

BREAKING AWAY FROM THE PAST

A HUMAN RIGHTS MANIFESTO FOR ZIMBABWE'S POLITICAL PARTIES AND CANDIDATES



AMNESTY
INTERNATIONAL



BREAKING AWAY FROM THE PAST

SEVEN RECOMMENDATIONS TO ZIMBABWE'S POLITICAL PARTIES AND CANDIDATES

Zimbabwe will be holding the tripartite presidential, parliamentary and local government elections on 30 July 2018. This is the first election without former President, Robert Mugabe who resigned on 21 November 2017, after 37 years in power. On 24 November, Emmerson Mnangagwa was installed as President after a ZANU PF vote resolved to remove Mugabe as its leader on 19 November 2017 and parliament began an impeachment process against him on 20 November. Mugabe earlier fired Mnangagwa as one of the country's two deputy presidents on 6 November after the party accused him of showing signs of "disloyalty", "disrespect" and "deceit".



Amnesty International has documented a plethora of grave human rights violations during Mugabe's rule. Many Zimbabweans have suffered human rights violations and abuses during the tenure of the previous administration. The human rights violations and abuses resulted in a state of fear and economic collapse that affected Zimbabweans. Amnesty International has documented most of the violations and has campaigned for respect of the right to freedom of expression, association and peaceful assembly, human dignity, and for suspected perpetrators of human rights violations to be held accountable, abolition of the death penalty, an end to enforced disappearances and forced evictions during Mugabe's rule. Violations of human rights forced millions of Zimbabweans to migrate to other countries in search of a better life. Zimbabwe elections in the past have been characterized by human rights abuses, some of which have been documented by election observers.

Ahead of the general elections, Amnesty International calls on Zimbabwe's political parties and candidates to commit to and prioritize respect for, protection and fulfilment of human rights in their manifestos as guaranteed in Zimbabwe's Constitution and international human rights treaties to which Zimbabwe is a state party in building what could be a new dawn for human rights in the country. It is time to make a clean break from the past.

Amnesty International presents this human rights manifesto for action by political parties and political candidates highlighting seven issues that require commitment and urgent attention by them in building a culture of respect for human rights in Zimbabwe.

1. END ENFORCED DISAPPEARANCES, TORTURE AND POLITICAL KILLINGS

For the past 37 years that Robert Mugabe led Zimbabwe, Amnesty International has recorded gross human rights violations. These include the persecution known as Gukurahundi in the early 1980s, where 20,000 people were killed, and enforced disappearances, which have occurred between 1983 to 2015. Mugabe's rule was further characterized by abuses meted out against human rights defenders for demanding human rights, suppression of dissent and the election related violence in 2000, 2002 and 2008. In 2008 alone, more than 200 opposition supporters were killed following the disputed election. On 9 March 2015, Itai Dzamara, a journalist and pro-democracy activist and leader of the protest group, Occupy Africa Unity Square, disappeared in Harare. There was no meaningful investigation by the state and his whereabouts remain unknown. Other activists who were abducted, disappeared or killed for political reasons include Paul Chizuze, Tonderai Ndira, Patrick Nabanyama, Cain Nkala, Talent Mabika, Richard Chiminya and Better Chokururama. Others such as Jestina Mukoko, Justin Mutendadzamera, Hilda Mutendadzamera, Remember Moyo, Gilbert Moyo, Felix Mazava and Gabriel Shumba were abducted and/or tortured before being released.

Amnesty International urges all political parties and candidates to prioritize and commit to the following recommendations, and make a pledge to deliver these commitments if elected:

RECOMMENDATIONS

- **Set up an independent judge-led commission of inquiry into the disappearance of Itai Dzamara, Paul Chizuze, Patrick Nabanyama and political killings of Tonderai Ndira, Better Chokururama, Cain Nkala, Talent Mabika, Richard Chiminya and others with powers to subpoena witnesses, and ensure that its findings are made public and that those suspected of being implicated are brought to justice in fair trials;**
- **Ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance;**
- **Take effective measures to address past human rights violations, including abductions and enforced disappearances by security agents, with a view to establishing the truth, ensuring access to justice to the victims, bringing suspected perpetrators to account, and providing effective remedies to the victims, including adequate compensation and medical treatment and other support.**

2. ABOLISH DEATH PENALTY

Zimbabwe's Constitution, which now has an expanded bill of rights and has provisions that speak to a break from the past human rights violations, provides an opportunity for Zimbabwean authorities to show their commitment to abolish the death penalty in law.

Amnesty International has consistently called on the authorities to abolish the death penalty for all crimes and join the growing global consensus towards abolition of this ultimate cruel, inhuman and degrading form of punishment.

Amnesty International notes President Mnangwagwa's commutation of death sentences to life imprisonment in terms of Clemency Order No. 1 of 2018 for death row inmates waiting for executions for over 10 years. We urge political parties and candidates to commit to abolition of the death penalty and ratifying the Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty if elected.

While the Constitution of Zimbabwe guarantees the right to life, it also provides for the death penalty. The death penalty is currently legislated for in the Criminal Law (Codification and Reform) Act [Chapter 9:23] and the Criminal Procedure and Evidence Act [Chapter 9:07]. Current statistics show that

no known execution has taken place since 2005. However, death sentences continue to be imposed. On 21 March 2018, a carjacker was sentenced to death for killing a taxi driver in aggravating circumstances. Zimbabwe must head towards joining a progressive trend in Africa where more countries are abolishing this inhuman and degrading punishment in the defence of human rights.

Amnesty International urges all political parties and candidates to prioritize and commit to the following recommendations, and make a pledge to deliver these commitments if elected:

RECOMMENDATIONS

- **Abolition of the death penalty in national legislation for all crimes;**
- **Commutation of all death sentences to terms of imprisonment and establishment of an official moratorium on the death penalty;**
- **Ratification without reservations of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at abolition of the death penalty.**



3. END IMPUNITY FOR HUMAN RIGHTS VIOLATIONS BY SECURITY FORCES

Amnesty International has documented cases of excessive use of force by security forces since 2000. Senior Zimbabwe Republic Police (ZRP) officials have failed to denounce human rights violations by police, particularly beatings, torture and other ill-treatment of detainees at police stations. Amnesty International notes the change of leadership at the ZRP and urges a break from the impunity of the past.

The ZRP officers have in the past applied the law selectively and systematically failed to intervene to stop violence perpetrated by ruling party supporters. Amnesty International has in some cases witnessed political party supporters demonstrating, harassing and beating up people in the presence of anti-riot police. In 2011, a high school student was beaten by ruling party supporters for taking a photograph and a young woman was beaten and stripped for wearing an MDC T-shirt.

The failure to institute investigations into human rights abuses by the police combined with a failure to bring to justice suspected perpetrators within political parties and the state security organizations, creates a culture of impunity in these organizations. Officers from the Criminal Investigation Department, Law and Order Section have subjected human rights defenders, activists and journalists to torture and other ill-treatment, with full knowledge that they will not be held accountable.

On 22 February 2018, Zimbabwean police began enforcing a ban by local authorities on minibuses dropping off commuters in Harare's Commercial Business District, a move aimed at "decongesting" the city. The Ministry of Local Government, Public Works and National Housing later issued orders to halt the operation, sparking confusion that resulted in violence breaking out between the police, minibus operators and members of the public. Two people were shot and

killed during clashes. No arrests of the officers suspected to be responsible have been made.

Amnesty International urges all political parties and candidates to prioritize and commit to the following recommendations, and make a pledge to deliver these commitments if elected:

RECOMMENDATIONS

- Undertake prompt, thorough, independent and impartial investigations of human rights violations, harassment and intimidation of activists by security agents and to ensure that those suspected to be responsible are brought to justice. Members of the security forces found to be responsible for human rights violations should be removed from their posts according to procedures which comply with the requirements of due process.
- Ensure non-recurrence of human rights violations by undertaking a programme of institutional and other reform to ensure respect for the rule of law and to foster a culture of respect for human rights. Prioritize reform of the Law and Order section and the anti-riot unit of the ZRP to ensure that these units are not used to perpetrate human rights violations. A reform agenda should be developed through a process of broad public consultations, including with victims and other sectors of civil society.
- Establish an effective and independent oversight mechanism for receiving and investigating complaints from members of the public about abuse of office, rights violations and ensure effective remedies for any harm caused by such misconduct as provided in section 210 of the constitution.



4. END FORCED EVICTIONS



Despite a provision in the 2013 Constitution that guarantees the right of people against forced arbitrary eviction, forced evictions have continued across the country affecting thousands of households which have lost their homes or livelihoods or both. The government and local authorities continue to evict people without adequate notice, alternative housing, compensation, or due process. The ZRP and municipal police often use excessive force during forced evictions and against protestors. In these circumstances, the victims of forced eviction are driven deeper into poverty in a context of a massively shrinking economy which is limiting the ability of households to access their rights to food, health, education, work and housing.

In December 2015, the government ordered the destruction of houses at Arlington Estates arguing that the Harare International Airport would be extended to that residential area. Enforcing the order that same month, the Harare City Council, in the company of Zimbabwe Republic Police, destroyed the houses of Arlington Estates residents, rendering them homeless.

The government has regularly failed to provide effective remedies to victims of forced eviction, including those affected by the mass forced evictions in 2005. The courts have in some cases come to the rescue. In February 2016, the Harare High Court ruled that the unlawful conduct of the city council and police of demolishing the applicants' houses without notice and without a court order was deplorable and not justifiable. The court however did not order compensation for the Arlington Estate residents. On 1 March 2017, the Bindura magistrates' Court ruled that the forced eviction of farmers from Manzou Farm by the police was illegal. Amnesty International

welcomes the magistrates' court's award of \$30,000 in damages to the 14 farmers forcibly evicted from Manzou Farm. The court ordered the government and the head of the police to pay the compensation ordered.

Amnesty International urges all political parties and candidates to prioritize and commit to the following recommendations, and make a pledge to deliver these commitments if elected:

RECOMMENDATIONS

- **Withdraw all threats of forced eviction by the government and local authorities and adequately compensate those affected by previous evictions;**
- **Declare an official moratorium on mass evictions until all legal and procedural safeguards are in place, as required under international human rights standards;**
- **Undertake a comprehensive review of all cases of forced evictions with the aim of ensuring access to justice and effective remedies for the victims;**
- **Ensure access to minimum essential levels of education, healthcare, water and sanitation, to all Zimbabweans and, victims of forced evictions, including victims of Operation Murambatsvina and the Tokwe-Mukosi flooding in Masvingo, including the provision of humanitarian support;**

5. ENSURE THE RIGHTS TO FREEDOM OF EXPRESSION, ASSOCIATION AND PEACEFUL ASSEMBLY

Since passing the Broadcasting Services Act in 2001, Zimbabwe has failed to issue broadcasting licenses to community radio stations thereby denying millions of people living in rural and urban areas the ability to freely express themselves through the airwaves. Activists campaigning for the licensing of community radio stations have been subjected to harassment and intimidation by state security agents, including during raids of their offices, and in some instances activists have been arbitrarily arrested and detained.

The authorities' failure to license a single community radio station since 2001 despite existence of a legal framework which allows for such licensing constitutes a violation of the right to freedom of expression which is guaranteed in the country's Constitution and enshrined in regional and international human rights treaties to which Zimbabwe is a state party.



The failure to grant licenses to community radio stations by the government undermines the ability of communities to participate in debates of public interest especially on matters that affect them be they social, economic or cultural. Opening the airwaves in Zimbabwe, particularly to include the establishment of independent community radio stations, can have a positive impact on the lives of people, especially the low-income communities in urban and rural areas who have traditionally been marginalized by mainstream media, to freely exchange information and ideas on matters of public interest among themselves through a seemingly cheaper medium that is accessible to them. This will no doubt open the space for communities to articulate issues concerning their constitutional rights and on development matters that can contribute to achieving personal development and prosperity.

Moreover, human rights defenders, journalists and other government critics continue to face arbitrary arrest and detention. Journalists from private as well as state-controlled media houses have been targeted for carrying out their legitimate work, especially after reporting on state security agents and government officials. At least 10 journalists were arrested in 2015 alone. In 2016 journalists faced harassment, arrest and assault while covering protests. The Media Institute of Southern Africa (MISA) recorded assaults on 32 journalists between January and September.

In the past, police have routinely used and abused the Public Order and Security Act to prevent opposition party activists and civil society organisations from convening meetings to discuss human rights and governance issues. The police routinely use the Public Order and Security Act, Access to Information and Protection of Privacy Act and the Criminal Law (Codification and Reform) Act to deny perceived government opponents their rights to freedom of expression, association and peaceful assembly, including by using excessive force to break up peaceful assemblies.

Amnesty International urges all political parties and candidates to prioritize and commit to the following recommendations, and make a pledge to deliver these commitments if elected:

RECOMMENDATIONS

- **Implement Zimbabwe's constitutional and international obligations relating to the right to freedom of expression and the right to information by providing sufficient broadcasting licenses, particularly at the community level, to ensure pluralism of voices;**
- **Conduct prompt, full, transparent and impartial investigations into all reports of harassment and intimidation of activists by security agents with the view to holding suspected perpetrators accountable;**
- **Repeal or amend sections of the Public Order and Security Act, the Access to Information and Protection of Privacy Act and other laws that undermine the rights of human rights defenders to freedom of expression, association and peaceful assembly, in line with the Constitution of Zimbabwe, the International Covenant on Civil and Political Rights, and the UN Declaration on Human Rights Defenders;**
- **Invite the UN Special Rapporteur on Human Rights Defenders to visit Zimbabwe;**
- **Ensure that the right to freedom of expression and right to information are fully enjoyed by all people in Zimbabwe without distinction.**
- **Ensure a fair and simple licensing procedure which does not require stringent technological or other license criteria which disadvantage community applicants for broadcasting services;**
- **Make the Broadcasting Authority of Zimbabwe more autonomous and strengthen it to function without political interference;**
- **Fully and effectively respect the rights to freedom of expression, association and peaceful assembly for all people and human rights defenders campaigning for free airwaves and other human rights in Zimbabwe and allow unfettered access to communities including rural and urban.**

6. COMPLY WITH REGIONAL HUMAN RIGHTS TREATY OBLIGATIONS AND RATIFY KEY HUMAN RIGHTS INSTRUMENTS, INCLUDING THE AFRICAN COURT PROTOCOL

As a member of the African Union (AU), Zimbabwe has ratified three key African regional human rights treaties: the African Charter on Human and Peoples' Rights (African Charter); the African Charter on the Rights and Welfare of the Child (African Children's Charter); and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol). Under these treaties, Zimbabwe has committed to comply with specific human rights obligations and to cooperate with the mechanisms and bodies mandated to monitor compliance with these obligations.

For more than a decade now, Zimbabwe has repeatedly failed to observe its reporting obligations, continuously ignored to implement decisions of regional treaty bodies, and generally refused to allow independent monitors to visit the country to assess the situation of human rights.

Further, in 2016/7 Zimbabwe participated in the Universal Periodic Review and made commitments to address many human rights issues and Amnesty International is monitoring implementation of commitments made in March 2017. However, for more than a decade now, Zimbabwe has displayed disregard for its regional human rights obligations and commitments. It has repeatedly failed to observe its reporting obligations, continuously ignored to implement decisions of regional treaty bodies, and generally refused to allow independent monitors to visit the country to assess the situation of human rights. Amnesty International notes current initiatives to re-engage the international community, including on human rights issues.

Independent human rights monitors, such as African Commission on Human and Peoples' Rights and other human rights treaty bodies have not been consistently allowed to visit Zimbabwe and monitor compliance to its commitments to uphold human rights. The African Commission conducted its last fact-finding mission to the country in 2002. In October 2009, Zimbabwean authorities cancelled a scheduled visit by the UN Special Rapporteur on torture because a delegation of the Southern African Development Community (SADC) was in the country assessing the performance of the government. In July 2005, then Commissioner Tom Bahame Nyanduga of the African Commission, was prevented by the government from completing his fact-finding mission on the impact of forced evictions in Zimbabwe. The government cited alleged procedural irregularities for their actions.

The country has not complied with its reporting obligations under the African Charter and the Maputo Protocol in the past 10 years since October 2006 when it presented its last report. As such, Zimbabwe owes the African Commission more than three overdue reports. Zimbabwe submitted an initial report to the African Committee of Experts on the Rights and Welfare of the Child in 2013.

Although Zimbabwe has ratified the key regional human rights treaties that spell out the rights of individuals, it is yet to ratify the one treaty that would allow such individuals to access a regional human rights court and a couple of treaties that would improve the legal framework that would strengthen the ability of the country to address endemic human rights violations. 20 years after signing the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, Zimbabwe is yet to ratify it and make the declaration allowing individuals and NGOs to directly access the Court. By ratifying the African Court Protocol and making the declaration, the authorities will ensure citizens' access to a regional human rights accountability mechanism.

On 21 March 2018, Zimbabwe signed the African Charter on Democracy, Elections and Governance. Zimbabwe's previous elections were fraught with violence, intimidation, disappearances and extra-judicial killings Amnesty International urges Zimbabwe to ratify the AU elections framework and implement its provisions. Zimbabwe has a significant population of stateless individuals. Most of the stateless individuals are former migrant workers from Malawi, Mozambique and Zambia who were employed on farms and mines in Manicaland and Mashonaland provinces. Most of this group of people were arbitrarily deprived of their nationality after 2000 for political reasons. The second group of people at risk of statelessness are the descendants of victims of Gukurahundi who have failed to obtain documentation due to non-availability of their deceased parents' death certificates.

Amnesty International urges all political parties and candidates to prioritize and commit to the following recommendations, and make a pledge to deliver these commitments if elected:

RECOMMENDATIONS

- **Ensure compliance with reporting obligations under the African Charter, the Maputo Protocol and the African Children's Charter;**
- **Undertake concrete steps to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights and deposit its article 34(6) declaration;**
- **Ratification of the African Charter on Democracy, Elections and Governance and the UN 1961 Convention on the Reduction of Statelessness; and**
- **Ensuring a standing invitation to international and regional human rights mechanisms, including the African Commission and the African Children's Committee to visit Zimbabwe to carry out human rights fact-finding missions.**

7. COMMIT TO PLACING WOMEN AND GIRLS HEALTH RIGHTS AT THE CENTRE OF GOVERNMENT POLICY

Women and girls in Zimbabwe face severe challenges accessing their right to health and education. Amnesty International's 2018 research found that confusion and inconsistencies over the legal ages of consent for health services in Zimbabwe were a barrier to girls' access to vital health information and services, with devastating impact on their health and futures. Zimbabwe's demographic health data reveals that nearly 40% of girls and 24% of boys are sexually active before they reach the age of 18. However, adolescents are not receiving comprehensive sexuality education and are not empowered to take informed decisions about their sexuality and health.

Amnesty International urges all political parties and candidates to prioritize and commit to the following recommendations, and make a pledge to deliver these commitments if elected.

Nearly one quarter of Zimbabwean girls aged 15-19 are currently married or in unions similar to marriage, and this figure increases to 40.2% in rural areas. Many girls risk being forced into marriages by families hoping to avoid the stigma associated with pre-marital sex, or the cost of raising a child. 22% of girls aged 15-19 have begun childbearing, and adolescent pregnancy rates are also more than five times higher among girls in poverty (than in wealthiest quintile) and twice as high among those with only primary education. Adolescent pregnancy also increases the risk of maternal death and injuries, and one fifth of maternal deaths in Zimbabwe occur among girls aged 15-19.

Amnesty International has also found that user fees have grave implications for access to sexual and reproductive health services for marginalized women and girls. Such costs result in major hardships, especially for households who are already vulnerable to poverty. A significant proportion of women without education (50%) and living in poverty (38%) continue to give birth without skilled assistance, putting women and girls at risk of maternal deaths and injuries.

Amnesty International calls on political parties and candidates to commit to increasing the budget allocation to health, education and social security if elected. Zimbabwe's health budget consistently declined since 2012 and in 2017 represented only 8.2% of the total national budget. Zimbabwe is far behind the Sub Saharan Africa average allocation of 11.3% to health, and falls short of the 2001 Abuja Declaration, where Zimbabwe committed to allocating at least 15% of their annual budget to the improvement of the health sector.

Amnesty International urges all political parties and candidates to prioritize and commit to the following recommendations, and make a pledge to deliver these commitments if elected:

RECOMMENDATIONS

- Provide clarification in the Public Health Act and all policies relating to sexual and reproductive health services, education and information, to ensure adolescents have the right to access to sexual and reproductive health information, education and services, irrespective of their age, without parental consent, based on their evolving capacities;
- Enact legislation to prohibit child marriage in all circumstances.
- Increase the budget allocation for health to a minimum of 15%, in line with the Abuja Declaration.
- Ensure sexual and reproductive health services are affordable, especially to adolescents, including by strictly implementing the Ministry of Health and Child Care policies which provide for free maternal health services including antenatal care and skilled birth assistance, and free sexual and reproductive health services, including contraception.
- Ensure the prioritization of the most marginalized sections of the population and the equitable distribution of health facilities, health professionals, goods and services throughout the country, including choices on where to build new facilities.
- Ensure provision of universal free primary education and affordable, accessible and quality secondary school education as per section 75 of the Constitution.

Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

AFR 46/8736/2018