**Zimbabwe Lawyers for Human Rights Contributions**

**Enforced disappearances in the context of elections**

1. **What are the distinctive features of electoral violence when compared to other forms of political violence?**

Electoral violence normally occurs during the period leading up to the elections, during elections or after the elections. Generally, political violence occurs when it is not election season. During the election season, is targeted at those who are involved in election campaigns, supporters of political parties participating in events, or responsible for organizing events.

1. **Do enforced disappearances in the context of elections follow a pattern? If so, please describe.**

In documented cases, those targeted are;

* Actively involved in election-related activities, such as campaigning, or organizing events and at times are vocal about election-related violations and malpractices.
* They are high profile - these are key figures, or office bearers in opposition political parties. Who are well known, and this is meant to send a strong message that those involved in politics can be targeted with impunity.
* The disappearances are targeted and not random.
* The victims are always tortured and treated in an inhuman and degrading manner.
* The abductions are meant to extract intelligence about the planned activities by the opposition.

Examples from Zimbabwe include the abduction and disappearance of the following; Takudzwa Ngadziore, who was the opposition member of parliament representing Citizens Coalition for Change (CCC), he was abducted and disappeared for some hours (he managed to use social media to raise the alarm) on 1 November this led to the perpetrators dumping him about 50 kms out of Harare. He was tortured and injected with an unknown substance. He was also stripped naked and provided with clothing by good Samaritans.

In October 2023, James Chidhakwa, a former opposition legislator was abducted from his home and dumped away from his home. He was also tortured and injected with an unknown substance. He was stripped naked and provided with clothing by good Samaritans.

On 11 November 2023, Pastor Masaya was abducted, and disappeared. He was involved in campaigning for an opposition candidate for member of parliament elections who had been recalled, following his election in the August 2023 elections in Zimbabwe. He was tortured and eventually found murdered.

1. **Who are the victims of enforced disappearances in the context of elections? If possible, provide examples.**
* Key officer bearers from opposition political parties are from a political party that has popular support and is considered to be a threat to the ruling government. Those who are involved in the organizing, or those holding influential positions normally fall victim to enforced disappearances. The examples listed in 2 above and some are highlighted below.

From October 2008, at least 32 people were abducted and disappeared. 18 of them who included several opposition office bearers for the then Movement for Democratic Change (MDC) and party supporters such as Fidelis Chiramba (district chairman and losing senatorial candidate), Concilia Chinanzvavana (Mashonaland West Women’s Assembly Provincial Chairperson); the provincial secretary Terry Musona; Fanwell Tembo (party youth organizer) Manuel Chinanzvavana, Pieta Kaseke, Colleen Mutemagau, Violet Mupfuranhewe, amongst others were also abducted and disappeared.

Lloyd Tarumbwa, an MDC co-ordinator from Mashonaland West Province - MDC, was taken fron his home on 30 October 2008 after he was said to be under arrest by police officers from the Zimbabwe Republic Police (ZRP) and other state agents. Terry Musona, vice secretary of the MDC from Mashonaland West Province, Fanny Tembo, who was an elected local government official in the capacity of Councilor for the MDC. They were disappeared for varying periods. Tortured, ill-treated and eventually released into the custody of police where at they were charged with the criminal offence of attempting to overthrow the government. By the end of 2008, only 18 of them had been accounted for with the whereabouts of the rest remaining unknown.

* Human rights defenders who are active in election-related activities and processes may also be targeted, including but not limited to those involved in documentation of human rights violations may also be targeted.

In December 2008, Jestina Mukoko, Broderick Takawira and Pascal Gonzo, who were all employed by a none non-government organization, the Zimbabwe Peace Project were abducted and disappeared. Their work involved documenting human rights violations, during the pre-electoral and post-electoral periods. They were tortured and subjected to inhuman and degrading treatment and punishment.

1. **What is the rationale for committing enforced disappearances in the context of elections?**

To silence and intimidate opponents who may have the capacity to organize and challenge election results, if the disappearance happens after elections.

To disrupt campaigning or other activities by political opponents who have a high potential of winning the election. To intimidate opposition supporters and force them to vote for the ruling party. This normally happens where there is a conflation of state and party and state actors and institutions are used as instruments of the ruling party to enable the ruling elites to maintain control by instilling fear.

1. **What are the consequences of electoral violence? More specifically, how does the occurrence of electoral violence - including enforced disappearance – impact peoples ' perception of the electoral process and their willingness to participate in future elections?**

There can be *voter apathy* due to fear of being targeted for openly supporting the opposition, especially in remote and outlying areas as the people feel vulnerable. In 2008, following the 29 March harmonised elections, in which then President Robert Mugabe did not win an outright majority, several opposition leaders who were key in campaigning and mobilizing the voters, were abducted, disappeared and murdered ahead of the June 2008 presidential runoff. These included Tonderai Ndira, then, MDC Secretary for Security in the party's Youth Assembly, who was abducted from his home in Harare on 14 May by suspected security agents. His was murdered and his body was discovered on May 21. On May 22, another victim was MDC treasurer in Mashonaland East Shepherd Jani who was abducted in Murehwa by four men suspected of being intelligence officers. His body was found two days later. As a result of these abductions, and other violations, this fueled fear in the communities leading to massive voter apathy during the presidential runoff.

Most feel exposed and potential victims of violence due to the culture of impunity created following enforced disappearances

There may be self-censorship at times, and a lack of willingness to speak out, due to fear of being targeted. Following the abduction and disappearance of HRDs from civil society in 2008, there was general fear within the civil society sector. However, the lawyers representing those who disappeared were able to mobilise solidarity support for protests to compel the government to release the victims. Civil society organisations that normally organized protests, were silent as the staff feared being targeted.

1. **Have there been any enforced disappearances of actors who provide support to the electoral process? If so, how does it reflect on the electoral process?**

In 2008, three employees of the Zimbabwe Peace Project, that were involved in the documentation of human rights violations, were disappeared. This exposed the fact that the electoral environment (pre-during and post elections) was not conducive for free and fair elections.

1. **Is there any particular phase of the electoral cycle when enforced disappearances are more likely to occur? Do enforced disappearances committed prior, during or after the elections have different purposes?**

In Zimbabwe, disappearances have mainly occurred after elections. However, a few pre-election cases of disappearances were documented in 2008 ahead of the June presidential runoff.

Before elections, disappearance are meant to intimidate the opposition to pull out of elections, or in some cases to prevent them from effectively campaigning or mobilising voters.

After elections, disappearances occur as a way to intimidate the opposition to submission. In most cases, those speaking out and vocal against the electoral outcome, or those who are perceived to have the capacity to mobilise protestors and challenge electoral outcomes through protest are targeted to intimidate them to submission. This was the case with Denford Ngadziore, and other abducted following the August 2023 elections in Zimbabwe.

1. **Are you aware of acts tantamount to enforced disappearances committed during the electoral process by non-State actors exercising Government-like functions or de facto control over territory and population?**

Not applicable

1. **Provide any example of legislation that has been adopted with the view of hindering the access to justice and redress to victims of human rights violations, including enforced disappearances in the context of elections.**

State Liabilities Act in Zimbabwe states that claims against state actors must be give notice of intention to sue within 60 days of incident occurring.

Police Act, a victim must institute proceedings within 8 months of incident arising.

1. **Provide example of legislation that has facilitated the practice of enforced disappearance in the context of elections**.

Not applicable

1. **What are the main obstacles for domestic and international accountability for enforced disappearances committed in the context of elections? Provide concrete examples of challenges encountered in the investigation and prosecution of such crimes.**

Domestic accountability:

*Lack of appropriate independent mechanism with power to investigate and prosecute*: Those responsible for law enforcement are sometimes involved in the actual disappearance from the initial stage, or become involved at a later stage. All those who disappeared after June 2008 in Zimbabwe, from October to December 2008 (see number 3) were advised that they were under arrest, they were then detained by state security agents and eventually released into the custody of the police. The role of the police made it difficult for proper investigation to take place. None of the perpetrators were ever prosecuted even in instances when the Minister of State Security Didymus Mutasa acknowledged the role of his agents, they were not arrested or prosecuted at all. So generally, there is a lack of will to investigate these crimes as state actors collaborate in these violations. In terms of the law in Zimbabwe, when someone disappears, a missing person report must be filed with the police. Although missing persons reports we filed following the disappearances of MDC political activists and HRDs such as Jestina Mukoko, the police did not act on these reports. No dockets were opened at all.

*Lack of cooperation by perpetrators*: When perpetrators are state security agents, they will not cooperate with investigations but plead state security as a reason not to cooperate with police investigations. In some cases, they may receive protection from high-ranking government officials. In 2008, the Minister of State Security deposed to an affidavit that the abductions and disappearances that occurred between October and December 2008, were state-sanctioned. In this case, even though all the victims filed complaints through their lawyers appointed by Zimbabwe Lawyers for Human Rights against the state actors when they appeared before the magistrate after their release into police custody, orders to investigate the complaints of disappearance and torture made by the magistrate were not followed.

*Prescription periods*: Sometimes there is a requirement for civil claims to be filed within a set period. In Zimbabwe, if someone wants to file a civil claim against state actors such as the police the state security agents or the army, they are supposed to do so within a set timeframe. For the police, one must issue a notice of intention to sue within days, and file summons within. For other state actors such as the army or state agents, the claim must be filed within 8 months of its occurrence as stated in the State Liabilities Act, otherwise the claim is deemed to have expired. In this case

1. **What has been the role of the judiciary in safeguarding the rights of victims of enforced disappearances in the context of elections? Provide any examples of lack of judicial independence as well as attacks to judicial actors as a consequence of their work in this specific context.**

In jurisdictions where there is the provision for habeas corpus proceedings, judges can issue such orders compelling the state to bring the victims to courts. This was the case in 2008, when judges of the High Court of Zimbabwe issued various orders compelling the state actors to release 32 persons who had been abducted and disappeared between October and December 2008.

1. **How can impunity for enforced disappearances committed in the context of elections be addressed more effectively?**

There should be stiff penalities imposed on political parties or actors involved in organizing and perpetrating or benefiting from enforced disappearances that is imposed by the election management body. Including revoking election results, if a candidate wins an elections and disappearances of opponents have occurred in their locations.

There should be coordinated efforts to investigate disapperances by the national human rights institutions, independence oversight mechanisms and the police.

1. **What measures could be put in place to prevent or reduce the risks as well as address the practice of enforced disappearances, including so-called “short-term” enforced disappearances in the electoral context?**

Multi sectoral early warning systems can be developed, involving the police, civil society, election management bodies and national human rights institutions. This system should be rapidly activated and responsive to cases of disappearances that are recorded.

1. **Please share any good practices and tools, including early warning mechanisms that can be used to address electoral violence, including enforced disappearances.**
2. **Is there any other information that you deem relevant for the purposes of the thematic study?**

Not applicable