

# Lawyers' Rights Watch Canada

*NGO in Special Consultative Status with the Economic and Social Council of the United Nations*  
**Promoting human rights by protecting those who defend them**

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The Hon. Mr. Emmerson Dambudzo Mnangagwa  
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Dear Ministers and Ms. Nyemba,

**Re: Unlawful arrest of Zimbabwe lawyer, Fadzayi Mahere and others**

I write on behalf of Lawyers' Rights Watch Canada (LRWC), a committee of lawyers and other human rights defenders, provides support internationally to lawyers in danger and promotes the enforcement of international human rights standards protecting the duty and right of lawyers to uphold the rule of law.

LRWC is concerned about recent reports of the unlawful arrest of Zimbabwe lawyer, Fadzayi Mahere and approximately 40 others, on 18 November 2016, during a peaceful demonstration against the government's introduction of bank notes in December 2016.

The use of police intimidation tactics towards Fadzayi Mahere and other protesters and critics is contrary to Zimbabwe's international law obligations, as a suppression of democratic rights, including rights to freedoms of speech, assembly, association, and the right to participate in public affairs.

Zimbabwe has international legal obligations to ensure that all people within Zimbabwe's territory are free to exercise internationally protected rights to expression, association, assembly and participation in public affairs. All Zimbabwe citizens are entitled to speak out against government actions without fear of arrest or other reprisals. These rights are protected by the *Universal Declaration of Human Rights* (UDHR), the *International Covenant on Civil and Political Rights* (ICCPR), the *African Charter on Human and Peoples' Rights* (ACHPR) and other instruments.

Some of the UDHR, ICCPR and ACHPR provisions protecting rights to assembly are:

*UDHR* Article 20 (1),

**20.** (1) Everyone has the right to freedom of peaceful assembly and association.

*ICCPR* Articles 21 and 22:

**21.** The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

**22.** (1) Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

(2) No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

The word "peaceful" is absent from Article 11 of the *African Charter on Human and Peoples' Rights*:

**11.** Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

Freedom of assembly and expression are accepted as being a necessary part of open debate and democracy. LRWC further reminds you of the importance of democratic principles, freedom of speech and assembly. We specifically note that:

Freedom of assembly and the right to express one's views through it are among the paramount values of a democratic society. The essence of democracy is its capacity to resolve problems through open debate. Sweeping measure of a preventive nature to suppress freedom of assembly and expression other than in cases of incitement to violence or rejection of democratic principles – however shocking and unacceptable certain views or works used may appear to the authorities, and however illegitimate the demands made may be—do a disservice to democracy and often endanger it.<sup>1</sup>

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<sup>1</sup> ECtHR, *Case of Stankov and the United Macedonian Organisation*.

LRWC is concerned for the well being and safety of Fadzayi Mahere and the other human rights lawyers and political activists arrested during the 18 November assembly. Reports indicate that approximately 40 people were detained. These basic democratic rights must be respected by Zimbabwe's government officials and its police officers.

LRWC has expressed concern on previous occasions about the arbitrary detention of human rights lawyers for exercising professional duties and internationally protected rights.

**LRWC calls on Zimbabwe to take all steps necessary to remedy violations of its international law obligations in the case of Fadzayi Mahere, specifically to:**

- 1. Immediately and unconditionally release Fadzayi Mahere;**
- 2. Ensure Zimbabwean police officers restrain from the use of police force and intimidation tactics on political demonstrations against government actions.**
- 3. Take urgent and decisive measures to ensure all lawyers and human rights defenders are treated in accordance with Zimbabwe's international legal obligations.**

LRWC would greatly appreciate a response from your office and an opportunity to speak with you further about this matter. We look forward to hearing from you as soon as possible.

Sincerely,



Amy E. Reier B.A., M.A., L.L.B  
Member  
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