



Statement on the Right of Freedom to Demonstrate and Protest During the COVID – 19 Pandemic Lockdown.

26 July 2020

1. The Zimbabwe Human Rights Commission (ZHRC) is mandated to monitor the observance of human rights and freedoms in terms of Section 243 (1) (c) of the Constitution of Zimbabwe Amendment (No.20) Act 2013. In line with its monitoring mandate, ZHRC has noted that there are several human rights issues emanating from the proposed demonstrations and protests allegedly against corruption, scheduled for the 31st July 2020. The Commission hereby reflects on some of the key human rights issues at play in this scenario.
2. On one hand, section 59 of the Constitution enshrines the freedom to demonstrate and protest. It provides that “Every person has the right to demonstrate and present petitions, but these rights must be exercised peacefully.”
3. On the other hand, section 86 of the Constitution on limitation of rights and freedoms states that the fundamental rights and freedoms set out in the Declaration of Rights must be exercised reasonably and with due regard for the rights and freedoms of other persons. The provision also states that the fundamental rights and freedoms may be limited only in terms of a law of general application and to the extent that the limitation is fair, reasonable, necessary and justifiable in a democratic society based on openness, justice, human dignity, equality and freedom, taking into account all relevant factors. Some of the critical factors that are taken into account in the limitation matrix are whether it is necessary in the interests of defence, public safety, public order, public morality, public health, regional or town planning or the general public interest.
4. In addition to the limitation of rights highlighted in section 86 of the Constitution, section 87 also allows for limitation of rights during public emergencies such as the COVID-19 pandemic. It states that In addition to the limitations permitted by section 86, the fundamental rights and freedoms set out in the Declaration of Rights may be further limited by a written law providing for measures to deal with situations arising during a period of public emergency, but only to the extent permitted by Chapter 4 of the Constitution and the Second Schedule.

5. The written law providing for measures to deal with situations arising during a period of public emergency is the Public Health Act [Chapter 15:17] and the various Statutory Instruments which have been gazetted since March 2020, when the pandemic was declared a state of disaster by His Excellency, the President of the Republic of Zimbabwe. It is pertinent to mention that Statutory Instrument 83 of 2020 which prohibits gatherings of persons exceeding 50 in number is still extant.
6. In light of the impending protests scheduled for 31 July 2020, ZHRC urges all citizens of Zimbabwe to take into consideration the above cited constitutional rights limiting provisions as well as the COVID-19 Regulations which have been put in place for the prevention and containment of the pandemic. In exercising the right to demonstrate and petition, interests of public safety, public order and public health should be taken into account and be allowed to take precedence. Citizens should therefore in all instances exercise their rights responsibly and reasonably with due regard for the rights and freedoms of other persons and in particular the right to life which is absolute.
7. Notwithstanding the limitation justifications, ZHRC urges the Government to respect the rights of its citizens by refraining from use of various State machinery to instil fear and despondency. In that same vein, as a democratic and free State, the State through its apparatus should desist from inflicting constitutionally proscribed measures such as torture or cruel, inhuman or degrading treatment or punishment on dissenting political voices. Let us all respect and obey the law to stay safe and alive.

ZHRC for Human Dignity

ZHRC CONTACT DETAILS

Hotline: 0771 838 656 or 0786 602 035

Harare Office

144 Samora Machel Avenue, Harare

P. Bag. 7759 Causeway, Harare

Telephone: +263 242 703596/ 703616/701811

Bulawayo Office

49 J.M. Nkomo Street (Between 3rd and 4th Avenue, Bulawayo)

Telephone: 292 64170-73

Email: info@zhrc.org.zw

Website: www.zhrc.org.zw

Facebook Page: @zhrc.zw

Twitter: @zhrc365