

5 August 2016

STATEMENT

Bar Human Rights Committee express concern over arrest, detention and prosecution of peaceful protesters in Zimbabwe

The Bar Human Rights Committee of England and Wales (BHRC) expresses its grave concern over the recent allegations of arrest, detention and prosecution of peaceful protesters, including those involved in the social media “#ThisFlag” movement in Zimbabwe, as well as the allegations of the use of torture and police brutality against those arrested and detained.

Protest Movement

Zimbabwe is currently experiencing a wave of popular protest. This has included a popular social media movement called “#ThisFlag”, led by Pastor Evan Mawairire.

This has led to a number of “stay-away” protests throughout July, which have caused the shut down of most business, government offices, schools and hospitals in Zimbabwe. The Zimbabwean government, ZANU-PF regime has responded by arresting numerous protesters, including Pastor Evan Mawairire himself.

Video footage has emerged on social media appearing to show police inflicting torture on detained protesters, in the presence of children, by the practice of beating on the soles of the feet. At least 320 people are facing criminal prosecution for offences including “conspiracy to commit public violence”, “disorderly conduct”, “criminal nuisance” and “convening a public gathering without clearance”. At least four children have been arrested and charged with “public violence”.

Kirsty Brimelow QC, Chairwoman of the Bar Human Rights Committee of England and Wales said:

“The Zimbabwean government’s actions of arresting, detaining and prosecuting peaceful protesters undermines Zimbabwe’s own established constitutional protections for freedom of expression, assembly and peaceful demonstration. The arrest and prosecution of children for such offences is particularly concerning.

Reports of torture and police brutality are in breach of Zimbabwe’s own constitution as well as international law. The BHRC calls on the Zimbabwean government to respect its own constitution and to investigate independently and thoroughly any allegations of torture and police brutality”.

The BHRC are gravely concerned by reports that:

- The Zimbabwean police have sought to “ban” proposed peaceful protests and assemblies, resulting in the Courts having to be petitioned almost every time that a group wishes to peacefully protest;
- Threats have been issued by the Zimbabwean government to restrict access to social media platforms such as “Whatsapp”, which has been used to share information and hold the government to account.

Legal Framework

Articles 58, 59, 60 and 61 of Zimbabwe’s recently enacted 2013 Constitution protects the right to freedom of expression, assembly and to peaceful demonstration. Article 62 of the Constitution protects the specific right of access to information.

Article 49 contains the right not to be deprived of personal liberty without a just cause. Under Article 50, a person must be released from detention whilst awaiting trial unless there are compelling reasons justifying their continued detention.

Article 53 of the Constitution prohibits the use of torture and cruel, inhuman or degrading treatment.

In addition, Article 81 of the Zimbabwean constitution specifically protects the right of children not to be detained except as a matter of last resort and to their adequate protection by the Courts.

Zimbabwe has acceded to the International Covenant on Civil and Political Rights, which protects the rights of freedom of expression and association as well as the prohibition on torture. Zimbabwe has also ratified the UN Convention on the Rights of the Child.

The BHRC observes that the arrest, detention and prosecution of peaceful protesters and the use of police brutality and torture offends against Zimbabwe's own constitution as well as international law.

Remedy

The BHRC calls on the Zimbabwean government immediately to:

Review the charging of all protesters with criminal offences in order to ensure that there is a sound evidential basis for any criminal charges and that the prosecution of such individuals does not infringe the Zimbabwean constitution and/or international law;

Ensure that any bail applications are dealt with speedily and fairly in accordance with domestic and international provisions;

Respect the rights of Zimbabwean citizens and all those living in Zimbabwe to freedom of expression and assembly as well as access to diverse information, including by way of communications through social media;

Respect the rights of Zimbabwean citizens and all those living in Zimbabwe to be protected from torture and police brutality;

Investigate all credible allegations of torture and police brutality, ensuring accountability for those responsible and an effective remedy for victims;

Respect the rights of all accused persons to fair process, including a full, independent, complete and thorough police investigation and a fair trial;

Respect the rights of children, including their right not to be detained except as a measure of last resort, their right to fair process and adequate protection by the Courts as well as the concern to avoid resorting to judicial proceedings in the case of children, wherever possible and appropriate.

Conclusion

The BHRC urges the Zimbabwean government to respect freedom of expression, assembly and dissemination of information in Zimbabwe. The BHRC calls on the Zimbabwean government to ensure that torture and police brutality does not take place and that credible allegations of such conduct are thoroughly and independently investigated.

ENDS.

NOTES FOR EDITORS

1. For an interview with our spokesperson, please contact Ed Gillett, Coordinator, on +44 (0)7854 197862
2. For more information on the Bar Human Rights Committee (BHRC), visit our website at <http://www.barhumanrights.org.uk>
3. The Bar Human Rights Committee of England and Wales (BHRC) is the international human rights arm of the Bar of England and Wales, working to protect the rights of advocates, judges and human rights defenders around the world. The BHRC is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. It is independent of the Bar Council.