

**Ayuba Wabba**

President  
Président  
Präsident  
Presidente

**Sharan Burrow**

General Secretary  
Secrétaire générale  
Generalsekretärin  
Secretaria General

**Office of the High Commissioner for  
Human Rights  
UPR Secretariat  
Palais des Nations  
CH-1211 Geneva 10, Switzerland**

**HTUR/LEX**

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**UPR Submission Zimbabwe**

To the UPR Secretariat,

The International Trade Union Confederation (ITUC), representing 200 million workers in 163 countries, would like to make a written contribution to the Universal Periodic Review of Zimbabwe. The ITUC enjoys general consultative status with the ECOSOC.

Yours sincerely,



Sharan Burrow  
General Secretary

## **I. Submitting organization**

The International Trade Union Confederation (ITUC) represents 200 million workers in 163 countries and territories and has 332 national affiliates. The ITUC's primary mission is the promotion and defense of workers' rights and interests through international cooperation between trade unions, global campaigning, and advocacy within the major global institutions. Its main areas of activity include the following: human and labour rights; economic and social policy; equality and non-discrimination; and international solidarity. The ITUC adheres to the principles of trade union democracy and independence. It is governed by four-yearly world congresses, General Council, and Executive Bureau. The ITUC has close relations with the Global Union Federation and the Trade Union Advisory Committee to the OECD (TUAC). It works closely with the International Labour Organization and other UN Specialized Agencies.

This report has been informed by the consultation and advice from the Zimbabwe Congress of Trade Unions (ZCTU).

## **II. Summary**

The Government of Zimbabwe continues to systematically undermine the right of workers to freedom of peaceful assembly and collective bargaining. The Zimbabwe Republic Police (ZRP), the military and the Central Intelligence Organisation (CIO) use deadly force to break up strikes and protest actions in violation of workers' rights to freedom of peaceful assembly and association. The Government arrests, detain and tortures trade union leaders. The Government hunts down trade unionists in their homes, abducts them and publicly beats them, harass and intimidate their family members. Trade unionists are threatened with false accusations of promoting public violence, breaching the peace, or inciting to overthrow the Government. Under these false accusations, unionists are imprisoned while the government delays their trials and indefinitely prolongs the litigation process. Pre-trial detentions and long trial proceedings are used as punishment for expressing views contrary to the established political system. Even though the court may find the accused not guilty, the objective will already have been served through long pre-trial detention. The Government's anti-union agenda fosters a cultural framework encouraging private actors to ignore their collective bargaining obligations with complete impunity.

## **III. International Human and Labour Rights Obligations**

The fundamental labour rights referenced in this report are firmly established in international law. Zimbabwe ratified the International Covenant on Civil and Political Rights (ICCPR) which guarantees freedom of assembly (Article 21); Article 22; freedom of association; (Article 22) and prohibits discrimination on the grounds of race, colour, sex, language religion, political opinion, birth or other status (Article 26). Zimbabwe has also ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) which guarantees the right to form and join trade unions (Article 6) as well as the right to the enjoyment of just and favourable working conditions (Article 7). Of importance, Zimbabwe ratified all the fundamental ILO Conventions, including Convention No. 87 on the Freedom of Association and Protection of the Right to Organize; Convention No. 98 on the Right to Organize and Collective Bargaining; Conventions Nos 100 and 111 guaranteeing equal remuneration for men and women workers and prohibiting discrimination in employment and occupation, as well as Conventions Nos 138 and 182 which set a minimum working age and ban the worst forms of child labour.

## **IV. Freedom of Association and Freedom of Assembly**

The Government of Zimbabwe has engaged in systemic violations of workers' freedom of association and labour rights. The government consistently undermines these rights under the guise of protecting political stability. Police silence criticism of the government's policies through intimidation

, unjustified arrests and acts of violence against trade unionists. Further, the government has abused its authority during the COVID-19 pandemic to undermine the rights of both public and private sector workers.

### *Violence and Intimidation of Trade Unionists*

The government has been particularly aggressive towards the Zimbabwe Congress of Trade Unions (ZCTU), the primary trade union federation in Zimbabwe; it recently categorized the ZCTU as an enemy of the state. On July 27, 2020 at a press conference convened by the president's political party (ZANU-PF), the president attacked and labelled the ZCTU a "trojan Horse of the MDC-Alliance and a terrorist organization." The government censor ZCTU meetings meant to discuss any socio-economic or political issues affecting workers' welfare. The government uses intimidation tactics—beating, arresting, abducting and judicial persecution of trade unionists to further undermine organized labour.

On January 11, 2019, the ZCTU expressed grave concern at the escalating prices of goods and services in a letter to the government. The letter outlined specific ways the government could address the issue and warned of a potential general strike in case of government inaction. The following day, the government announced a unilaterally imposed 150% increase in fuel prices. In response, the ZCTU organized a nationwide stay-away, or general strike, protesting the rising prices of basic goods. The government met protesters with brutal force. Police and military personnel violently descended on protesters nationwide. One report indicated that protesters were beaten and raped, leaving seventeen dead.

On October 11, 2018 around 150 police officers surrounded the ZCTU offices in Harare where trade unionists held a demonstration against a transaction tax increase which would cripple the already impoverished workforce. The police beat and arrested ZCTU President Peter Mutasa, Secretary General Japhet Moyo, and 5 other trade unionists. The authorities justified their attack arguing that they were simply enforcing a ban on public demonstrations following a recent cholera outbreak. However, ZANU-PF (the ruling political party), held a demonstration during the outbreak; several sporting events, church services and other public demonstrations also took place in Harare during the same period without issue.

Following the attack on Harare, the government implemented an intimidation strategy premised on judicial harassment of trade union leaders. This strategy focused on incarcerating union leaders for months at a time, preventing them from organizing public demonstrations. The government raided their homes and arrested them under fabricated criminal charges.

For example, the government charged Japhet Moyo, "Peter Mutasa and Evan Mawarire and Obert Masaraure with "Subverting constitutional government" or alternatively inciting violence" after arresting them in Harare. If convicted of these charges, the four could face 20 years in prison. Security forces also raided ZCTU President Peter Mutasa's home and beat two of his relatives. Again, on June 12, 2020, armed personnel broke into Mutasa's home at night and attempted to abduct him; after finding the home empty, the invaders slashed his car tires. The perpetrators were never held responsible for the attempted abduction of a prominent Zimbabwe labour leader.

After arresting Peter Mutasa and Japhet Moyo and others on false charges of attempting to overthrow the government, the state held a series of trials lasting over a year. Moyo, Mutasa, Mawarire were later granted bail after agreeing to stringent conditions including surrendering the deeds to their homes coupled with conditions of reporting to the police. The government has now withdrawn the charges against Mutasa, Moyo and Mawarire while Obert Masaraure remains on trial set for 26 July 2021.

On 4 February 2019, the government newspaper the Herald published a propaganda article stating that "The MDC Alliance is using the Zimbabwe Congress of Trade Unions (ZCTU) platforms to train youths in violence and destabilisation tactics in order to render the country ungovernable and effect regime change". The publisher knew well that the information was

false and only did so to incite the security forces to destabilise the ZCTU and portray it badly in the eyes of the public and its members.

On October 11, 2018, 20 ZCTU leaders were arrested in the city of Mutare. Those leaders were only acquitted by the Magistrate's Court on November 13, 2020, two years after their arrest. Prior to their acquittal they were subjected to several court appearances in an attempt to intimidate them and discourage them from participating in trade union activities.

In July 2019, Peter Mutasa and Japhet Moyo received threatening letters from unidentified people that were filled with bullets.<sup>1</sup> They have also received several messages threatening the lives of their family. The police refused to bring to justice the perpetrators despite having received the complaint.

On July 17, 2020 Obert Masaure of the Amalgamated Rural Teachers Union (ARTUZ) also had his home broken into in an attempt to abduct him. Following these raids, on July 27, 2020, the Zimbabwe Republic of Police (ZRP) issued a public statement that they were hunting down ZCTU President Peter Mutasa, Obert Masaure and Robson Chere of ARTUZ and several other labour leaders for planning to hold a protest on July 31, 2020.

Sheila Chisirimunhu, of the Amalgamated Rural Teachers Union of Zimbabwe (ARTUZ) was imprisoned to 16 months in December 2020 after a wage protest action. She was accused of 'Participating in gathering with intent to promote public violence, breaches of the peace or bigotry' and only released following an appeal to the High Court but had already served 18 days in prison.

On 1 August 2018, government forces killed 6 protestors and injured others in Harare following a demand for the release of an election results. The soldiers also fired live bullets into the ZCTU building and injured the Legal Adviser Zakeyo Mtintema and another. The perpetrators have not been brought to justice.

#### *Attacks on Public Sector Workers for Exercising Their Right to Strike.*

Public sector workers face some of the most serious forms of political oppression in Zimbabwe. These workers are categorically barred by law from exercising the right to strike. If public sector workers attempt to organize, demonstrate or criticize the government, they are accused of insubordination and punished accordingly.

Teachers unions face brutal government opposition. As part of the public sector labour force, teachers are prohibited from striking. Despite this prohibition, teachers went out on strike multiple times in 2019 and 2020 to demand payment in US dollars after the Zimbabwe dollar's value plummeted. The government broke the strike by intimidating the workers with loss of pay and dismissal unless the workers accepted the government's last bargaining offer. The workers gave in to the government's demand in protest.

Moreblessing Nyambara of ARTUZ, who served as the gender focal representative, advocated for female teachers in rural areas, trying to improve gender equality in those areas. In 2019, she was abducted, beaten by police, dumped on the side of the road, and left unconscious.

In 2018, a public sector nurses union organized a strike demanding improvements to basic health and safety equipment after years of exposure to dangerous working conditions. In response, the government fired every nurse that went on strike.

In June 2020, and less than two years after the government silenced the 2018 strike, the Zimbabwe Nurses Association (ZINA) led a group of nurses on strike; this time they asked for a living wage and improved Personal Protective Equipment or PPEs. During the COVID-19 outbreak, nurses were unnecessarily exposed to the virus and needed adequate health and safety equipment to protect

themselves. The government provided inadequate PPEs and refused to improve their remuneration and instead arrested twelve union leaders for participating in the strike.

#### *Attacks on Informal Workers for Criticizing the Government*

Strikers in the private sector also face similarly abusive government practices. Specifically, informal workers work under some of the worst conditions and face violent government retribution. These workers are loosely organized under several different worker associations such as the Zimbabwe Informal Chamber of Informal Economy of Associations (ZICIEA) and the Vendors Association of Zimbabwe (VAZ). Informal workers mainly perform domestic work and sell goods as vendors on the street. Despite their significant contribution to Zimbabwe's economy (around 67% of the Zimbabwean economy)<sup>ii</sup>, the government continues to disrupt their businesses and attack them for exercising their right to protest. During the peaceful three-day strike organized by the ZCTU in January 2019, police and armed forces destroyed the market in Chitungwiza, affecting thousands of vendors and informal traders. The police then conducted night raids of these workers' homes. Police beat workers in their homes and destroyed their stalls, depriving them of their primary means of income.<sup>iii</sup> In 2020 government took advantage of the Covid-19 lockdown in Harare and destroyed all the makeshifts. In June 2021 again government continued with its destructive practices of informal traders workplaces and homes in Harare and Chitungwiza labelling them illegal structures.

#### *Undermining the trade union registration process*

Zimbabwe's Labour Act undermines workers' ability to unionize and collectively bargain with their employer. Specifically, the Labour Act grants the government unbridled discretion during the union registration process. In 2015, the Zimbabwe Footwear Tanners and Allied Workers' Union (ZFTAWU) accused the government of abusing its discretion under the Labour Act for denying new trade unions' applications for union registration (ILO CFA Case No 3128).<sup>iv</sup> Section 45 of the Labour Act instructs the Registrar of Labour to consider multiple factors before granting an application. However, the Act gives the Registrar complete discretion to make the determination, making review of the Registrar's decisions meaningless. Following an ILO recommendation, the government agreed to amend the Labour Act and remove Section 45. However, the government has yet to amend the Act.

## **V. Right to Collective Bargaining**

#### *Failure to Enforce Collective Bargaining Agreements*

In 2019, ZESA Holdings Private Limited and its subsidiary Zimbabwe Electricity Transmission and Distribution Company (the company) refused to honour a provision of a 2012 collective bargaining agreement (CBA that promised to increase the minimum basic salary of its employees.<sup>v</sup> ZESA, a government-owned company, clearly violated Section 82 of Zimbabwe's Labour Act. Section 82 states that where a CBA has been registered, it shall have binding effect on the parties to the agreement. The Zimbabwe Energy Workers Union (ZEWU), the National Energy Workers Union of Zimbabwe (NEWUZ), and the ZCTU brought an action against the company for refusing to work with the union to enforce the provision. The company tried to undermine the union by offering settlements to individual workers. The Labour Court ordered the company to work with the union and enforce the provision, but the company refused. The union repeatedly tried to enforce the order and even called the President's office to intervene. Unfortunately, the government failed to comply with the order. In response, NEWUZ elected to hold a demonstration on March 13, 2018, to protest the company's actions and the government's failure to enforce its orders. Police broke up the demonstration and arrested the union's Secretary General, Thomas Masvingwe. Other eight trade unionists belonging to the Energy Sector Workers Union of Zimbabwe (ESWUZ), including the ZCTU 1st vice President Ms Florence Taruvinga, were arrested and still face criminal charges in the Magistrate Court for participating in the protest action.

The ILO Committee on Freedom of Association concluded that the government's failure to enforce its order violated both the principles of freedom of association and collective bargaining as well as Section 82 of Zimbabwe's Labour Act. The government was advised to change the Labour Court's enforcement powers so that it could enforce its orders against government-owned companies in the future. The ILO also advised the government to turn over additional information concerning the arrest of Mr. Masvingwe for further review.<sup>vi</sup>

### *Undermining Collective Bargaining Rights Through Wage Theft and Non-Remittance of Union Dues*

The government undermines union power through legislative enactments, and policy which decimate collective bargaining rights. In 2019, the government through SI 33/2019, fixed the exchange rate of the USD to be equivalent to its surrogate currency, the RTGS dollar,. Subsequently all debts including wages that were denominated in USD were converted to Zimbabwean RTGS dollars and their value plummeted against increase in goods and services that are charged in both currencies while wages remain being paid in Zimbabwean dollars without linkage to the current exchange rate. As a result tens of thousands of workers in Zimbabwe suffer from wage theft. spearheaded by the government.

## **VI. Conclusions**

Zimbabwe has failed to take the necessary steps in order to bring its laws and practices into compliance with international human rights norms. Therefore, we request that during the 2021 UPR Zimbabwe is called upon to take the following actions:

- Respect workers' fundamental right to organize, bargain collectively, and to strike in both the private and public sectors;
- Stop the criminalization of trade unionists exercising their right to freedom of peaceful assembly and association;
- Stop using the police and the military to break up organized demonstrations that criticize the government;
- Denounce the ZANU-PF claim that the ZCTU is a terrorist organization and recognize the ZCTU as a legitimate workers organization;
- Fully comply with the recommendations of the ILO 2009 Commission of Inquiry, the ILO Committee of Experts on the Application of Conventions and Recommendations, the ILO Committee of Freedom of Association and the conclusions of the 2021 ILO Committee on the Application of Standards (CAS);
- Ensure to bring to justice all perpetrators threatening trade unionists;
- Comply with the recommendations of the Motlanthe Commission of Inquiry into the 1<sup>st</sup> of August violence of 2018 and bring to justice the security forces that killed and injured protestors;
- Ensure that the victims are compensated.

<sup>i</sup> Zimbabwe Congress of Trade Unions, *ZCTU Leaders Receive Letters With Live Bullets*, 16 July 2019, <http://kubatana.net/2019/07/16/zctu-leaders-receive-letters-with-live-bullets/>

<sup>ii</sup> *Labour Force and Child Labour Survey*, ZIMBABWE NATIONAL STATISTICS AGENCY 1, at 136 (2019).

<sup>iii</sup> Tonderayi Mukeredzi, THOMSON REUTERS FOUNDATION, (Feb. 20, 2019), [https://news.trust.org/item/20190220100528-q5ok7/?mc\\_cid=ef9e7f850c&mc\\_eid=70eb52a8d5](https://news.trust.org/item/20190220100528-q5ok7/?mc_cid=ef9e7f850c&mc_eid=70eb52a8d5).

<sup>iv</sup> International Labour Organization (ILO) Report No 389, June 2019, [https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002\\_COMPLAINT\\_TEXT\\_ID:3998888](https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3998888).

<sup>v</sup> ILO Report No 391, October 2019, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002\\_COMPLAINT\\_TEXT\\_ID:4017631](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002_COMPLAINT_TEXT_ID:4017631).

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<sup>vi</sup> Report in which the committee requests to be kept informed of development - Report No 391, October 2019,

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Case No 3314 (Zimbabwe), available at:

[https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002\\_COMPLAINT\\_TEXT\\_ID:4017631](https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:4017631)