



**Zimbabwe – Researched and compiled by the Refugee Documentation Centre of Ireland on 10 January 2019**

**Information on the treatment of persons arrested for expressing politically motivated views. Is it the practice that detainees are placed in jail without food, water or light prior to charges being brought?**

The 2018 Bertelsmann Stiftung report for Zimbabwe, in a section titled “Rule of Law”, states:

“In 2016 street protests and demonstrations against the mismanagement of government became more frequent and were encountered with baton sticks, tear gas and water cannons. The Human Rights NGO Forum registered more than 100 cases of arrests, severe beatings, abductions, torture and sexual assault. Civic activists were given injections of an unknown substance, some were given electroshocks and others were detained without access to medical treatment.” (Bertelsmann Stiftung (2 January 2018) Bertelsmann Stiftung's Transformation Index (BTI) *2018 Country Report – Zimbabwe*, p.17)

The 2017 US Department of State country report for Zimbabwe, in a section titled “Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment”, states:

“According to NGOs, security forces assaulted and tortured citizens in custody, including perceived opponents of ZANU-PF. Throughout the year police used excessive force in apprehending, detaining, and interrogating criminal suspects. In some cases police arrested and charged the victims of violence instead of the perpetrators. During the military intervention in November, political opponents of President Emmerson Mnangagwa alleged that military forces arrested, detained, and tortured them at military facilities.

Human rights groups reported security agents and ZANU-PF supporters continued to perpetrate physical and psychological torture. Reported torture methods included beating victims with sticks, clubs, whips, cables, and sjamboks (a heavy whip); falanga (beating the soles of the feet); solitary confinement; and sleep and food deprivation.

According to one NGO, from January through July, 254 victims of organized violence and torture sought medical treatment and counseling after sustaining injuries in separate incidents across the country. The NGO reported the Zimbabwe Republic Police (ZRP) was responsible for 45 percent of the violations, while ZANU-PF supporters were responsible for 42 percent of the violations. Nearly 39 percent of the cases occurred in the capital, Harare. Although the majority of victims did not indicate their political affiliation, more than 43 percent of all victims associated themselves with the Movement for Democratic Change-Tsvangirai (MDC-T) or other opposition political parties.” (US Department of State (20 April 2018) *2017 Country Reports on Human Rights Practices – Zimbabwe*, p.3)

In a section titled “Prison and Detention Center Conditions” this report refers to information provided by the Zimbabwe Prison and Correctional Services (ZPCS) as follows:

“According to the ZPCS, remand prisons were overcrowded. Authorities often held pretrial detainees with convicted prisoners until their bail hearings. Due to fuel shortages, the ZPCS was at times unable to transport pretrial detainees to court hearings, resulting in delayed trials.

Food shortages were widespread but not life threatening. Prisoners identified as malnourished received additional meals. The harvest of prison farm products provided meals for prisoners. Prisoners had limited access to clean water.

Poor sanitary conditions contributed to disease, including diarrhea, measles, tuberculosis, and HIV/AIDS-related illnesses. Lighting and ventilation were inadequate. There were insufficient mattresses, blankets, warm clothing, sanitary supplies, and hygiene products.

Prisoners had access to very basic medical care, with a clinic and doctor at nearly every prison. In partnership with NGOs, the ZPCS offered peer education on HIV/AIDS. The ZPCS tested prisoners for HIV only when requested by prisoners or prison doctors. Due to outdated regulations and a lack of specialized medical personnel and medications, prisoners suffered from routine but treatable medical conditions such as hypertension, tuberculosis, diabetes, asthma, and respiratory diseases. Due to fuel shortages, the ZPCS was at times unable to transport prisoners with emergency medical needs to local hospitals.

Those detained for politically motivated reasons were held at police stations for days while their court dates or bail hearings were pending.” (ibid, pp.5-6)

See also section of this report titled “Political Prisoners and Detainees” which states:

“There were reports of individuals arrested for political reasons, including opposition party officials, their supporters, NGO workers, journalists, and civil society activists. Authorities held many such individuals for one or two days and released them. Political prisoners and detainees did not receive the same standard of treatment as other prisoners or detainees, and prison authorities arbitrarily denied access to political prisoners. There were reports police beat and physically abused political and civil society activists while they were in detention.” (ibid, p.12)

The 2018 Freedom House report for Zimbabwe, in response to the question “Does due process prevail in civil and criminal matters?”, states:

“Due process protections contained within the constitution are not enforced. Security forces frequently ignore basic rights regarding detention, searches, and seizures, and accused persons are often held and interrogated for hours without legal counsel and without being notified of the reason for their arrest. Following the events in November 2017, several high-profile figures aligned with Mugabe were arrested and detained, with military officials refusing to

disclose the charges against them and in some cases, where they were being held.” (Freedom House (15 March 2018) *Freedom in the World 2018 – Zimbabwe*)

A Voice of America Zimbabwe Service news report states:

“Mthwakazi Republic Party (MRP) youth, who protested at the Zimbabwe International Trade Fair in Bulawayo while President Emmerson Mnangagwa was attending a church service saying he was part of the Gukurahundi massacres of the 1980s, were on Sunday allegedly beaten up by armed soldiers and police.

According to MRP spokesperson, Mboniso Gumbo, the 10 youth were detained at Brady Barracks before they were dumped at Bulawayo Central Police Station.

“Mthwakazi Republic Party youths have been removed from the Brady Military Barracks (and taken) to Bulawayo Central Police Station, but they are badly injured. The police insist that they are detaining them and charging them with breach of peace.” (Voice of America Zimbabwe Service (1 January 2018) *Zimbabwe Soldiers, Police Beat Up 10 Protesting Mthwakazi Republic Party Activists*)

A report published by the Zimbabwe Peace Project, in a section titled “Provincial Highlights” (Harare) states:

“It is alleged that former University of Zimbabwe (UZ) Student Representative Council (SRC) president Tonderai Dombo was detained at Mabvuku police station on 12 January for mobilising and organising a demonstration against fees hike at Mabvuku high school in ward 5. Reports are that Dombo and his pressure group titled the , ‘Enlightened Few’ (EF) organized a demonstration at Mabuku High demanding a reduction of the intake fees for form one students which was pegged at \$400. During the demonstration about 6 unidentified police officers reportedly arrived in a vehicle and took way Dombo to Mabvuku police station for questioning. In a telephone interview Dombo said the officers harassed and detained him for hours before he was referred to Harare Central police station to pay a \$15 fine.” (Zimbabwe Peace Project (ZPP) (7 February 2018) *Human Rights Violations Monthly Monitoring Report: January 2018*)

A report from the Zimbabwe Human Rights NGO Forum states:

“The Zimbabwe Human Rights NGO Forum (the Forum) condemns in the strongest terms the detention and torture of Evans Gogo (33) at the hands of the police following the violence that rocked Harare Central Police Station, leading to the shooting that claimed two lives on 23 February 2018.

Gogo was severely assaulted by the police on the head, privates, under the feet, legs, back and was then taken to Parirenyatwa Hospital on the 24th of February.

While still critically ill, police transferred him to remand prison where he was not receiving adequate medical treatment.

His mother, Eustina Gogo, his sister Charity and relatives had to buy him diapers, milk and tubes that were being used to feed him milk as he could not eat, sit, talk or walk.” (Zimbabwe Human Rights NGO Forum (10 March 2018) *ZRP Torture Victim Battles for Life*)

An article from UK newspaper The Guardian states:

“Security agencies continued a crackdown on opposition activists in Zimbabwe on Sunday, less than three days after historic presidential elections won by Emmerson Mnangagwa, the leader of the ruling Zanu-PF party.

Human rights groups reported dozens of abductions, beatings and rapes carried out by unidentified men overnight in the centre and north-eastern areas of the former British colony.

The wave of repression began on Friday night with the army moving through neighbourhoods in Harare, the capital, and satellite towns, targeting supporters and officials of the opposition party, Movement for Democratic Change (MDC). An MDC spokesman said thousands of its members were now in hiding.

‘The nature of an abduction means we can’t tell who has gone, but we have lots of people missing. We have helped five people who narrowly escaped abduction to flee Zimbabwe. Others we are hiding in safe houses. There is intimidation and atrocious treatment of people who they catch,’ Nkululeko Sibanda, an MDC spokesman, said.” (The Guardian (5 August 2018) *Zimbabwe opposition face wave of detentions, beatings after election loss*)

A report from Human Rights Watch states:

“A disturbing pattern is emerging in Harare of masked and unidentified assailants beating, harassing and even abducting people because they suspect the victims know the whereabouts of senior opposition MDC Alliance officials.

For example, on August 5 at around 2 am, six masked men broke into the house of MDC Alliance Youth Chair, Happymore Chidziva. A woman in the house told Human Rights Watch that when she screamed for help, one of the men pointed a rifle at her head and told her to be quiet or risk death. One of the men slapped and kicked her.

The attackers also beat up members of three other families in the house, then abducted two of the men. The masked men put the abducted men in a white double-cab truck and drove them to a secluded place along Masvingo road, then beat and kicked them for an hour before releasing them. During the beatings, the armed men allegedly kept saying, ‘The choice is yours, to tell us where Happymore Chidziva is, or to die.’

Four armed men also stormed the house of Mirriam Mushayi, an MDCA parliament member, in Kuwadzana at midnight on August 5 looking for her, but she was already in hiding. Witnesses told Human Rights Watch that the men allegedly had a list of five MDCA officials they were looking for.” (Human

Rights Watch (7 August 2018) *Abductions, Beatings, & Harassment as Armed Men Hunt for Opposition Officials*)

An article from The Zimbabwean states:

“Reports of arbitrary arrests and beatings by police 11 months into the 'new dispensation'- demonstrate that the Emmerson Mnangagwa led administration has failed to give human rights sufficient priority in its agenda for reform.

Daily running battles of police, vendors and drivers of commuter omnibuses who are being forced out of Harare's central business district (CBD) have brought business to a standstill.

A video clip showing Zimbabwe anti-riot police officers beating a Harare based vendor identified as James Chamisa has gone viral. In the video, baton-wielding riot police officers throw Chamisa into a police truck where he was assaulted by police. Chamisa is currently receiving treatment at a local hospital under heavy police guard.

In a separate incident, CiZC Advocacy Officer, Conrad Gweru was brutalized by armed police who accused him of taking pictures of them assaulting public commuter crews in the capital. He was detained for two nights and is currently out on bail after the State charged him with disorderly conduct.” (The Zimbabwean (11 October 2018) *Police brutality on the rise*)

A report published by the Zimbabwe Human Rights NGO Forum, in a section titled “Pre-trial detention in Zimbabwean prisons”, states:

“Most of the prisons visited by ZACRO and the Forum are custodial institutions meant to house convicted and sentenced prisoners. Therefore, the discussion in this section revolves around the practice at Harare Remand Prison, one of the main places where detainees are confined pending trial. There were numerous discoveries about accused and detained persons who had been held for periods that are way longer than the constitutionally ordained periods of pre-trial detention. The first case involved an inmate who had been arrested in 2007 and had been in remand since then. This means the accused had been on remand for more than 10 years. There were two State witnesses, one of them had passed away and the other one was nowhere to be found. He had a pro deo lawyer whom he alleged that he had last contacted him many years back. The accused person had neither a remand date nor a trial date. The accused did not know what to do with his case given the circumstances, he wanted to apply for bail but his lawyer was slow in responding to this wishes. He last received a relative visitor in 2011 (ZACRO and the Forum, Harare Remand Prison Monitoring Visit Report, 6-7).

The second case involved Lameck Akim, a prisoner who had been in remand for more than seven (7) years, since March 2010. In October 2016, he applied for bail but instead the trial started on November 2016. The matter was then remanded to 7 February 2017, but could not go to court because of fuel challenges. He had a pro deo lawyer, but was not in touch with him. He does not know what happened to his case since he failed to appear on the 7th of February 2017. He rarely received visitors and wished his trial could kick off. The third case involved a prisoner accused of murder who had been in prison

for 6 years 10 months at the time of the monitoring visit. He had a pro deo lawyer as well, but due to fuel shortages experienced by the prison at that time, the accused person failed to appear in court twice. The fourth reported case involved another murder accused inmate, Albert Nherera, who had been in prison for five (5) years. The accused had legal representation, but he alleged that the trial had been postponed since 2015 due to lack of witnesses.

The experiences of the four detained persons interviewed are just a 'tip of the iceberg' as there are hundreds of pre-trial detainees at Harare Remand Prison. There is no doubt that the periods for which many prisoners have been placed in remand violate the requirements set out in the Constitution and standards in international human rights instruments. International and domestic law requires an accused to be brought to court within 48 hours of their arrest and to be detained for a reasonable period of time stipulated by a competent court thereafter. In the case of *S v Tau*, the High Court found that a delay of five years in finalising a trial was due to the State's administrative inertia and incompetence, and could not be attributed to the accused person. Sadly, some prisoners have been in detention for more than 10 years despite international and domestic standards suggesting that they should be released.

In most of the trials that failed to kick off, the reason is often the result of the utter incompetence of the State. As demonstrated above, accused and detained persons continue to be deprived of their liberty as a result of such excuses as the shortage of fuel or the lack of knowledge regarding the whereabouts of State witnesses. In other cases, the witnesses have either died or allegedly relocated to foreign countries. In almost all cases, the reasons for the State's failure to continue with the trial are not attributable to the accused person, but to either the State or other unforeseen circumstances. Yet the accused is made to remain in detention as if he or she were the cause of the circumstances." (Zimbabwe Human Rights NGO Forum (18 October 2018) *Rights Behind Bars: A Study of Prison Conditions In Zimbabwe 2018*, pp.22-23)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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