



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

17 April 2003

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President
Munhumutapa Building
Harare - Zimbabwe

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LOUISE DOSWALD-BECK

Mr. Patrick Chinamasa
Minister of Justice and
Parliamentary Affairs
Private Bag 7704
Causeway - Zimbabwe
Fax: +263 4 772994

Dear Sirs,

The International Commission of Jurists (ICJ) consists of jurists who represent all the regions and legal systems in the world working to uphold the rule of law and the legal protection of human rights. The ICJ's Centre for the Independence of Judges and Lawyers (CIJL) is dedicated to promoting the independence of judges and lawyers throughout the world.

We are writing to you to express our alarm at the violent treatment of Mr Gabriel Shumba, a lawyer and member, until he fled the country, of the Zimbabwean Human Rights NGO Forum.

The series of attacks against Mr. Shumba, 29, started with his arrest by riot police and members of the Central Intelligence Organisation (CIO) on 14 January 2003, when he was in a meeting with MDC Member of Parliament Job Sikhala. At that time, Mr. Sikhala was in hiding and Mr. Shumba was contacted in order to counsel him in a case of alleged political harassment by members of the Zimbabwe Republic Police. Mr. Sikhala and Mr. Shumba were both arrested, and one of the officers confiscated Mr. Shumba's certificate to practise law and informed him that "there is no place for human rights lawyers in Zimbabwe".

Mr Shumba was then taken to St. Mary's Police Station without having been informed of the charges against him. He was denied access to legal representation and was abused and insulted. He was afterwards thrown into a small cell and then transported to an undisclosed location. Once there, he was repeatedly tortured with electrical shocks and assaulted.

Mr. Shumba testified that his interrogators questioned him about his political affiliations with the MDC and asked about his involvement in the burning of a government bus, among other things. Chemicals were also applied to his body, causing him to lose control of his bodily functions, and he was forced to drink his own vomit. Finally, Mr. Shumba had to sign, under threat, incriminating documents and had to swear allegiance to President Mugabe as well as agree to work for the CIO.

Mr. Shumba's detention lasted three days. During that period, he was not given food or water. Neither was he notified of the accusations against him, until he was formally charged under Section 5 of the Public Order and Security Act, which deals with organising, planning or conspiring to overthrow the government through unconstitutional means.

After a court hearing, Mr. Shumba was released on bail after having to surrender his passport. Once released, he fled the country to South Africa following threats by state security agents.

Currently, Gabriel Shumba is a legal intern at the International Criminal Tribunal for Rwanda, based in Arusha, Tanzania. On April 1, he received a telephone call from the Zimbabwean Ambassador in Arusha, Ms. Chipso Zandonga, in which she warned him that he could face "serious consequences" because of his involvement with the UN tribunal. According to Mr. Shumba, the diplomat allegedly accused him of using the tribunal to have President Mugabe charged with crimes against humanity.

Ms. Zandonga reportedly denied knowing Mr. Shumba or ever having had a conversation with him. However, according to Mr. Shumba, she warned him that she was going to use her links within the Tanzanian Government to have him deported back to Zimbabwe and that he was "dead meat".

The ICJ/CIJL is deeply alarmed at the repressive treatment of Mr. Shumba and others who are working to ensure greater respect for human rights in Zimbabwe. The abuses suffered by Mr. Shumba are a clear violation of the basic human rights of freedom from arbitrary detention, physical threats, torture and of freedom of movement as guaranteed by the *Constitution of Zimbabwe* as well as the *International Covenant on Civil and Political Rights* and the *African Charter on Human and People's Rights*, both of which have been ratified by Zimbabwe.

In addition, we are deeply concerned that Mr Shumba was prevented from lawfully exercising his profession in defending Mr. Sikhala and having his license confiscated for no apparent motive. In this regard, we would like to draw your attention to the *United Nations Basic Principles on the Role of Lawyers* (hereinafter "Principles"). The Principles, which were adopted by the UN General Assembly in 1990, set out the fundamental and non-derogable right to be represented by a lawyer:

Principle 1: All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their right and to defend them in all stages of criminal proceedings.

Principle 2: Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without distinction of any kind, such as ...political or other opinion...

By refusing to ensure that Mr. Shumba was able to represent his prospective client, your Government is thus obstructing the ability of counsel to fully exercise their duties towards their clients. The UN principles also state that:

Principle 13: The duties of lawyers towards their clients shall include:

(a) advising clients as to their legal rights and obligations, and as to the working of the legal system in so far as it is relevant to the legal rights and obligations of the clients;

(b) assisting clients in every appropriate way, and taking legal action to protect their interests;

(c) assisting clients before courts, tribunals or administrative authorities, where appropriate.

Moreover, lawyers must also be able to vigorously defend their clients without fearing for their own persecution in the discharge of their professional functions. It is, in fact, the duty of the government to guarantee the safe functioning of lawyers. Principles 16, and 17 provide that:

Principle 16: Governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.

Principle 17: Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

It is further reminded that the ultimate responsibility for ensuring that all human rights are respected in Zimbabwe lies with your Government. Thus the ICJ/CIJL strongly urges your Government to immediately conduct a full and impartial inquiry into the abuses perpetrated against Mr. Shumba, and to hold accountable the perpetrators as well as those police officers who allegedly participated in his arrest, torture and posterior threats. As the current situation of gross human rights abuses and impunity in Zimbabwe threatens the ability of lawyers and other human rights defenders to perform their necessary functions, the ICJ/CIJL will continue to closely monitor this situation.

Yours sincerely,

Louise Doswald-Beck
Secretary-general

cc: H.E. Ambassador Boniface B. Chidyausiku
Permanent Mission of Zimbabwe to the UN
Office in Geneva
Chemin William Barbey 27
1292 Chambésy
Fax: +22 758 3044

Mr. Kembo Mohadi
Minister of Home Affairs
P. Bag 505D
Harare,
Zimbabwe
Fax: +263 4 772994

Mr. Augustine Chihuri
Commissioner of Police
P.O. Box CY34,
Causeway, Harare
Zimbabwe
Fax: +263 4 792621