

## PRESS STATEMENT



### FOR IMMEDIATE RELEASE

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### **HUMAN RIGHTS COMMISSION FOR ZIMBABWE**

Zimbabwe Lawyers for Human Rights (ZLHR) notes with interest the continued piecemeal reforms and amendments to the Constitution of Zimbabwe. The report of the Sunday Mail of 26 March – 1 April carried an article stating that the cabinet has approved a proposal to make yet another amendment to the Constitution to provide for the establishment of a human rights body to be called the Zimbabwe Human Rights Commission. This will be a record 18<sup>th</sup> amendment to the country's constitution in 26 years! The amendment to the Constitution of Zimbabwe to establish the Zimbabwe Human Rights Commission adds onto the numerous constitutional amendments which have created a mutilated bill of rights and proverbial constitution which does not espouse the principles of constitutionalism. ZLHR reiterates its position and that of constituency based progressive civil society organisations that the Government should refrain from manipulating and implementing piecemeal amendments to the constitution which have failed to recognise the need for broad-based and inclusive consultation with all stakeholders.

According to the media reports, the Zimbabwe Human Rights Commission will be mandated with investigating human rights violations and complaints in the country and make findings and decisions on such. It is trite that the State is, under human rights law, obliged to have institutions of protection which offer effective remedies for human rights violations. The factors relevant to effectiveness of the Commission among others include;

- ✚ Issues of the composition of the Commission;
- ✚ Appointment process of the Commissioners;
- ✚ The mandate of the Commission;
- ✚ To who the Commission is answerable especially its relationship to the Executive;
- ✚ How the Commission's decision will be enforced and by who;
- ✚ How the Commission will be resourced, who decides on its budget and to who does the Commission account;
- ✚ The existence of political will by the Executive;
- ✚ Existence of functioning institutions of protection such as a non-partisan police force and an independent judiciary;
- ✚ A permissive and non-repressive legislative environment.

To establish a human rights commission in the prevailing legislative and administrative operating environment without corresponding and simultaneous changes to the current repressive laws is tantamount to deception and attempts to

create illusory remedial institutions. Such a process will compound the human rights situation in the country. The Commission in our view will be a white elephant if the following institutions, laws and state sponsored practices are not revisited;

- Laws such as the Access to Information and Protection of Privacy Act and the Broadcasting Services Act which have been used as a pretext to close independent media houses, to harass, arrest and intimidate journalists, to bomb and close independent radio stations and printing press,
- Laws which restrict enjoyment of fundamental rights such as assembly, association, protection of the law, expression and movement such as the Public Order and Security Act, the Miscellaneous Offences Act and Constitutional Amendment Act No 17 which have been used as a pretext to arbitrary arrest, detain and torture human rights defenders and legitimate opposition political parties activists,
- Politically manipulated and partisan police force such as the Law and Order section of the police that has been used to torment human rights defenders,
- The practice of defiance and non enforcement of court orders and decisions by arms of the state in issues which are of human rights nature,
- Interceptions of communications under the guise of protecting national security, order and economic interests of the country.

Addressing the above issues is a prerequisite if the government of Zimbabwe is genuinely committed to the creation of an independent human rights commission. In the circumstances ZLHR reaffirms the position adopted by the civic movement in Harare on 17 September 2005 that;

1. There is urgent need for a democratic constitution as the foundation for a democratic government;
2. Zimbabweans must reject piecemeal constitutional amendment processes which fail to recognise the need for broad-based and inclusive consultation with all stakeholders;
3. There is a need for a home-grown Zimbabwe constitution produced with full people participation;
4. Strategic institutions (including sub-regional governments, the SADC, the African Union and the United Nations mechanisms) must exert pressure on the government of Zimbabwe to engage in broad consultation with opposition political parties and civic organisations in order to achieve a home-grown and representative constitution as a first step towards addressing the systemic failure of government;
5. Strategic institutions (including sub-regional governments, the SADC, the African Union and the United Nations mechanisms) must support the call for an opening up of the democratic space which will allow the People of Zimbabwe to fully inform themselves and participate in the processes critical for the development of a truly representative constitution.

Only after such a process can our constitution contain provisions for the establishment of a genuine and effective human rights commission in Zimbabwe.