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To the attention of the Special Rapporteur on the situation of human rights defenders

Distinguished Expert:

The ICJ would like to draw your attention to recent events of grave concern in Zimbabwe that pose a serious threat to the rights of human rights defenders and their activities in pursuit of human rights.

On 21 May 2010, police officials raided the office of the organization Gays and Lesbians of Zimbabwe (GALZ) in Milton Park, Harare. They were in possession of a warrant to search for dangerous drugs and pornographic material. The police arrested Ellen Chademana and Ignatius Mhambi and seized GALZ computers and other material. On 27 May 2010, Ms. Chademana and Mr. Mhambi were released, pending trial on charges of possessing indecent material and undermining the authority of President Robert Mugabe. Their trial is set for 10 June.

Most other GALZ staff were outside of Zimbabwe at the time of the arrests and they currently fear returning to their country. The Zimbabwe Police have announced their intent to question all staff members. The result is that GALZ's work within Zimbabwe has been effectively shut down.

The ICJ fears that the raid, arrest and initiation of prosecution have not been undertaken pursuant to a legitimate law enforcement objective, but instead may be taken to curtail the lawful activities of LGBT human rights defenders. They also should be seen as part of a wider crackdown on activists working on behalf of gays and lesbians in Africa. The arrests occurred just two days after the sentencing of Tiwonge Chimbalanga and Steven Monjeza to 14 years in prison in Malawi on charges of carnal knowledge and indecent practices between males; authorities there had earlier raided the office of CEDEP, an organization that had been vocal in support of the pair.

The raid, arrests, and confiscation of GALZ materials threaten to

undermine the rights to freedom of association and freedom of expression, which are guaranteed by Articles 19 and 22 of the International Covenant on Civil and Political Rights, to which Zimbabwe is a party. They have a chilling effect on all human rights defenders in Zimbabwe and especially those who advocate on behalf of LGBT individuals.

Experts mandated by the UN Human Rights Council under the Special Procedures system have made clear that the rights to freedom of association and freedom of opinion and expression are rights held by everyone, regardless of sexual orientation or gender identity.¹ As your predecessor as Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, commented in relation to draft legislation in Nigeria that introduced penalties for public advocacy or associations supporting the rights of lesbians and gays: “In particular, serious concern is expressed in view of the restriction such law would place on freedoms of expression and association of human rights defenders and members of civil society, when advocating the rights of gays and lesbians.”² In his report on his visit to Colombia, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo, stressed that “all citizens, regardless of, inter alia, their sexual orientation, have the right to express themselves, and to seek, receive and impart information.”³

The ICJ respectfully urges you to bring to the attention of the Government of Zimbabwe the concerns raised in this letter in respect of the arrests of and charges against Ms. Chademana and Mr. Mhambi. We would ask that you remind the Government of Zimbabwe of its obligations under international law and standards, including the ICCPR. In particular, the Government should cease the harassment of LGBT groups and their members, which serves to undermine their legitimate activities in defense of human rights. In that respect, it should ensure that other GALZ members are not targeted for arrest or harassment upon returning to Zimbabwe.

Yours sincerely,



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¹ In numerous reports, the Special Representative of the Secretary-General on the situation of human rights defenders has expressed concern about attacks on defenders who are defending the rights of LGBTI persons. See International Commission of Jurists, *Sexual Orientation and Gender Identity in Human Rights Law: References to Jurisprudence and Doctrine of the United Nations Human Rights System* (2007) at 55-86.

² *Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, Addendum: Summary of cases transmitted to Governments and replies received*, U.N. Doc. A/HRC/4/37/Add.1, 27 March 2007, para. 511.

³ *Report of the Special Rapporteur on the right to freedom of opinion and expression, Ambeyi Ligabo – Addendum Mission to Colombia*, UN Doc. E/CN.4/2005/64/Add.3, of 26 November 2004, paras. 75 and 76. See also *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Abid Hussain, submitted in accordance with Commission resolution 2000/38*, UN Doc. E/CN.4/2001/64, of 13 February 2001, para. 176 (transmitting urgent appeal to Kuwait where three individuals were sentenced to prison terms for writings “that were said to cause harm to religion and to morality since they mentioned lesbian relationships”). For further examples, see *Sexual Orientation and Gender Identity in Human Rights Law: References to Jurisprudence and Doctrine of the United Nations Human Rights System* (ICJ 2007).