order that access should be granted. Torture is absolutely prohibited under the international law and there is no basis whatsoever for the authorities in Zimbabwe to resort to it.

It is not at all clear what offence the leading civil society activists and the leadership of the opposition, have committed. What is known is that they attempted to attend a prayer meeting for the country at Zimbabwe Grounds, in Highfield. It is unbelievable that people who are concerned about their country should be arrested, assaulted and tortured simply for daring to exercise their Constitutional right to assemble and pray for their country.

The ban on political rallies is an affront to the right to freedoms of expression, association and assembly. Article 21(1) of Zimbabwe's constitution guarantees political choice to all Zimbabweans *"no person shall be hindered in his freedom of assembly and association ... and in particular to form or belong to political parties or trade unions or other associations for the protection of his interests"*.

More so, The African Commission on Human and People's rights which Zimbabwe signed and ratified, has argued in a case, which although dealing with the specific question of freedom of expression, states a principle of general application, which deserves to be quoted at length. *"Governments should avoid restricting rights, and have special care with regard to those rights protected by constitutional or international human rightsto allow national law to have precedent over the international law of the charter would defeat the purpose of the rights and freedoms enshrined in the charter. International human rights standards must always prevail over national law."*

The banning of all political meetings for a period of three months is unconstitutional, as the Zimbabwean law gives no general authority to the Minister of Home Affairs to do this. The Public Order and Security Act [*Chapter 11:17*] only entitles the regulating authority (i.e. the officer commanding a police district), if he believes on reasonable grounds that the normal powers vested in the police to regulate public gatherings will not be sufficient to prevent public disorder being occasioned by the holding of public demonstrations or any class of public demonstrations in the area under his command or any part of that area, he may issue an order prohibiting, for a period not exceeding three months, the holding of all public *demonstrations* or any class of public *demonstrations*. In other words, the authorities are only entitled, in very limited circumstances, to ban demonstrations. There is no general power to ban meetings. It cannot be truthfully said in respect of every single police district in the country that there is any reasonable need to prohibit all demonstrations for three months. By arrogating to themselves the powers which they do not legally possess, the authorities are therefore causing or at least contributing to a tense situation and thus causing unnecessary loss of life, as well as trampling on the constitutional rights of the people of Zimbabwe to assemble freely for the purpose of expressing their opinions.

The use of live ammunition in this circumstance was uncalled for and must be presumed to have been deliberate. In a normal society the police do not use live ammunition against citizens and residents exercising their democratic right to freedom of assembly and expression. [*Constitution of Zimbabwe*]

The use of assault, torture and other forms of violence against people in police custody is in contravention of the Constitution of Zimbabwe [*Article 15*], the Police Service Charter and all known human rights norms. Many of the people who were arrested sustained serious injuries, and some of them were denied medical attention and treatment after they had been tortured and assaulted. It was agreed that it was essential to evacuate Sekai and fellow MDC activist Grace Kwinjeh from hospital in Harare to South Africa, where the atmosphere was calmer and safer and where medical facilities were better

than in Zimbabwe. Arrangements were therefore made for them to be taken by air ambulance from Harare airport to Johannesburg. When they got to the airport their ambulance drew up next to the aircraft on the tarmac and there, they were met by members of the CIO (Central Intelligence Agency) who refused to allow them on board. Discussions with their lawyer followed, but he was told that the injured women required a clearance letter from the Minister of Health before they could leave the country. That of course was a total fabrication as there is no such provision in the law or indeed in practice. The ambulance was ordered to proceed under police escort to the Central Police Station. This is abhorrent in any society, let alone one, which claims to be a democracy.

The refusal by the police to allow access to the arrested people by their legal practitioners and their families until so ordered by the courts [*In contravention of the Constitution of Zimbabwe, Article 18*] shows that the police are being used by the Government to fight its political battles with its rivals. This is unacceptable and is an indicative of a Government that has absolutely no respect for human rights and is not even attempting to adhere to common standards of decency and morality.

In concert with the United Nations' International Women's Day whose theme is Ending Impunity For Violence Against Women and girls, the government should be diligent in investigating and bringing to book those who perpetrated violence against women.

For the avoidance of doubt we wish to state that the allegation that the leaders of the SAVE ZIMBABWE CAMPAIGN and their supporters were engaged in some unlawful activities is no justification for the use of torture. The purported ban of all political rallies by the "regulatory authorities" in terms of the Public Order and Security Act are illegal on the grounds that these regulatory authorities have exceeded the powers that are given to them by the Act.

We implore the government of Zimbabwe to ensure that all those who have committed human rights violations against women and men in breach of the Zimbabwe Constitution and international Human rights standards and norms while serving in any capacity in the police, army, CIO or any other uniformed forces or state agencies should not be allowed to continue serving as members of those agencies