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ZIMBABWE

CASE No. ZBW/19 - ROY BENNETT

CASE No. ZBW/20 - JOB SIKHALA

CASE No. ZBW/21 - TICHAONA MUNYANYI

CASE No. ZBW/25 - TENDAI BITI

CASE No. ZBW/27 - PAUL MADZORE

**CASE No. ZBW/37 - TUMBARE
MUTASA**

CASE No. ZBW/38 - GILBERT SHOKO

CASE No. ZBW/44 - NELSON CHAMISA

***Resolution adopted unanimously by the IPU Governing Council at its 181st session
(Geneva, 10 October 2007)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the case of Mr. Roy Bennett, Mr. Job Sikhala, Mr. Tichaona Munyanyi, Mr. Tendai Biti, Mr. Paul Madzore, Mr. Tumbare Mutasa, Mr. Gilbert Shoko and Mr. Nelson Chamisa of Zimbabwe, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/181/11(a)-R.1), and to the resolution adopted at its 180th session (May 2007),

Taking into account the communication from the Speaker of the House of Assembly dated 31 July 2007 forwarding a report from the Police General Headquarters dated 17 July 2007, and his letter of 19 September 2007, received on 9 October,

Considering the following information on file:

- Mr. Biti and Mr. Chamisa, along with many others attempting, according to the sources, to participate in a prayer meeting were arrested in Harare on 11 March 2007, taken to the police station and severely beaten; according to the information provided by the delegation of Zimbabwe to the 116th Assembly of the IPU (April-May 2007), the assault on the parliamentarians and others was debated in parliament and a motion was moved to call upon the government and the police force to investigate the incident; it was debated for two days; according to the police report of 17 July 2007, the meeting was in fact part of a defiance campaign of the Movement for Democratic Change (MDC) and was illegal;
- On 18 March 2007, Mr. Chamisa was attacked by eight men, reportedly security agents, at Harare International Airport on his way to attend the meetings of the committees of the ACP-EU Joint Parliamentary Assembly in Brussels; Mr. Chamisa suffered severe injuries as a result; at the hearing held during the 116th Assembly of the IPU, Mr. Leo Mugabe, a member of the Zimbabwe delegation, stated that he himself had insisted publicly on the need for an investigation; however, in its report of 17 July 2007, the police state that Mr. Chamisa was being uncooperative as he has not lodged a complaint despite several invitations to do so; such a complaint was necessary in the case of assault for the police to be able to start an investigation;
- On 28 March 2007, Mr. Madzore was arrested at his home on allegations of petrol bombing several police stations in Harare and possessing firearms; he was reportedly tortured in police custody and subsequently moved to a private hospital, where he was put on a life-support system; the police, however, moved him forcibly back to his remand prison cell in Harare and refused him medical treatment; as a result, Mr. Madzore collapsed twice in his prison cell, thereby further exacerbating concerns about his health; on 13 April 2007, High Court judge Tedi Karwi refused his application for bail, reportedly on the orders of the Minister for Home Affairs, who issued a certificate of denial on security grounds; according to the police report of 17 July 2007, Mr. Madzore was mainly responsible for the series of petrol bombings earlier this year and intended to go to South Africa for military training in

insurgency, banditry and terrorism to train MDC youths in this respect; the charges against Mr. Madzore were withdrawn before plea and he was released in August 2007;

- Mr. Sikhala was tortured while in detention from 14 to 16 January 2003; the police, while initially announcing progress in the investigation, later stated that they had found it difficult to proceed with the case because of Mr. Sikhala's failure to cooperate, although he had provided detailed information and even given names; the matter is before the High Court under reference HC/645/03; Mr. Sikhala was rearrested on 11 March 2007 in the same circumstances as Mr. Chamisa and Mr. Biti, and taken to a police station; he was released several hours later;
- Mr. Munyanyi was ill-treated in October 2002 while being held on a murder charge which was later dropped before plea; a medical certificate was issued attesting to the injuries he sustained; at the 115th Assembly, the Zimbabwean delegation stated that Mr. Munyanyi, who is no longer a member of parliament, had himself "abandoned the matter" and that the case was no longer being pursued;
- In August 2003, Mr. Tumbare Mutasa brought a lawsuit against the authorities for the injuries he suffered during an alleged assault on him by riot police in March 2003; an investigation was opened but later closed after Mr. Mutasa died of natural causes;
- According to information provided by the police in September 2003, while there is no record of Mr. Shoko having been assaulted on 22 March 2003, an investigation had been opened into an attack on his house on 1 April 2002, regarding which Mr. Shoko had lodged a complaint; according to information provided by the Speaker of the House of Assembly, Mr. Shoko has died, which in Zimbabwean law has the effect of extinguishing the proceedings instituted in this case;
- Several court rulings ordering Mr. Bennett's farm to be vacated were not executed, a matter which, according to the authorities, has become moot pursuant to Constitutional Amendment 17, whereby all farmland in Zimbabwe now belonged to the State and anybody who wished to utilize it had to apply for and be granted a lease agreement; in October 2004, charges of contempt of parliament proceedings were brought against him and he was sentenced to one year in prison with hard labour and was thus prevented from standing in the March 2005 legislative elections; in early 2006, Mr. Bennett was forced to flee the country for fear his life and has since been granted political asylum in South Africa,

Considering that, in his letter of 19 September 2007, the Speaker stated that Mr. Munyanyi and Mr. Mutasa were no longer members of parliament, for which reason the authorities felt the Committee was not competent and that, moreover, owing to the separation of powers, as Speaker he had no authority, mandate or capacity to investigate human rights abuses,

Bearing in mind that Zimbabwe is a State Party to the International Covenant on Civil and Political Rights and therefore bound to respect the prohibition of torture and ill-treatment and the rights to liberty and security of the person guaranteed in its Articles 7 and 9, respectively,

1. *Thanks* the Speaker of the House of Assembly and the Zimbabwean Police for the information provided; *deplores*, however, the fact that none of the parliamentary documents regarding parliamentary action with regard to the incident of 11 March 2007 and the attack of 18 March 2007 on Mr. Chamisa which the Zimbabwean delegation to the 116th IPU Assembly undertook to provide, in particular the motion that was filed, has been forthcoming;
2. *Wishes to clarify* in this respect that no one has ever asked the parliament to investigate human rights abuses itself, but that the IPU has consistently called on the parliament of Zimbabwe to exercise one of its essential functions as a parliament, which is to oversee the government and the executive to ensure that they comply with their duties; it is in the exercise of this function that parliament is entitled to inquire into action taken by the law enforcement agencies to ensure that crimes, including those committed by law enforcement officials themselves, are duly investigated and perpetrators brought to justice;
3. *Reaffirms* that the treatment inflicted by the police on Mr. Biti, Mr. Chamisa and many others constitutes a gross human rights violation, irrespective of whether or not the meeting was authorized or was a prayer meeting or not; *remains shocked* at the absence of any immediate action taken against the responsible police officers, who must be known and

should have immediately been brought to justice and punished in accordance with the law; *urges* the parliament once again to exercise its oversight function to ensure that the police officers responsible for this gross human rights violation are held to account without further delay;

4. *Remains deeply concerned* at the attack perpetrated against Mr. Chamisa on 18 March 2007; *urges* parliament once again to exercise its oversight function to ensure that a thorough investigation is conducted into the attack, and *stresses* in this respect that Mr. Mugabe, according to his own statement, insisted on the need for such an investigation; *is unaware* of anything in Zimbabwean law to prevent the police from investigating an attack of this nature which is in the public domain; *believes*, moreover, that the failure of the Zimbabwean police to investigate attacks on opposition supporters may well dissuade victims from lodging complaints;
5. *Is relieved* to learn that Mr. Madzore has been released and *deplores* the fact that he was arrested, ill-treated and detained for five months in the absence of any credible evidence against him, as shown by the withdrawal of the case against him before plea; *recalls* that the authorities have a duty to investigate any allegation of torture, and *wishes to ascertain* any action taken in this regard;
6. *Deplores* the failure of the authorities to conduct a full and thorough inquiry into the torture to which Mr. Sikhala was subjected in January 2003, although evidence was submitted to them which would have enabled them to identify those responsible;
7. *Stresses* that it is precisely such failures by the authorities to investigate torture allegations that encourage police and other security officials to resort to torture and other human rights violations, as amply demonstrated by the cases in question;
8. *Is bound to note with the utmost concern* that in none of the cases in question have the State authorities, in particular police and prosecutorial authorities, complied with their constitutional duties, and nor has parliament exercised its oversight function effectively; on the contrary, law enforcement agencies have been allowed to continue torturing and ill-treating even members of parliament with complete impunity; *can only once again reiterate its pressing appeal* to the parliament to assume its oversight function and to use the means of action at its disposal to ensure that the law enforcement authorities fulfil their duties;
9. *Points out once again*, with respect to Mr. Bennett, that the adoption of Constitutional Amendment 17 does not alter the fact that several court judgments ordering that Mr. Bennett's farm be vacated as early as 2002 have not been executed, thus subjecting him to a grave injustice, and *reiterates its wish* to receive the observations of the authorities on the allegation that not a single farm belonging to parliamentarians of the ruling party has been acquired by the State under the terms of Constitutional Amendment 17;
10. *Reiterates also its wish* to receive a copy of the Supreme Court ruling regarding Mr. Bennett's petition to have the contempt of parliament proceedings against him declared null and void, and Section 16 of the Parliamentary Privileges, Powers and Immunities Act declared unconstitutional, and *believes* that more than one year after it was handed down that the ruling must exist in writing;
11. *Would appreciate* receiving a copy of the legal provision stipulating that proceedings in criminal matters are extinguished in the case of decease of the victims; and *clarifies* with regard to the Speaker's remarks concerning Mr. Munyanyi and Mr. Mutasa that the alleged human rights violation of which they were victims occurred while they were members of parliament, for which reason the Committee remains competent to continue examining their cases;
12. *Requests* the Secretary General to convey this resolution to the authorities, once more inviting them to provide the requested information;
13. *Requests* the Committee to continue examining this case and report to it at its next session, to be held on the occasion of the 118th Assembly of the IPU (Cape Town, April 2008).