

ZIMBABWE

- **ZWE-COLL-02:** 41 parliamentarians
- **ZWE-70:** Takudzwa Ngadziore
- **ZWE-46:** Job Sikhala
- **ZWE-45:** Joanah Mamombe (Ms.)



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Zimbabwe

*Decision adopted by consensus by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024) ¹*



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ZWE-47 – Pashor Raphael Sibanda
ZWE-48 – Ereck Gono
ZWE-49 – Nicola Jane Watson (Ms.)
ZWE-50 – Desmond Makaza
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ZWE-52 – Sitabile Mlilo (Ms.)
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ZWE-85 – Jameson Timba
ZWE-86 – Editor Matamisa (Ms.)
ZWE-87 – Vongai Tome (Ms.)
ZWE-88 – Ralph T. Magunje

¹ The delegation of Zimbabwe expressed its reservations regarding the decision.

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate
- ✓ Other violations: right to take part in the conduct of public affairs

A. Summary of the case

General elections were held in Zimbabwe on 23 August 2023, which led to the inauguration of the 10th parliamentary term on 3 October 2023. According to the complainant, the Citizen's Coalition for Change (CCC), the opposition party then led by Mr. Nelson Chamisa, the main challenger to the incumbent President Mnangagwa of the ruling Zimbabwe African National Union (ZANU-PF) party, acquired a sizeable number of seats in both chambers of parliament, thus ending the two-thirds majority that the ZANU-PF party had enjoyed in the past. According to the complainant, in a letter dated 11 September 2023, Mr. Nelson Chamisa wrote to the speakers of both houses of parliament that, as President of the CCC, his office was to be solely responsible for any correspondence between the authorities and the CCC.

At a hearing with the IPU Committee on the Human Rights of Parliamentarians during the 147th IPU Assembly, the Speaker of the National Assembly stated that Article 129(1)(k) of the Constitution of Zimbabwe stipulated that the seat of a member of the National Assembly becomes vacant "if the Member has ceased to belong to the political party of which he or she was a member when elected to Parliament and the political party concerned, by written notice to the Speaker ... has declared that the Member has ceased to belong to it".

The complainant contends that Speaker Mudenda recalled 14 members of the National Assembly on the basis of a letter that was allegedly received from a Mr. Sengozo Tshabangu on 4 October 2023, in which Mr. Tshabangu claimed to be the "interim Secretary General of the CCC" and requested the speakers of both houses of parliament to recall 14 members of the lower house and nine senators on the grounds that they were no longer members of the CCC. According to the complainant, Mr. Tshabangu is an imposter with no position in the CCC and without any authority to request this recall. Moreover, none of the individuals concerned in parliament stated that they had left the CCC. In the hearing with the IPU Committee, the Speaker of the National Assembly stated that Mr. Tshabangu's letter had been received before Mr. Chamisa's letter and affirmed that, had it been the other way around, his decision would have been quite different.

According to the complainant, the Speaker of the National Assembly denied the CCC parliamentarians the right to be heard before proceeding with the revocation of their parliamentary mandate on 10 October 2023. According to information received from the Speaker of the National Assembly, most recently through his letter of 26 February 2024, under Article 129(1)(k) of the Constitution, and bearing in mind a legal precedent specifying that the Speaker should not adjudicate internal party disputes, the Speakers of each chamber had no choice but to proceed with the recall and to refer the individuals concerned to the courts if they did not agree with the recall decision. The Speaker of the National Assembly has also referred in his observations to existing case law that confirms this position.

The complainant claims that the Speaker acted unconstitutionally by ignoring the written and oral submission of known members of the CCC by refusing any discussion on this issue and by accepting the letter from Mr. Tshabangu without verifying that it was a legitimate communication from the CCC. In addition, the complainant alleges that the Speaker ordered the intervention of a riot police unit, which evicted the CCC parliamentarians from the National Assembly after they refused to leave the House, protesting against the recall of their colleagues. According to the complainant, several parliamentarians

Case ZWE-COLL-02

Zimbabwe: Parliament affiliated to the IPU

Victims: 41 opposition members of parliament (22 men and 19 women)

Qualified complainant: Section I.(1)(a) of the Committee Procedure (Annex I)

Submission of complaint: October 2023

Recent IPU decision: October 2023

IPU mission(s): - - -

Recent Committee hearing: Hearing with the Speaker of the National Assembly at the 147th IPU Assembly (October 2023)

Recent follow-up:

- Communication(s) from the authorities: Letter from the Speaker of the National Assembly (February 2024)
- Communication from the complainant: January 2024
- Communication to the authorities: Letter to the Speaker of the National Assembly (February 2024)
- Communication to the complainant: January 2024

sustained injuries as a result of police brutality in the House. In addition, the complainant submits that the Speaker suspended all CCC National Assembly members from the House for six sittings and stopped their salaries for two months.

Since then, the complainant states that 18 additional CCC parliamentarians were recalled on 14 November 2023 (five senators and 13 members of the lower house), and that all recalled CCC legislators have been barred from taking part in by-elections held since October 2023. In addition, Mr. Febion Kufahatizwi, whose mandate was affected by the recall of 10 October 2023, was reportedly subjected to threats and intimidation against himself and his staff during the by-elections, which led to the abduction and murder of his aide, Mr. Tapfumaneyi Masaya. The complainant adds that this followed the abduction and torture of Mr. Takudzwa Ngadziore on 1 November 2023 and two other CCC members in the months that followed the August 2023 elections.

According to the complainant, these events should be seen as part of a pattern of repression, erosion of the independence of the judiciary and a shrinking civic space, which intensified after the 2023 elections, and against the background of pre-existing violations of the rights of opposition parliamentarians. The complainant shared several incidents where opposition parliamentarians had been recalled from other opposition parties in the past but stressed that never before had the recall procedure been initiated by a person who was reportedly external to the political party and its leadership. Reportedly, Mr. Tshabangu made statements to the effect that only CCC candidates vetted by himself would be allowed to take part in future by-elections, which led to the intervention of the Zimbabwe Electoral Commission (ZEC) to ban recalled members of parliament from taking part in elections. In addition, all attempts to rectify the recalls by challenging them in court were dismissed.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the current case also includes a new complaint regarding the situation of 18 individuals and that the complaint: (i) was submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns 18 additional members of parliament who had been elected before the alleged violations took place; and (iii) concerns allegations of undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate, which are allegations that fall within the Committee's mandate; and *decides* to merge the examination of their cases with the present case;
2. *Thanks* the Speaker of the National Assembly of Zimbabwe for his recent letter and for the detailed information provided therein;
3. *Is concerned* by the escalating number of cases before the Committee on the Human Rights of Parliamentarians in Zimbabwe;
4. *Regrets* that the parliamentary authorities did not see fit to implement the decision of the Governing Council of 27 October 2023 regarding the modification of the recall procedure after the revocation of the mandate of the first 23 opposition parliamentarians; *declares*, once again, that the procedure allowing political parties in Zimbabwe to recall their members in parliament runs counter to the basic principle of the free representational mandate and to the right to freedom of expression, both of which the IPU has consistently defended; *reaffirms* that the Constitution should also secure the rights of parliamentarians, and that if the interpretation of some norms infringes on the rights of duly elected members of parliament and deprives them of the mandate given to them by the people, that serious consideration should be given to revising those norms; *renews its sincere hope* that the Zimbabwean authorities, in particular parliament, will seriously examine the possibility of modifying the recall procedure so as to ensure that members of parliament can carry out their work freely without undue pressure from their political parties;
5. *Appreciates* the argument put forward by the Speaker of the National Assembly that he acted in line with Article 129(1)(k) of the Constitution of the Republic of Zimbabwe; *fails to see*, however, any reasonable grounds for accepting an official communication from an unknown individual without being satisfied that the said communication is legitimate and without seeking the point of

view of the individuals concerned or the President of their party; *is concerned* by the assertion that the official communication from the leader of the party to which the 18 parliamentarians belonged was not taken into account because it was reportedly received after the recall, even though it was dated three weeks before that decision was taken; *is puzzled* by the swiftness with which the decision to revoke the mandate of the newly elected parliamentarians was taken and the fact that no debate on the issue was allowed; and *wishes* to receive additional clarification from the parliamentary authorities of the National Assembly and the Senate on the points above;

6. *Is dismayed* that 18 additional opposition parliamentarians lost their seats following the decision of the Speaker of the National Assembly and the President of the Senate to revoke their mandate on the basis of yet another deeply contested letter from Mr. Tshabangu, an individual who is allegedly unrelated to the party to which these legislators belong; *is perplexed* by the fact that this letter was accepted and acted upon despite the fact that the President of the party concerned, Mr. Nelson Chamisa, had written months before to the said Speakers, clearly stating that all correspondence with and from the CCC party had to go solely through him, and despite his later comments that Mr. Tshabangu was an imposter and that the parliamentarians concerned were *bona fide* members of the party and did not consent to the recall;
7. *Is shocked* to learn that the members of parliament who lost their seats as a result of the recalls were denied the right to take part in by-elections in their constituencies by decision of the Zimbabwe Electoral Commission; *takes note* of the information that a ban has been issued by the High Court of Zimbabwe blocking any new recalls pending a final decision on the matter by the courts; and *strongly believes* that parliament should review the circumstances that paved the way to the emergence of this case and do everything necessary to ensure that such circumstances do not arise again;
8. *Is convinced* that this case and the ongoing cases from Zimbabwe before the Committee require the organization of a mission by the IPU Committee to Zimbabwe as soon as practicable; *thanks*, once again, the Speaker of the National Assembly for his renewed commitment, as stated in his most recent letter, to making arrangements with the executive authorities to facilitate the organization of such a mission; and *wishes* to receive such information in time to conduct such a mission ahead of the 149th Assembly of the IPU, scheduled to take place in October 2024; and *looks forward* to receiving information on the specifics of the mission as soon as possible;
9. *Requests* the Secretary General to convey this decision to the parliamentary authorities and other relevant national authorities, the complainant and any interested third party likely to be in a position to supply relevant information;
10. *Requests* the Committee to continue examining this case and to report back to it in due course.



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Zimbabwe

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



Still from a live video shared by Mr. Takudzwa Ngadzire seconds before his abduction on 1 November 2023 © Facebook @Takudzwa Ngadzire.

ZWE-70 – Takudzwa Ngadzire

Alleged human rights violations

- ✓ Abduction
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Impunity

A. Summary of the case

Mr. Takudzwa Ngadzire is the youngest parliamentarian to be elected in the 2023 general elections in Zimbabwe. Mr. Ngadzire is the Youth Taskforce Chairperson of the Citizens Coalition for Change (CCC) opposition party, which contested the majority party, Zimbabwe African National Union – Patriotic Front (ZANU-PF), which has ruled Zimbabwe since the creation of the country.

According to the complainant, as Mr. Ngadzire was making his way to parliament's pre-budget seminar on 1 November 2023, he was met by a group of men armed with AK-47 assault rifles who disembarked from six vehicles and abducted him, forcing him into one of their vehicles. The complainant shared a live Facebook video filmed by Mr. Ngadzire as the events were unfolding.

Case ZWE-70

Zimbabwe: Parliament affiliated to the IPU

Victim: Opposition member of the National Assembly

Qualified complainant(s): Section I.1(b) of the Committee Procedure (Annex I)

Submission of complaint: November 2023

Recent IPU decision(s): - - -

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: November 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (November 2023)
- Communication to the complainant: December 2023

The complainant adds that the gang that abducted Mr. Ngadziore was equipped with guns, tasers, syringes and baton sticks. According to the complainant, Mr. Ngadziore was blindfolded and taken to Christon Bank in Mazoe, about 30 kilometres north of Harare, where he was tortured and questioned about his political plans. The complainant also reports that Mr. Ngadziore was injected with an unknown substance, stripped naked and left for dead in Christon Bank, Mazoe. According to the complainant, Mr. Ngadziore was then taken to hospital, where he received emergency treatment. The complainant has shared photos showing the scars caused by the torture and violence meted out by the abductors.

According to the complainant, a report had been made to the police, but no action had been taken to investigate the facts. The complainant stresses that Mr. Ngadziore has become the third CCC official to be abducted and injected with an unknown substance since the disputed 23 August 2023 elections in Zimbabwe. The complainant claims that the CCC Youth Taskforce member, Mr. Womberal Nhende, and former member of parliament, Mr. James Chidhakwa, were also recently abducted, tortured, subjected to injections and dumped by a roadside. The complainant stresses that these cases were not properly investigated by the authorities and have remained unpunished. In the case of Mr. Ngadziore, the complainant highlights that the video made by the victim at the time of the abduction enables the identification of some of the perpetrators, namely police officers Mr. Nicholas Kajese, Mr. Abraham Pasi and Mr. Ishmael Mada, who are reportedly stationed at the Harare Central Police Station.

The complainant reports that the video quickly went viral and pressured the authorities to release Mr. Ngadziore without having him killed, unlike the late Pastor Tapfumaneyi Masaya. According to the complainant, Pastor Masaya was abducted by armed men on 11 November 2023 and found dead two days later. The complainant specifies that Pastor Masaya was abducted as he was campaigning for the by-election of a CCC parliamentarian in his constituency following a decision to revoke the mandate of 23 parliamentarians on the basis of a letter from an impostor claiming to be the CCC Secretary General. According to the complainant, since then an additional 18 parliamentarians have been stripped of their mandate and arbitrarily prevented from taking part in by-elections in their constituencies.

According to the complainant, this situation should be seen within the context of increased repression against the opposition and the closing of civic space that followed the disputed elections of 2023, which saw the ruling ZANU-PF party lose its two-thirds majority in parliament.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a qualified complainant under section I. (1)(d), of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns an incumbent member of parliament at the time the initial allegations were made;
3. *Notes*, further, that the complaint concerns allegations of abduction, torture, ill-treatment and other acts of violence, threats and acts of intimidation, and impunity, which are allegations that fall under the Committee's mandate;
4. *Considers*, therefore, that the complaint is admissible under the provisions of section IV of the Procedure for the examination and treatment of complaints; and *declares itself competent* to examine the case;
5. *Condemns in the strongest terms* the abduction of Mr. Ngadziore, allegedly by police officers, and the reported acts of torture inflicted upon him;
6. *Expresses shock* at allegations that this brutal attack on a sitting parliamentarian has not been duly investigated and that his captors remain at large, even though their appearance in the live video recorded and shared by Mr. Ngadziore at the moment he was abducted allowed them to be easily identified; and *stresses* that these crimes must not remain unpunished;

7. *Recalls* that impunity, by shielding those responsible from judicial action and accountability, decisively encourages the perpetration of further serious human rights violations, and that attempts on the lives of members of parliament, when left unpunished, not only violate the fundamental rights of individual parliamentarians and of those who elected them, but also affect the integrity of parliament and its ability to fulfil its role as an institution – even more so when leading figures of parliament and the opposition are targeted in the context of a broader pattern of repression, as in the present case;
8. *Reaffirms its view* that the Parliament of Zimbabwe has a direct responsibility for ensuring that every effort is made by all relevant authorities to investigate thoroughly and diligently the many leads and concerns that have emerged, to identify and punish those responsible for the reported abduction and torture of one of its members and to do everything possible to ensure that such violations do not recur in the future; *urges* parliament to take decisive and effective measures to this end; and *wishes* to be kept informed of progress made in this regard;
9. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
10. *Decides* to continue examining this case.



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*Decision adopted unanimously by the IPU Governing Council at its 212th session
(Luanda, 27 October 2023)*



Job Sikhala © Freddy Michael Masarirevu

ZWE-46 – Job Sikhala

Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Excessive delays
- ✓ Violation of freedom of expression and opinion
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Other violations: right to take part in the conduct of public affairs

A. Summary of the case

Mr. Job Sikhala is a seasoned opposition parliamentarian who was arrested numerous times during his political career, even though he was never found guilty of committing a single offence prior to the present case. In a previous case before the IPU Committee on the Human Rights of Parliamentarians, the Committee concluded that the authorities had committed multiple violations against Mr. Sikhala and other opposition members of parliament, including arbitrary arrest and detention, torture and denial of the right to a fair trial.

According to the complainant, Mr. Sikhala was arrested on 14 June 2022 in connection with a speech he had made on 13 June at the funeral of Ms. Moreblessing Ali, a murdered opposition activist. The complainant stresses that Mr. Sikhala made the speech in his professional capacity as the grieving family's lawyer. According to the complainant, Mr. Sikhala's arrest and detention followed the posting of parts of the speech on social media, for which he was charged with the offence of incitement to commit public violence. While in prison, Mr. Sikhala was presented with the additional charge of defeating or obstructing the course of justice.

Case ZWE-46

Zimbabwe: Parliament affiliated to the IPU

Victim: Opposition member of parliament

Qualified complainant: Section I.1(d) of the Committee Procedure (Annex I)

Submission of complaints: August and September 2022

Recent IPU decision: October 2022

Recent IPU mission: September 2009

Recent Committee hearing: Hearing with the Speaker of the National Assembly at the 147th IPU Assembly (October 2023)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (October 2023)
- Communication from the complainant: October 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (August 2023)
- Communication to the complainant: September 2023

The complainant further alleges that, immediately after the speech, senior politicians and government spokespersons, including the Permanent Secretary of Information, Mr. Ndabaningi Mangwana, made prejudicial statements presuming Mr. Sikhala's guilt and demanding his immediate arrest. According to the complainant, this in itself violated Mr. Sikhala's right to be presumed innocent until proven guilty.

More than one year after his arrest, Mr. Sikhala remains in the Chikurubi maximum security prison, as his numerous petitions for bail were systematically rejected. The complainant claims that Mr. Sikhala was treated as a convicted criminal, despite the fact that until May 2023 he was a sitting member of parliament with no prior convictions. The complainant stresses that there was no legal basis to keep Mr. Sikhala in pretrial detention and insists that the courts were violating his right to bail as enshrined in the relevant sections of the Constitution and the Code of Criminal Procedure. The complainant also alleges that Mr. Sikhala faces inhumane prison conditions: he has reportedly been shackled with leg irons for prolonged periods of time, forced to sleep on the bare floor and has repeatedly been denied medical care. During the presentation of the report by the President of the Committee on the Human Rights of Parliamentarians to the Governing Council at the 145th IPU Assembly in Kigali in October 2022, the Speaker of the National Assembly took the floor to challenge the allegation that Mr. Sikhala had been denied medical care during his incarceration, and asserted that Mr. Sikhala continued to enjoy his privileges as a member of parliament, including financial and medical benefits. The complainant challenges that assertion and has shared reports that, as of October 2023, Mr. Sikhala's health has dangerously deteriorated and that he is deprived of the medical care he urgently needs in prison.

Mr. Rahim Kahn, a distinguished attorney and judge in Botswana with over 40 years of legal experience, was appointed by the IPU to attend and follow the trial of Mr. Sikhala. In his report, the trial observer concluded that the State had failed to bring substantive evidence that proved that Mr. Sikhala was aware that an investigation was taking place and that his words had the effect of interfering with, or obstructing, justice. The trial observer stressed the following:

"It is my considered opinion that, with the litany of unproven facts and the lack of evidence, it will be most prejudicial to convict the accused of this particular crime. These inconsistencies are so glaring that no right-thinking court could on the basis of these facts find the accused guilty".

On 3 May 2023, the Harare magistrates court found Mr. Sikhala guilty and sentenced him to a six-month suspended sentence and a US\$ 600 fine on the charge of defeating or obstructing the course of justice. The trial observer highlighted that the court had reached its conclusions in contradiction to applicable legal principles, based on the "say so" of three police officers who were heard as witnesses. In addition, the trial observer reached the conclusion that by consistently denying bail to Mr. Sikhala, the court had deviated from principles defined by law and set out in precedents in Zimbabwe and other common-law countries. The trial observer expects that an appeal against this verdict by Mr. Sikhala would be successful, as it "would be a violation of his constitutional rights to be convicted on the basis of such evidence". As for the original charge of incitement to commit public violence, the criminal proceedings are ongoing, with no indication of when a verdict might be handed down.

According to the complainant, as at 6 October 2023, Mr. Sikhala was still in prison and has lost his seat in parliament, as his long-standing incarceration had denied him the possibility to actively campaign for the August 2023 elections. In addition, the complainant reports that newly adopted legislation could further curtail the political rights of Mr. Sikhala and those of other political opponents who criticize the Government.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Speaker of the National Assembly of Zimbabwe for the information, including legal documents, provided at a hearing with the IPU Committee on the Human Rights of Parliamentarians during the 147th IPU Assembly in Luanda, and for his renewed assurance that the Committee is welcome to visit Zimbabwe and meet with all relevant parties; *takes note* of the Speaker's ongoing commitment to making arrangements with the Ministry of Justice to facilitate the organization of the mission in Zimbabwe as soon as practicable; and *looks forward* to receiving information on the specifics of the mission;

2. *Thanks* Mr. Rahim Kahn for carrying out two trial observation missions and for his comprehensive report;
3. *Is deeply concerned* over the several deficiencies that the trial observer identified in the handling of the legal proceedings brought against Mr. Sikhala, in particular the acceptance of inconsistent and unreliable evidence against Mr. Sikhala and the repeated denial of bail in contradiction with established principles of law in Zimbabwe and other common law legal systems; *believes* that the report gives serious weight to the accusation made by the complainant that the case made against Mr. Sikhala came merely in response to the exercise of his right to free speech; *is led to believe*, therefore, that he should never have been detained and prosecuted in the first place; *hopes* that higher level courts will carefully and critically assess what credible evidence, if any, exists in support of the charges and will adopt a fair verdict; and *is eager* to be kept informed of developments in this regard;
4. *Is dismayed* that Mr. Sikhala has been held in Chikurubi maximum security prison on remand since his arrest on 14 June 2022 and that all his applications for bail have been denied; *fails to see* how his detention in a maximum security prison could possibly be justified; *is shocked* by reports that Mr. Sikhala's health has gravely deteriorated and that he is being held in inhumane conditions; *fails to understand* the legal basis for his prolonged incarceration; *is particularly concerned* by the arbitrary treatment he has received, bearing in mind the findings of the Committee on the Human Rights of Parliamentarians, in an earlier case, that he had been subjected to arbitrary arrest, detention and torture; and *calls on* the authorities to provisionally release him and urgently provide him with the medical care that he requires;
5. *Stresses* that, notwithstanding considerations of the separation of powers, the parliament of Zimbabwe can look into such allegations by virtue of its oversight function, as reflected in Article 119 of the Constitution of Zimbabwe; and *looks forward* to hearing from the parliamentary authorities on this point;
6. *Deplores* the fact that its call to release Mr. Sikhala and to allow him to return to his parliamentary duties without undue obstacles in its previous decision has been ignored by the authorities and that he has been unable to stand in the 2023 elections as a result; and *concludes* that the actions of the authorities have made it impossible for Mr. Sikhala to practically exercise the right to take part in the conduct of public affairs;
7. *Sincerely believes* that a mission by the IPU Committee on the Human Rights of Parliamentarians, which would include meetings with all the relevant authorities, a meeting with the members of parliament whose cases are before the Committee, along with meetings with relevant third parties, would offer a useful opportunity to discuss the issues that have emerged in the case at hand and to examine possible solutions; *sincerely hopes*, therefore, that the Zimbabwe authorities will be able to receive this mission as soon as practicable; and *requests* the Secretary General to continue to engage with the parliamentary authorities of Zimbabwe with a view to the dispatch of the mission ahead of the upcoming session of the Committee;
8. *Requests* the Secretary General to convey this decision to the parliamentary authorities and other relevant national authorities, the complainant and any interested third party likely to be in a position to supply relevant information to assist the Committee in its work;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.



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Zimbabwe

Decision adopted unanimously by the IPU Governing Council at its 210th session (Kigali, 15 October 2022)



Joanah Mamombe © Women's Academy for Leadership and Political Excellence (WALPE)

ZWE-45 – Joanah Mamombe

Alleged human rights violations

- ✓ Abduction
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Other acts obstructing the exercise of the parliamentary mandate
- ✓ Impunity
- ✓ Other violations: discrimination

A. Summary of the case

Ms. Joanah Mamombe is the youngest member of the Parliament of Zimbabwe and belongs to the opposition Movement for Democratic Change (MDC Alliance) party. According to the complainants, at around 2 p.m. on Wednesday, 13 May 2020, Ms. Mamombe and two other young women leaders, namely Ms. Cecilia Chimбири and Ms. Netsai Marova, were abducted, tortured and sexually abused by suspected state security agents.

Case ZWE-45

Zimbabwe: Parliament affiliated to the IPU

Victim: Female opposition member of parliament

Qualified complainants: Section I.1(d) of the Committee Procedure (Annex I)

Submission of complaints: May 2020 and April 2021

Recent IPU decision: May 2021

Recent IPU Mission(s): - - -

Recent Committee hearing: Hearing with the Speaker of the National Assembly at the 145th IPU Assembly (October 2022)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (February 2021)
- Communication from the complainants: September 2022
- Communication to the authorities: Letter to the Speaker of the National Assembly (September 2022)
- Communication to the complainants: September 2022

According to the complainants, after being intercepted at a roadblock by the police for breaking COVID-19 regulations by taking part in a peaceful flash demonstration, Ms. Mamombe and the two other young women leaders were taken to Harare Central Police Station. Then, instead of being fined or formally charged, they were allegedly forced into a minibus and taken to an undisclosed destination, where they were subjected to torture, sexual abuse and degrading treatment by a paramilitary group known as “the Ferrets”. The complainants report that, upon discovering that they were being abducted, the three women reached out to their family members and colleagues by phone and repeatedly texted them to share their location. After family members and colleagues raised the alarm about their whereabouts, the three women were reportedly dumped near Bindura at around 9 p.m. on Thursday, 14 May 2020. They were finally found and taken to safety at around 2 a.m. on Friday, 15 May 2020, by a team of family members and lawyers. The complainants further report that the three were then taken to hospital for treatment and stressed that medical and psychological reports were made on the spot that proved that the three women had been subjected to torture and abuse during their disappearance.

On 10 June 2020, five United Nations (UN) Special Procedures experts of the UN Human Rights Council issued a statement calling on the authorities of Zimbabwe to “urgently prosecute and punish the perpetrators of this outrageous crime, and to immediately enforce a policy of ‘zero tolerance’ for abductions and torture throughout the country to ensure the effective protection of women against sexual violence, and to bring those responsible to account”. The UN human rights procedures “expressed grave alarm over concerns this was not an isolated instance. In 2019 alone, 49 cases of abductions and torture were reported in Zimbabwe, without investigations leading to perpetrators being held to account”. The experts concluded that “enforced disappearances of women often involve sexual violence, and even forced impregnation, with enormous harm inflicted not only on their physical health and integrity, but also in terms of the resulting psychological damage, social stigma and disruption of family structures”.

According to the complainants, petitions regarding the alleged abuses suffered by Ms. Mamombe and her two colleagues have been submitted to Zimbabwe’s Gender Commission, Human Rights Commission and the National Peace and Reconciliation Commission. The complainants affirm that these petitions have been copied to the Ministry of Justice, Ministry of Home Affairs, Ministry of Women’s Affairs and the Parliament of Zimbabwe. Yet, more than two years since the events of May 2020, these complaints have still not yielded any result. Moreover, the complainants declare that, instead of carrying out an independent investigation into the allegations, the State actually arrested Ms. Mamombe and her two colleagues on 10 June 2020 on the basis of their statements about the treatment they had suffered and charged them with making false statements prejudicial to the State, a criminal offence. The women were later freed on bail after a widespread international campaign had pressured the authorities for their release. However, the complainants contend that Ms. Mamombe and her two colleagues’ rights were severely restricted as part of the conditions of bail, which compromise their freedom of movement and freedom of expression.

Ms. Mamombe has reportedly been arrested four times since then, most recently on 5 March 2021, when she was charged with allegedly breaching COVID-19 regulations after attending a press conference calling on the authorities to respect the right to a fair trial of a fellow opposition member. Since her last arrest, Ms. Mamombe has been held on remand in *Chikurubi* prison, together with convicted criminals, where she allegedly faced inhumane detention conditions. She was briefly taken from remand to hospital and was finally released on bail on 5 May 2021. Since then, the complainants has confirmed that Ms. Mamombe was able to partially recover and take part in several remote parliamentary sessions, although she has to report to the police on a weekly basis and make frequent appearances in court as part of her trial. In addition, her passport has allegedly been confiscated by the authorities to prevent her from going abroad, meaning that she cannot seek medical treatment overseas. In addition, Ms. Mamombe’s lawyers have reported numerous issues with the administration of justice, including the acceptance of falsified evidence meant to incriminate her and the unjustified dismissal of credible evidence in her defence by the courts.

The complainants report that Ms. Mamombe is one of the most prominent young women leaders in Zimbabwe. She has been vocal and outspoken over deteriorating economic conditions in Zimbabwe and their effect on women and girls. According to the complainants, her situation should also be seen in the context of the rising number of cases of human rights abuses against human rights defenders and activists, the shrinking of civic space and widespread harassment of opposition members in recent years in Zimbabwe.

During the 142nd IPU Assembly (May 2021), the Speaker of the National Assembly publicly invited a delegation of the Committee on the Human Rights of Parliamentarians to travel to Zimbabwe to discuss the issues and concerns that had arisen in this case with all the relevant stakeholders. Subsequent letters from the IPU Secretary General to the Speaker regarding the case and mission dated 30 June 2021, and 27 July and 13 September 2022 have remained unanswered. At the hearing with the Committee on the Human Rights of Parliamentarians at the 145th IPU Assembly, the Speaker stated that he was under the impression that he had replied once in writing to say that contacts were being pursued with the Ministry of Justice to organize the mission, which was still welcome.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Speaker of the National Assembly of Zimbabwe for the information provided at a hearing with the IPU Committee on the Human Rights of Parliamentarians during the 145th Assembly in Kigali, as well as for his renewed assurance that the Committee is welcome to visit Zimbabwe and meet with all relevant parties; *takes note* of the Speaker's ongoing commitment to make arrangements with the Ministry of Justice to facilitate the organization of the mission in Zimbabwe; and *looks forward* to receiving information on the specifics of a mission soon;
2. *Regrets*, once again, that none of the other authorities that were contacted by the IPU have provided any response that might facilitate the resolution of the specific concerns that have arisen in this case; and *expresses the firm hope* that a response is given to all questions raised by the Committee in its letters to relevant executive and independent institutions, as was previously assured;
3. *Reiterates its profound concern* about the allegations that Ms. Mamombe and two of her young female colleagues were arbitrarily detained and subject to torture and mistreatment on 13 May 2020; *considers* that such allegations have to be taken extremely seriously given numerous reports of the use of abductions and torture to silence the opposition in Zimbabwe, the prevalence of gender-based violence in the country and the gravity of the allegations; *is dismayed to learn* that, instead of carrying out an independent investigation into the allegations, the authorities proceeded to arrest Ms. Mamombe on 10 June 2020 on the basis of her statement of complaint and charged her with making false statements prejudicial to the State, as defined in Section 31(a)(ii) of the Criminal Law [Codification and Reform] Act, Chapter 9:23; *believes* that this provision is not in conformity with Zimbabwe's human rights obligations, including the right to freedom of expression and the right to an effective remedy; *recalls* in that regard that the reform of the Criminal Law Act was the subject of recommendations made by United Nations (UN) human rights bodies, most recently during Zimbabwe's third cycle of the Universal Periodic Review; and *calls on* parliament to fulfil its legislative responsibility by reviewing and reforming the Criminal Law Act in order to avoid the recurrence of such situations;
4. *Is particularly concerned* that the complaints to the relevant authorities have reportedly not set in motion investigations to identify the culprits of Ms. Mamombe's alleged abduction and torture; *fails to understand why*, more than two years after these complaints were sent to the relevant institutions and copied to the Ministry of Justice and the Parliament of Zimbabwe, they have still not yielded any results; *recalls* in this regard that the Republic of Zimbabwe is bound by the provisions of the International Covenant on Civil and Political Rights, to which it is a party, article 2(3) of which enshrines the duty of the State to ensure that any person whose rights are violated should have an effective remedy determined by competent authorities; *urges* the relevant authorities once more to carry out an in-depth investigation into the alleged violations reported by Ms. Mamombe, including by undertaking a full examination of the CCTV footage of what transpired that day at Harare Central Police Station, questioning the police officers on duty that day, inspecting the site and area where Ms. Mamombe was reportedly dumped, which is said to be relatively close to the place where the alleged abuses took place, and by examining the medical and physical reports drawn up at the hospital; and *wishes* to be kept informed as a matter of urgency of progress made in the investigations;

5. *Is deeply concerned* by allegations that Ms. Mamombe continues to face judicial harassment in relation to three cases against her; *is concerned* by allegations made by the complainants that Ms. Mamombe is facing numerous issues of maladministration of justice amounting to a denial of a fair trial, including the lack of judicial independence, the discriminatory application of the law and the dismissal of evidence of the trauma endured by Ms. Mamombe on 13 May 2020; *considers* that, while mindful of the constitutional arrangements in place in Zimbabwe regarding the separation of powers and the principle of *sub judice*, that parliament can look into allegations that impact the overall administration of justice by virtue of its oversight function, as reflected in Article 119 of the Constitution of Zimbabwe; and *looks forward* to hearing from the parliamentary authorities on this point;
6. *Decides* to send a trial observer to the criminal proceedings with a view to collecting information and reporting on how the fundamental human rights of Ms. Mamombe are being respected in the case at hand;
7. *Is dismayed* by the allegation that Ms. Mamombe was subject to heckling, insults and stigmatization by members of the ruling party when she returned to parliament in November 2020 after a period of convalescence due to the trauma she had endured, forcing her to leave the parliamentary chamber as she no longer felt safe; *deplores* that Ms. Mamombe therefore felt obliged to attend parliamentary sessions remotely; *notes* that the Speaker was unaware of these allegations; and *calls on* Ms. Mamombe and the Speaker to discuss the allegations and to see what measures can be taken to ensure her safe physical return to parliament;
8. *Calls on* the Zimbabwean authorities to do everything possible to ensure that Ms. Mamombe's rights are fully protected; and *hopes* that they will do their utmost to ensure that Ms. Mamombe will no longer be submitted to undue arrests and incarceration;
9. *Requests* the Secretary General to convey this decision to the parliamentary authorities, other relevant national authorities and independent institutions, the complainants and any third party likely to be in a position to supply relevant information;
10. *Requests* the Committee to continue examining this case and to report back to it in due course.