
Advance Edited Version

Distr.: General
15 December 2017

Original: English

Human Rights Council
Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its eightieth session, 20–24 November 2017

Opinion No. 82/2017 concerning Evan Mawarire (Zimbabwe)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The mandate of the Working Group was most recently extended for a three-year period in Council resolution 33/30 of 30 September 2016.

2. In accordance with its methods of work (A/HRC/36/38), on 31 August 2017 the Working Group transmitted to the Government of Zimbabwe a communication concerning Evan Mawarire. The Government has not replied to the communication. Zimbabwe is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

4. Mr. Evan Mawarire is a 40-year-old Zimbabwean national. He is an evangelical pastor and a pro-democracy activist.

5. On 20 April 2016, Mr. Mawarire released a video via social media in which he used the national flag of Zimbabwe to criticize the failure of the Government to fulfil the promises that, in his view, are represented by the colours of the flag. Mr. Mawarire urged viewers to have hope, to seek freedom and to call for change in relation to the country's economic situation and corrupt practices. According to the source, the video was popular and gave rise to the "#ThisFlag" movement, in which supporters drape themselves in the national flag in protest against the administration in power at the time.

6. Following the release of the video, Mr. Mawarire launched an awareness campaign on social media by uploading more videos of himself speaking out about the economic and social situation of Zimbabwe. From 1 to 25 May 2016, Mr. Mawarire's campaign also encouraged Zimbabwean citizens to voice their opinions on the failures of the Government.

7. On 4 July 2016, amid growing tension in Zimbabwe due in part to the delayed payment of the salaries owed to public sector employees, Mr. Mawarire released a video of himself via a live streaming service on social media in which he called for Zimbabweans to boycott work on 6 July 2016. On the day of the video release, protests erupted in two suburbs of Harare, and 104 protesters were reportedly arrested.

8. On 6 July 2016, local newspapers reported that the boycott that Mr. Mawarire had called for had effectively "shut down" economic activity in Zimbabwe, including through the closure of businesses such as banks, department stores and restaurants. Protests related to the boycott occurred in the cities of Mutare, Gwanda, Chinhoyi, Masvingo, Gweru, Bulawayo and Harare. Confrontations between protesters and the police were reported in Harare and Bulawayo. According to the source, more than 200 people were arrested in connection with these protests.

9. Immediately after the protests of 6 July 2016, Mr. Mawarire again released a video of himself on social media. In the video, Mr. Mawarire urged supporters to engage in similar protests on 13 and 14 July 2016 if the Government did not pay civil servants the salaries they were owed, bring corrupt officials to justice and repeal laws that increased the cost of basic necessities.

10. According to the source, on 9 July 2016, Mr. Mawarire survived an attempt by unidentified armed men to abduct him. He subsequently went into hiding but continued to release videos via social media urging government officials to hold open discussions on the people's concerns about national issues. He also urged supporters to participate in future peaceful boycotts.

11. On 12 July 2016, Mr. Mawarire was summoned to the police headquarters in Harare. Before complying with the summons, Mr. Mawarire released a video via social media in which he again urged supporters to participate in another peaceful boycott on 13 and 14 July 2016. The source submits that Mr. Mawarire reported to the police headquarters on 12 July and was arrested and charged with inciting public disorder. The Government released a statement warning activists against participating in any future protests or boycotts.

12. The source indicates that, on 13 July 2016, approximately 5,000 protesters gathered outside the courtroom in Harare where Mr. Mawarire's hearing was taking place to call for his release. Mr. Mawarire was released later that day after being acquitted of all charges. According to the source, the court ruled that it was unconstitutional for the prosecution to bring new charges of subversion during the trial. Following Mr. Mawarire's arrest, detention and release, the peaceful boycotts planned for 13 and 14 July did not take place.

13. On 20 July 2016, Mr. Mawarire informed his supporters that he had left Zimbabwe and would continue to reside abroad indefinitely.

14. On 10 September 2016, Mr. Mawarire used social media to urge supporters who were attending a sporting event in Bulawayo to rise in unison and sing the Zimbabwean national anthem in a show of joint opposition to the Government.

15. On 17 September 2016, Mr. Mawarire engaged in a protest outside the United Nations Headquarters in New York City. Other demonstrators gathered to express their dissatisfaction with the Government and to seek the release of political prisoners in Zimbabwe and, more generally, in Africa. According to the source, on 20 September, the Government issued a statement warning the public that those who participated in any action or activity involving the flag would be subject to prosecution.

16. On 1 February 2017, Mr. Mawarire returned to Zimbabwe and was arrested and detained at Harare International Airport by officials from the Central Intelligence Organization. The source alleges that the agents did not show an arrest warrant to Mr. Mawarire and refused to identify themselves. The agents asked Mr. Mawarire about his travels, his activities and the location of his family members who had financed his travel abroad. The agents also asked Mr. Mawarire whether he was “dabbling in politics”. The source reports that 13 officials from the Organization’s law-and-order branch then detained Mr. Mawarire. He was charged with attempting to subvert a constitutionally elected government under section 22 (2) (a), chapter 9:23, of the Criminal Law Act.

17. On 2 February 2017, Mr. Mawarire was charged with two additional offences — namely, inciting public violence and insulting the national flag — under section 6, chapter 10:10, of the Flag of Zimbabwe Act. He was also accused of organizing protests in New York against the President of Zimbabwe.

18. According to the source, Mr. Mawarire’s lawyer argued during court proceedings on 3 February 2017 that Mr. Mawarire had not committed any offence in expressing his opposition to the Government and its officials. On 8 February 2017, the Harare High Court ordered that Mr. Mawarire be released on condition that he post a bond of \$300, surrender his passport and report twice a week to the police. On 17 February 2017, Mr. Mawarire appeared in court and was informed that his trial had been postponed until 16 March 2017. During that time, he remained under the same restrictions imposed by the court on 8 February 2017. On 16 March, Mr. Mawarire appeared in court and was notified that his trial had again been postponed, until 21 April 2017, as it happened.

19. The source notes that, on 16 March 2017, the European Parliament adopted a resolution in which it stated that it “deplores the arrest of Pastor Evan Mawarire” and “stresses that his release on bail is not sufficient and that the politically motivated charges against him must be completely withdrawn”. The European Parliament also called on the Zimbabwean authorities “to ensure that the criminal justice system is not misused to target, harass or intimidate human rights defenders such as Pastor Evan Mawarire”.¹

20. On 11 April 2017, the Harare High Court granted Mr. Mawarire’s request to modify his reporting conditions. The High Court modified the conditions so that, instead of reporting twice a week to the police, Mr. Mawarire was required to report only once every two weeks to the Avondale Police Station. The High Court also ordered that Mr. Mawarire’s passport be temporarily returned until 20 April 2017.

21. On 21 April 2017, Mr. Mawarire appeared in court and was notified that his trial had been postponed until 4 May 2017. The source reports that the prosecution, stating that it had “received the docket only yesterday”, had initially applied for postponement of the case until 31 May 2017. On 4 May 2017, Mr. Mawarire appeared again before the Magistrates’ Court. The prosecution stated that the investigations were complete but that the file was still with the Prosecutor General’s Office, where it was being managed. The prosecution gave no explanation as to what management was required. The prosecution then asked for a postponement of the trial until 15 June 2017 and confirmed that the trial date would definitely be set for the third term of the legal year.

¹ The resolution is available from www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0086&language=EN&ring=P8-RC-2017-0191.

22. On 19 July 2017, Mr. Mawarire appeared in court for a remand hearing. The source reports that the High Court trial was set for 25 September 2017. During the hearing, Mr. Mawarire filed an application to have the matter referred to the Constitutional Court in order to challenge the constitutionality of the indictment against him. However, the Court dismissed the application on the basis of the prosecution's argument that the application was "mischievous and vexatious".

23. On 25 September 2017, Mr. Mawarire appeared in court to present oral arguments in his defence. On 29 September 2017, the Government closed its case against Mr. Mawarire. The judge informed the parties that the case would be postponed until 29 November 2017, when both parties would be able to make final closing arguments. According to the source, at that time, the judge would decide to deliver a decision or set a future date to communicate his ruling to the parties. If found guilty of subverting a constitutionally elected government and inciting public violence, Mr. Mawarire could face up to 20 years' imprisonment. Mr. Mawarire was still subject to pretrial measures, including the posting of a \$300 bond, the seizure of his passport and the obligation to report to police every Monday at his local police station in Avondale, Harare.

24. Following the original communication to the Working Group, the source provided further updates on Mr. Mawarire's situation.

25. According to the source, the Government filed a new indictment against Mr. Mawarire. On 26 June 2017, the police arrested Mr. Mawarire as he prayed with University of Zimbabwe medical students who had been holding a protest over an increase in university fees. He was charged with "addressing a public gathering with intent to cause violence and disorderly conduct". On 23 August 2017, he appeared in court and the trial date for this case was set for 12 September 2017. Although Mr. Mawarire was not detained, he was released on bail and his passport was seized.

26. In addition, on 23 September 2017, Mr. Mawarire released a video on social media in which he denounced his country's ailing economy, the high rate of inflation and government corruption. The source reports that, on 24 September 2017, the police arrested Mr. Mawarire at his church for the alleged crimes of subverting a constitutionally elected government and inciting public violence. Before the arrest, Mr. Mawarire told his congregation that the police were waiting for him outside. He was taken to a police station but not brought before a judge until 26 September 2017, meaning that he had been held without being brought before a judge for longer than the 48 hours allowed under the country's Constitution. The court dismissed the case due to the failure of the Government to uphold Mr. Mawarire's constitutional rights. However, the source notes that, because the dismissal rests upon a procedural matter, Mr. Mawarire could be arrested and indicted for the same charges in the future.

27. The source submits that the deprivation of liberty of Mr. Mawarire falls within category II of the Working Group's categories of arbitrary detention.

28. According to the source, the Government has attempted to justify Mr. Mawarire's arrest and pretrial detention by accusing him of inciting Zimbabweans to revolt through violent means. However, the source claims that Mr. Mawarire's arrest and ongoing pretrial restrictions are the result of his peaceful activism, which entails voicing opinions critical of the Government, defending victims of human rights violations and calling for democratic reform. The source submits that the Government has deprived Mr. Mawarire of his liberty and imposed restrictive non-custodial measures as a result of his peaceful exercise of the rights to freedom of opinion and expression, assembly and association guaranteed by articles 19 and 20 of the Universal Declaration of Human Rights and articles 19, 21 and 22 of the Covenant.

Response from the Government

29. On 31 August 2017, the Working Group transmitted the allegations from the source to the Government under its regular communication procedure. The Working Group requested the Government to provide detailed information by 30 October 2017 about the current situation of Mr. Mawarire. The Working Group also requested the Government to clarify the legal provisions justifying his deprivation of liberty and state whether it was of

the view that it was compatible with the obligations of Zimbabwe under international human rights law.

30. On 25 October 2017, the Working Group sent the Government the additional information provided by the source regarding the arrest of Mr. Mawarire on 26 June and on 24 September 2017. The Government was requested to comment on this information as part of its response to the Working Group's initial communication of 31 August 2017. The Working Group gave the Government an additional week to respond — that is, until 7 November 2017.

31. The Working Group regrets that it did not receive a response from the Government either to its communication of 31 August 2017 or to its communication of 25 October 2017.

Discussion

32. The Working Group welcomes the fact that Mr. Mawarire, who was detained on two separate occasions — once for an eight-day period from 1 to 8 February 2017, at the end of which he was released by the Harare High Court, and a second time from 24 to 26 September 2017² — is no longer deprived of his liberty.

33. According to paragraph 17 (a) of its methods of work, the Working Group reserves the right to render an opinion, on a case-by-case basis, on whether the deprivation of liberty was arbitrary, notwithstanding the release of the person concerned. The Working Group considers that it is important to render an opinion, given that this case involves allegations that a human rights defender was arbitrarily deprived of his liberty to prevent him from peacefully exercising his rights in advancing democracy in Zimbabwe. In addition, while Mr. Mawarire is currently free on bail, he is still facing trial on the serious charges of attempting to subvert a constitutionally elected government and causing public disorder, and if found guilty he may face further deprivation of his liberty.

34. According to paragraph 15 of its methods of work, the Working Group may render an opinion even if it has not received a response from the Government to the allegations made by the source, as is the case here.

35. The Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a prima facie case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations (see A/HRC/19/57, para. 68). By failing to respond to the regular communication from the Working Group, the Government has chosen not to challenge the prima facie credible allegations made by the source. The Working Group will deal with the separate periods of detention of Mr. Mawarire in February and September 2017 in turn.

Deprivation of liberty from 1 to 8 February 2017

36. The source alleges that Mr. Mawarire was arrested on 1 February 2017 at Harare International Airport without an arrest warrant. The Government had an opportunity to challenge this allegation, for example by presenting a copy of the arrest warrant, but it did not do so. The Working Group therefore finds that Mr. Mawarire was arrested without an arrest warrant. As the Working Group has previously stated, in order for a deprivation of liberty to have a legal basis, it is not sufficient for there to be a law that may authorize the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case through an arrest warrant (see, for example, opinions No. 46/2017, No. 6/2017, No. 1/2017 and No. 28/2016). There was therefore no legal basis established for the arrest and subsequent detention of Mr. Mawarire. The Working Group therefore concludes that his deprivation of liberty falls within category I of the categories of the Working Group's categories of arbitrary detention.

² It appears that Mr. Mawarire was not detained in relation to the third matter against him (praying with University of Zimbabwe medical students) and was eventually acquitted.

37. Furthermore, the conduct for which Mr. Mawarire is being prosecuted involved posting videos on social media from April to July 2016 in which he used the national flag to call upon Zimbabweans to criticize the actions and policies of the Government and the former President. The information submitted by the source indicates that Mr. Mawarire called for democratic reform through peaceful protests, and there is no evidence that he called for or engaged in violence of any type. The Working Group considers that this conduct falls clearly within the boundaries of the freedom of opinion and expression protected by article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant. The Working Group recalls that the value placed by the Covenant upon uninhibited expression in debate concerning public institutions is particularly high. This includes comment on public figures, including those exercising the highest authority, such as Heads of State and Government, who are legitimate objects of criticism and political opposition. The freedom to express views on such matters should not be removed by laws that criminalize disrespecting flags.³

38. Similarly, Mr. Mawarire participated in a protest held on 17 September 2016 outside the United Nations Headquarters in New York City to express dissatisfaction with the Government. Again, there is no evidence that he engaged in or called for any form of violence during that protest. On the contrary, the source alleged that Mr. Mawarire and others were calling for the release of political prisoners in Zimbabwe and Africa rather than any violent upheaval. Equally, Mr. Mawarire's participation in a student protest on 26 June 2017, which led to a charge of which he has since been acquitted, involved praying with the students, not any form of violence. The Working Group finds that, by participating in those protests, Mr. Mawarire was exercising his right to freedom of peaceful assembly under article 20 of the Universal Declaration of Human Rights and article 21 of the Covenant.

39. The Government made no claim that any of the permitted restrictions on the freedom of expression and peaceful assembly found in articles 19 (3) and 21 of the Covenant applied in the present case. In any event, in paragraph 5 (p) of its resolution 12/16, the Human Rights Council calls on States to refrain from imposing restrictions that are not consistent with international human rights law, including restrictions on discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; peaceful demonstrations or political activities; and expression of opinion and dissent.

40. In addition, according to articles 1 and 5 (a) of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and to meet or assemble peacefully for the purpose of promoting and protecting human rights.⁴ Article 12 of the Declaration provides for the rights to participate in peaceful activities against violations of human rights and to be protected effectively under national law in reacting against or opposing, through peaceful means, actions of States that result in violations of human rights and fundamental freedoms. The source's allegations clearly demonstrate that Mr. Mawarire was detained for the exercise of his rights under the Declaration as a peaceful activist and human rights defender. The Working Group has determined that detaining individuals on the basis of their activities as human rights defenders violates their right to equality before the law and equal protection of the law under article 7 of the Universal Declaration of Human Rights and article 26 of the Covenant (see, for example, opinions No. 16/2017 and No. 45/2016).

³ See Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression, para. 38.

⁴ See also General Assembly resolution 70/161, para. 8, in which the Assembly called upon States to take concrete steps to prevent and put an end to the arbitrary arrest and detention of human rights defenders, and in that regard strongly urged the release of persons detained or imprisoned, in violation of the obligations and commitments of States under international human rights law, for exercising their human rights and fundamental freedoms.

41. The Working Group concludes that the deprivation of liberty of Mr. Mawarire resulted from his exercise of his rights to freedom of expression and peaceful assembly and was contrary to article 7 of the Universal Declaration of Human Rights and article 26 of the Covenant. His deprivation of liberty was therefore arbitrary and falls within category II of the categories applied by the Working Group.

Deprivation of liberty from 24 to 26 September 2017

42. On 24 September 2017, the police arrested Mr. Mawarire at his church for the alleged crimes of subverting a constitutionally elected government and inciting public violence. According to the source, he was taken to a police station but not brought before a judge until 26 September 2017, meaning that he had been held without being brought before a judge for longer than the 48 hours allowed under the country's Constitution. The court dismissed the case due to the failure of the Government to uphold Mr. Mawarire's constitutional rights. Given the court's finding, the Working Group does not consider it necessary to consider whether the length of the deprivation of liberty of Mr. Mawarire violated international law.

43. However, the deprivation of liberty of Mr. Mawarire from 24 to 26 September 2017 related to his release of a video on social media on 23 September 2017 in which he denounced his country's ailing economy, the high rate of inflation and government corruption. As noted above, this conduct falls clearly within the boundaries of the freedom of opinion and expression protected by article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant. The deprivation of liberty of Mr. Mawarire resulted from his exercise of his rights to freedom of expression and was contrary to article 7 of the Universal Declaration of Human Rights and article 26 of the Covenant. Accordingly, the Working Group finds that the deprivation of liberty of Mr. Mawarire from 24 to 26 September 2017 was arbitrary under category II.

Concluding remarks

44. The Working Group notes that there have been at least four attempts to prosecute Mr. Mawarire for his peaceful activism.⁵ This includes the current remaining allegation against him of attempting to subvert a constitutionally elected government, which reportedly carries a sentence of up to 20 years' imprisonment. The Working Group urges the Government not to pursue this or any other charge against Mr. Mawarire for the peaceful exercise of his rights, particularly in the light of the wide-ranging international calls for the Government to uphold human rights in Zimbabwe. In the universal periodic review conducted by the Human Rights Council in relation to Zimbabwe in November 2016, delegations made 28 recommendations that Zimbabwe improve the enjoyment of the freedom of opinion and expression and peaceful assembly. Several of those recommendations related specifically to the repeal of the public order offences that can be used to penalize critics of the Government, as well as the protection of human rights defenders.⁶

⁵ They include: (a) the arrest of Mr. Mawarire on 12 July 2016 on charges of inciting public disorder (charges that he was acquitted of on 13 July 2016); (b) his arrest on 1 February 2017 on charges of attempting to subvert a constitutionally elected government, inciting public violence and insulting the flag (for which his trial is ongoing); (c) his arrest on 26 June 2017 on charges of addressing a public gathering with intent to cause violence and disorderly conduct (charges that he was acquitted of on 29 September 2017); and (d) his arrest on 24 September 2017 on charges of subverting a constitutionally elected government and inciting public violence (the case was dismissed on procedural grounds on 26 September 2017).

⁶ See A/HRC/34/8, paras. 131.14–15, 131.19, 131.63–64, 131.88–95, 131.97, 132.62–64, 132.66, 132.90–92 and 132.94–100.

45. The Working Group would welcome an invitation to undertake a visit to Zimbabwe so that it could engage constructively with the Government on issues relating to the arbitrary deprivation of liberty.⁷

Disposition

46. Although Mr. Mawarire has been released, the Working Group, in accordance with paragraph 17 (a) of its methods of work, reserves the right to render an opinion as to whether or not the deprivation of liberty was arbitrary, notwithstanding the release. In the light of the foregoing, the Working Group renders the following opinion:

(a) The deprivation of liberty of Evan Mawarire from 1 to 8 February 2017, being in contravention of articles 2, 3, 7, 9, 19 and 20 of the Universal Declaration of Human Rights and articles 2, 9, 19, 21 and 26 of the Covenant, is arbitrary and falls within categories I and II.

(b) The deprivation of liberty of Evan Mawarire from 24 to 26 September 2017, being in contravention of articles 2, 3, 7, 9 and 19 of the Universal Declaration of Human Rights and articles 2, 9 (1), 19 and 26 of the Covenant, is arbitrary and falls within category II.

47. The Working Group requests the Government of Zimbabwe to take the steps necessary to remedy the situation of Mr. Mawarire without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

48. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to accord Mr. Mawarire an enforceable right to compensation and other reparations, in accordance with international law. The Working Group urges the Government to put an end to any investigations and withdraw all charges against Mr. Mawarire in relation to his peaceful activism in support of human rights.

49. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Mawarire, and to take appropriate measures against those responsible for the violation of his rights.

50. The Working Group requests the Government to bring its laws, including section 22 (2) (a) of the Criminal Law Act and section 6 of the Flag of Zimbabwe Act, into conformity with the recommendations made in the present opinion and with the commitments made by Zimbabwe under international human rights law.

51. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers this case to: (a) the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, (b) the Special Rapporteur on the rights to freedom of peaceful assembly and of association and (c) the Special Rapporteur on the situation of human rights defenders for appropriate action.

52. The Working Group encourages the Government to incorporate the Model Law for the Recognition and Protection of Human Rights Defenders into its domestic legislation and to ensure its implementation.⁸

Follow-up procedure

53. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

⁷ In opinion No. 15/2009 (Zimbabwe), the Working Group found that the deprivation of liberty of three individuals fell within categories I and III of its categories of arbitrary detention.

⁸ The Model Law was developed in consultation with more than 500 human rights defenders from around the world and 27 human rights experts. Available from www.ishr.ch/sites/default/files/documents/model_law_full_digital_updated_15june2016.pdf.

(a) Whether compensation or other reparations have been made to Mr. Mawarire;

(b) Whether an investigation has been conducted into the violation of Mr. Mawarire's rights and, if so, the outcome of the investigation;

(c) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Zimbabwe with its international obligations in line with the present opinion;

(d) Whether any other action has been taken to implement the present opinion.

54. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example, through a visit by the Working Group.

55. The Working Group requests the source and the Government to provide the above information within six months of the date of the transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

56. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.⁹

[Adopted on 22 November 2017]

⁹ See Human Rights Council resolution 33/30, paras. 3 and 7.