



FILE REF ZHRC/CI/0069/17

In the matter between:

TEACHERS UNIONS OF ZIMBABWE

COMPLAINANTS

And

MINISTRY OF PRIMARY AND SECONDARY EDUCATION

1ST RESPONDENT

ZIMBABWE AFRICAN NATIONAL UNION

2ND RESPONDENT

-PATRIOTIC FRONT

INVESTIGATIVE REPORT

1. Introduction and background

This report contains findings of the Zimbabwe Human Rights Commission (ZHRC/Commission), pursuant to an investigation undertaken by the ZHRC into a complaint lodged by three Teachers Unions namely, Amalgamated Rural Teachers Union (ARTUZ), Progressive Teachers Union of Zimbabwe (PTUZ) and the Zimbabwe Rural Teachers Union (ZRTU) on behalf of Teachers and school children across the country. The complaint involves allegations of violation of children's rights, the right to education, freedom of association and assembly by the Ministry of Primary and Secondary Education (MoPSE) and ZANU-PF party (hereinafter referred to as the respondents). The investigations were commenced in July 2017. A letter was written to the

2nd Respondent addressed to the Permanent Secretary seeking guidance on the policies that address the issue of child participation at political rallies. The Commission has since made one written follow up.

1.2 The complainants are Teachers' Unions established in terms of Section 65 of the Constitution of Zimbabwe Amendment (No.20) Act 2013 (hereinafter referred to as the Constitution) and duly recognised by the Public Service Association representing Secondary and Primary teachers employed by the Government of Zimbabwe.

1.3 In determining its role in this matter, the ZHRC considered that the set of facts gives rise to violation of human rights enshrined in Chapter 4, Part 2 of the Declaration of Rights in the Constitution of Zimbabwe, particularly Children's rights in terms of section 81 (1), (f) and (h), freedom of assembly and association enshrined in section 58, right to equality and non-discrimination in terms of section 56 and the right to education provided for in terms of section 75.

2 Detailed background of complaint:

2.2 Complainants allege that they have received, monitored and recorded systematic violations of fundamental human rights by ZANU PF party, particularly violations of Section 81 (f) which guarantees children's rights and provides that children must not be compelled to take part in any political activity. Further, complainant alleges violation of Section 58 which enshrines freedom of assembly and association.

2.3 Some of the schools where the alleged violation of children's rights by the respondent were recorded are Kanyemba Secondary School in Mashonaland Central, St Johns Primary School in Manicaland, all public schools in Bulawayo and schools in Matobo and Mzingwane Districts in Matabeleland South. It is alleged that school children were being exposed to hate speech and inflammatory language at ZANU PF rallies.

2.4 It is further alleged that at one point the ZANU PF Secretary for Women's Affairs made statements to the effect that '*zezuru are unconquerable*' which entails that the Zezuru tribe is superior to others and cannot be defeated. This is in violation of Section 56 of the Constitution which

guarantees the right to equality and non-discrimination on the basis of tribe.

2.5 Complainants further allege that respondent was violating the children's right to education protected in Section 75 of the Constitution as children were being taken out of their schooling environment to attend rallies. Further that 2nd respondent abused school property such as desks and motor vehicles which were repaired at the expense of the parents if they were damages as a result of their use at the Second Respondent's political rallies.

2.6 Complainants claim that their locus standi to act on behalf of the children and rural teachers is derived from Section 85 (1) (b) (c) (d) and (e) of the Constitution.

2.7 It is further alleged that rural teachers have been forced to attend political gatherings and also to contribute money to support ZANU PF political activities. Some of them have been forced to donate household properties such as sofas, tables, kitchen utensils and cutlery. Further, they were forced to donate amounts ranging from \$1 to \$10 to advance respondent's activities and rallies. Schools were being forced to provide buses for ZANU PF's rallies. Complainants aver that the rights of rural teachers were being violated by ZANU PF as they were forced to attend rallies and fund party activities. A copy of communication to this effect was availed to the Commission whereby teachers from all Primary and Secondary Schools were requested to contribute towards the Youth Interface rally that was held in Bindura, Mashonaland Central on the 9th of September 2017. The communication has been annexed to this report as "Annexure A."

2.8 It is further alleged that teachers were victimized, abused, falsely accused and even forced to vote as assisted voters yet they are people who are well educated and could write and read on their own without any difficulties. The same teacher could not turn down such assistance as they were threatened with unspecified action.

2.9 A particular complaint was at ALL Souls Mission School in Mutoko in Mashonaland East where teachers were forced by the school head to

create Political Party cells and declare the names of their children and relatives they stayed with, who were of voting age.

3 Mandate of the ZHRC

3.2 The ZHRC's jurisdiction in this matter is derived from Section 243 (1) (d) of the Constitution. There is alleged violation of Children's rights as provided in section 81 (1) (f) and (h), freedom of assembly and association section 58, right to equality and non-discrimination section 56 and the right to education section 75 of the Constitution.

4 Methodology

In carrying out the investigations, the ZHRC employed a number of methods which included desk research, individual interviews with witnesses, attendance at Presidential Youth Interface Rallies and the Movement for Democratic Change, MDC-Alliance Launch rally in Bulawayo in order to verify facts. The MDC Alliance Launch Rally was in order for the ZHRC to have a comparative with other political parties to understand whether it is the norm for political parties to violate and exploit children and school property for political purposes.

Desktop Research

4.1.1. The ZHRC conducted legal research into the legal framework governing human rights locally, regionally and internationally. This was done in order to identify and assess the human rights if any that were violated by the alleged conduct of the respondents.

4.2. Interviews

4.2.1. On the 9th of August 2017, the ZHRC convened a meeting with the four Teachers Unions mentioned above. The Union representatives gave their submissions and echoed the same sentiments of abuse of children's rights and teachers at political party rallies. The submissions made by the

Teachers Unions are as mentioned above. The Zimbabwe Teachers Association did not attend the meeting despite having been invited.

4.2.2. A letter was written to the 1st respondent which has not responded to.

5. Applicable law

5.1. Constitutional Framework

5.2. Human rights involved

The following human rights were allegedly violated

5.2.1 The right of the child not to be compelled to take part in any political activity ;

5.2.2 The right of the child to education; and

5.2.3 Freedom of assembly and association.

6. Analysis of the complaint

The situation as explained above gives rise to a number of human rights issues which will be analysed and discussed below. The rights are listed below:-

6.1. Section 81 (1) (h) of the Constitution entrenches the right of the child not to be compelled to take part in any political activity;

6.2. Section 81 (1) (f) of the Constitution entrenches the right of the child to education; and

6.3. Section 58(1) (a) and (b) of the Constitution entrenches the right of every Zimbabwean to freedom of assembly and association.

7. Whether or not the right of the child not to be compelled to take part in any political activity was violated

To a large extent, interpretations of the United Nations Convention on the Rights of Children (CRC) having a primary concern with children's protection, survival and development does not articulate children's roles as political actors. The CRC has been used to stress the risks for young political activists and the need to protect and prevent children from joining political and military struggles.

7.1. Section 81 (1)(h) of the Constitution provides that: *'Every child that is to say a boy or a girl under the age of eighteen years, has the right-*

not to be compelled to take part in any political activity.' In the present case, the Commission observed some children who were providing entertainment at the youth interface rallies held at Mkoba Teachers College in Gweru on the 1st of September 2017 and at White City Stadium in Bulawayo on the 4th of November 2017. The use of children to provide entertainment at political rallies could be said to be compelling children to attend political rallies. However, asserting the "compelling" was difficult as it can be argued that the children might have felt privileged to provide entertainment at such a high profile meeting. A solution to this is found in the Children's Act Chapter 5:06.

- 7.2.** The use of children to provide entertainment in public places is criminalised in terms of the Children's Act. Section 10 (1) (d) provides that :- *Any parent or guardian of a child or young person who allows that child or young person or any person who causes any child or young person to perform or be exhibited in any way for public entertainment in a manner likely to be detrimental to the child's or young person's health, morals, mind or body; shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.* Children dressed in party regalia were used to provide entertainment through provocative dances. The provocative dances have a negative bearing on the morals of children. At the Bulawayo Youth Interface Rally held on the 4th of November 2017 at White City Stadium, a Primary School going child was made to provide entertainment in the form of a poem in which she was singing praises to the former President and first lady.
- 7.3.** Furthermore, the children were exposed to hate, disrespectful and discriminatory speech that presupposes some tribes are better than other tribes and that anyone who opposes the ruling party is an enemy and should not be listened to. The speeches seemed to promote violence in the event of people having views that are different from those of the former first family as the speeches were tearing into some

of the members of the ruling party ZANU PF. All these have negative effects on the morals and values of children.

7.4. Section 7 (1) as read with subsection (3) of the Children's Act provides as follows:- ***Ill-treatment or neglect of children and young persons***
(1) *Subject to subsection (4), if any parent or guardian of a child or young person assaults, ill-treats, neglects, abandons or **exposes him or allows, causes or procures** him to be assaulted, ill-treated, neglected, abandoned or **exposed in a manner likely to cause him unnecessary suffering** or to injure or detrimentally to affect his health or **morals or any part or function of his mind or body, he shall be guilty of an offence.*** Subsection (3) provides the following:-
A person may be convicted of an offence specified in subsection (1) notwithstanding that-

(a) actual suffering or injury or detriment to health, morals, mind or body has been obviated by the action of another person; or

(b) actual suffering or injury or detriment to health, morals, mind or body has not occurred;

In the present case the use of children to provide entertainment for political purposes which is not educational can be said to be a form of neglect and/or abuse. It can be argued that such practices expose children to other forms of abuse such as sexual and physical abuse and are also detrimental to their morals.

In this regard, Zimbabwe could learn a lesson or two from the neighbouring South Africa's constitutional entrenchments on the right of the child to be protected from activities that are detrimental to their morals. Section 28 (1) (f) (i)¹ states the following:- *Every child has the right not to be permitted to perform work/ provide services that place at risk the child's wellbeing, education, physical or mental health or spiritual, moral or social development.* Allowing a child to perform provocative dances as a way of providing entertainment can be said to permit a child to provide services that place at risk moral and social

¹ The Constitution of South Africa Act 108 of 1996

development. The fact that the right of the child to be protected from conduct that is detrimental to their moral is enshrined in the South African Constitution shows the progressive and political will to safeguard the right.

7.5 The rallies that were attended by the Commission were conducted during the holidays and during the weekend respectively so it was the parents of the children who gave those children the go ahead to attend the rallies and for those who provided entertainment at the rallies their parents had given their consent. This raises questions as to whether the parents of the children are aware of their obligation to protect their children from conduct that makes them vulnerable to abuse. This gives rise to the necessity of raising awareness with parents on the need to properly provide guidance to their children for their safety and well-being.

8. Whether or not the right to education was violated

Section 81 (1) (e) of the Constitution provides for the right of the child to education. The complainants raised the issue that children are forced to attend political rallies so that they provide entertainment at the rallies and that as future leaders they get to familiarise with the activities. When political rallies are conducted on a school day and children are made to attend for purposes of providing entertainment they are then not able to attend school. Consequently, when children are unable to attend school due to a political rally, the right to education is sacrificed. At the Youth Interface rally in Gweru the violation of the right to education could not be observed since it was conducted during the school holidays. The Bulawayo interface rally was also conducted on a Saturday such that the children who attended the rally did so while in the custody of their parents.

9. Whether or not the right to freedom of association and assembly was violated

Section 58 (1) and (2) of the Constitution provides as follows: (1) *‘Every person has the right to freedom of assembly and association, and the right not to assemble or associate with others’* (2) *No person may be compelled to belong to an association or to attend a meeting or gathering.’*

- 9.1.** Children by virtue of being human beings are protected by the constitutional provisions on the right to freedom of association and assembly. These rights are also provided for in terms of article of 8 of the African Charter on the Rights and Welfare of the Child (ACRWC) which Zimbabwe has ratified, and which provides as follows :-
- “Every child has the right to freedom of association and freedom of peaceful assembly, in conformity with the law.”

9.1.1 The Constitution of Zimbabwe provides in section 67 (3) that the right to vote is only given upon attaining the age of 18. There is no legislation however, that expressly provides for the lower age limit for children to join political parties. However, it would seem from the above provisions of the ACRWC that children have the right to assemble and associate, to belong to any association or to attend meetings and gatherings which could include political rallies even though but proper protection and safety measures have to be put in place for the sake of children. This is because it provides children with an opportunity to learn about the political process and prepare for political leadership. Preventing children from joining and attending political party rallies violates article 15 of the CRC which is similar to the above mentioned article of the ACRWC and also section 58 (1) of the Constitution of Zimbabwe. However, the CRC and the ACWRC do not provide for the specific ages of when children should be allowed to attend political rallies. It would be logical to ensure that primary school going children be kept away from political activities and in the event that they attend political rallies they should only do so in the presence of their parents and guardians. This is because their levels of appreciation of political levels will still be low.

9.1.2 The children however, have to freely and voluntarily participate without being compelled after proper guidance and advice to safeguard against manipulation of children by adult agencies who may use children to present their advocacy agendas or manipulate them to say what the adults want rather than present their own concerns thereby being denied the right to make their own decisions. Children must first of all be provided with information and an

opportunity to understand the consequences and the impact of taking part in political activities. In all such activities, strong monitoring and evaluation components must be present and initiatives tested against the principles of the Conventions.

- 9.1.3 Participation of children in political activities must be always in the best interests of the children and not based on manipulation or to settle scores. What this means is that children must not be stopped from attending political rallies but rather political parties must understand that children have the right to freely participate and must therefore act responsibly by promoting harmony so that children learn positive aspects from the political rallies.

9.2 The complainants (teachers) also highlighted that they were forced to attend political rallies. As highlighted above, the Gweru Youth Interface Rally was conducted during the holidays while the Bulawayo Youth Interface Rally was conducted on a Sunday. As a result it was not possible to determine which members of the complainants' bodies attended the rallies after being compelled to. It had also been reported that it was rural teachers that were forced to attend rallies while urban teachers did not face the same challenges. As a result at the rallies that the Commission attended there were no teachers who could verify that they had been compelled to attend the rallies since both were in the urban area.

- 9.3.** The Commission managed to have an interview with one Gweru Provincial member of the Association of Rural Teachers of Zimbabwe Midlands Province who confirmed that during the holidays it is difficult to compel teachers to attend the rallies unlike during the school term. He outlined that when schools are open, on top of being forced to attend rallies they were compelled to make contributions towards the event. Failure to do so led to one being threatened with harm and prevention from working in the district among other things. They were also forced to wear t-shirts and other regalia of the Zanu PF which seriously curtailed their right to freedom of association and assembly.

- 9.4.** On top of being forced to attend rallies the teachers were also forced to prepare poems, speeches and dramas with the theme of the rally which would then be presented by the children. He went on to highlight that when the rallies are held at rural schools children from grade 4 to grade 7 were all forced to attend. Sometimes this involved walking to the venues where the rallies were held. He gave an example of one rally that was held 11 kilometres away from their school where the school children had to go. The children walked the 11 kilometres to and 11 kilometres back. The teachers took turns to walk to and from the rally so the first half walked to the rally while the other half used public transport. On coming back those who walked then got public transport while those who had used public transport had to walk with the children in terms of the education policy where teachers are obligated to be with the children always. The fare for the public transport was not provided by the schools but it came from one's pocket. This was done without any indemnity from parents who usually only get to know about the involvement of their children after the rally.
- 9.5. The use of school property at political rallies-** one of the issues that the complainants raised was that schools were also compelled to offer school property such as vehicles, trucks and furniture. School buses and trucks were used to transport communities to the events while children were made to walk. They also compelled people to bring their sofas, chairs and tables including children's chairs and tables such that the children remaining in the schools would remain with nothing to sit or write on. At the Gweru youth interface rally, the Commission observed a number of buses from schools and tertiary institutions such as Midlands States University, Guinea Fowl, Ascot High School, Hama High School, Gweru Polytechnical College, Amaveni High School (Kwekwe), Shabani Primary School (Zvishavane), Drake High School, Danhamombe High School, Holly Cross High School, Rutendo High School, Rio Tinto Zhombe High School, Tongogara High School, Serima High School, Kwekwe Primary School and many others. A number eighteen (18) buses from

different primary and secondary schools from the Midlands Province and Masvingo were identified. Some of the buses were coming from as far as Zvishavane and Chivi District in Masvingo Province. At the Bulawayo rally buses from schools like Ihlathi High School, Drake High School from Midlands, Inyanda High School, Magwegwe High School, Falcon High School, Tennyson Primary School, Northlea High School, Mzilikazi High School, Bulawayo Polytechnic, Bulawayo Hospitals and Clinics and many other government vehicles were used to transport people to the rally with ZANU PF stickers. Through the observation of the number of buses and school trucks at the interface rally it was noted that indeed school property was being abused at political rallies and the burden of servicing and repairing these in the event of any misfortunes is placed on parents.

10. Movement for Democratic Change Alliance Rally

The ZHRC also attended a Movement for Democratic Change (MDC) Alliance rally held at White City Stadium in Bulawayo on 2 September 2017. The intention was to observe the proceedings for purposes of comparing the participation of children in political gatherings, use of school property for political activities and use of hate speech and vulgar language at such gatherings. The ZHRC observed that there were no children participating at the rally. The children who were present were either in the company of their parents or selling refreshments at the entrance to the stadium where the rally was conducted. The ZHRC did not observe any school property being used at the rally. However, it was noted that hate speech was used by some of the leaders who in their slogan included such phrases as, ‘....Grace Mugabe mudenga, rovera pasi....’ The phrase can be interpreted to mean destruction of the former first lady through violence. There is need for speeches at political rallies to promote peace and nation building instead of the tearing down of each other which has a negative impact on children who are still developing and need proper guidance.

12. CONCLUSION

The compelling of children and teachers (and to contribute financially for teachers) to attend political rallies is a violation of their right to freedom of association and assembly in terms of the Constitution. The Commission received documents which showed that the teachers were compelled to donate towards interface rallies. However, there were no documents to prove that teachers and school children were compelled to attend political rallies and to dress in party regalia against their wishes. Attendance to political party rallies should only be by choice and in respect of children in their best interests as everyone has a right to freedom of association and assembly. It was also noted that there was abuse of school property and other public property as the ruling party tried to secure attendance at their political rallies. There was use of vehicles from schools and other public institutions which is undesirable.

11. RECOMMENDATIONS

In light of the above, the ZHRC makes the following recommendations:

TO THE POLITICAL PARTIES IN ZIMBABWE

- 11.1** Political parties are encouraged to promote peace and unity through their speeches.
- 11.2** Political parties must adopt a Code of Conduct that includes provisions for the prevention of the misuse and manipulation of children in political activities which encompasses responsibilities to ensure that children who attend political rallies do so freely and are safe and well protected.
- 11.3** The Code of Conduct must commit political parties and other political actors to keep schools free of political meetings or other activities and to not ask, encourage or force children in schools to participate in any political gathering or demonstration. It should also aim to prevent children from being exploited and manipulated, and to protect them from violence and arrest.
- 11.4** Political parties should desist from abusing school property such as buses and furniture in pursuit of private political interests which have nothing to do with the schools (students, teachers, and parents).

TO THE MINISTRY OF PRIMARY AND SECONDARY EDUCATION

- 11.5** Administrative regulations must be developed by the relevant ministry to prevent political activities from being conducted in schools, to guarantee that only pupils, staff, parents, legal guardians and others whose presence is necessary are allowed into schools.
- 11.6** There is need to promote the creation of youth associations without political affiliation.
- 11.7** Children's understanding of democratic processes must be developed through the educational system, and the educational curriculum must be reviewed to permit this.
- 11.8** Children's participation in political processes should be encouraged, but through a process that takes into account several factors which include best interest of the child and age of the child among other considerations.
- 11.9** Protect school resources from abuse by politicians in pursuit of private political interests which have nothing to do with the schools (students, teachers, and parents).

TO THE MINISTRY OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

- 11.10** It is the responsibility of the Government to come up with specific laws and to put in place safeguards that guarantee the protection of children from political manipulation.
- 11.11** Laws and regulations should be made that ban the use of schools by political actors, the use of children at schools in political activities, the enrolment/involvement of children in political activities without their parents' prior consent, and the use of school buses for transporting political activists.
- 11.12** Zimbabwe as a signatory to the United Nations Convention on the Rights of Child, should effectively implement the provisions that protect children from exploitation by every section of the society, including political parties, civil society and media to curb against the use of children in political activities.

TO THE COMMUNITY

- 11.13** Parents and guardians should be encouraged to hold discussions with children to allow for their informed participation in political activities.
- 11.14** Young children should not participate in demonstrations or rallies unless under their parents' supervision.

11.15 Older adolescents should have their parents' informed consent prior to participating in political demonstrations or rallies.

TO PARLIAMENT

11.16 To come up with a law that ensures school and any other public property is not abused by any political party.

11.17 To discuss this report so as to conscientise all political parties to respect the rights of children, teachers and civil servants when conducting their rallies.

12. Pictorial Evidence of findings by the ZHRC

12.1 The pictorial evidence of communication compelling teachers to donate towards the Presidential Youth Rally for Mashonaland Central and pictures of children that attended the rallies as well as vehicles used for the youth interface rallies attached hereto as '**ANNEXURES A and B.**'

Annexure A

Picture A below showing communication appealing for donations from teachers to fund the Presidential Youth Interface Rally. Teachers are then all expected to contribute or they are threatened with unspecified action

MINISTRY OF RURAL DEVELOPMENT, PROMOTION AND
PRESERVATION OF NATIONAL CULTURE AND HERITAGE

Tel (058) 2217/8

Fax: (058) 2962

All correspondence should be
addressed to the
'District Administrator'

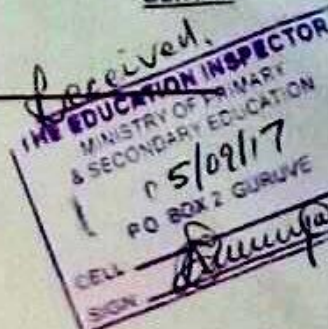


ZIMBABWE

OFFICE OF THE DISTRICT ADMINISTRATOR
MINISTRY OF RURAL DEVELOPMENT
PROMOTION AND PRESERVATION OF
NATIONAL CULTURE AND HERITAGE
STAND NO. 97
P.O. BOX 10
GURUVE

03 September 2017

Primary & Secondary Education
Guruve



Guruve

APPEAL FOR CONTRIBUTIONS TOWARDS MASH CENTRAL PRESIDENTIAL
YOUTH INTERFACE

The office of the District Administrator together with ZANU (PF) Youth League is
appealing for your contributions towards the Presidential Youth Interface rally on a
date to be announced soon.


9. September 2017

You are aware that His Excellency the President Cde R G Mugabe is on a
nationwide tour meeting the youths, and from Gweru on 1 September his next
destination will be Bindura here in Mashonaland Central. We are requesting for your
contributions to buy fuel and ferry 12 000 party supporters to Bindura.

The committee agreed that every civil servant should contribute \$1-00 towards this
memorable event.

The deadline for the contributions is 6 September 2017.

For any further information contact Mr Machobeni on 0782003702 or the
undersigned on 0773022151.


R. Shangwa
District Administrator

DISTRICT ADMINISTRATOR
GURUVE
MASH. CENTRAL PROVINCE

- 4 SEP 2017

P.O. BOX 10 GURUVE
ZIMBABWE

ANNEXURE B

Pictures 1 and 2 below showing some of the children who attended the youth interface rallies by themselves or in the company of their parents.



1



2

Pictures 3 and 4 below showing some of the children dressed in party regalia who were providing entertainment at the youth interface rally through provocative dances with adults



3



4

Pictures 5 and 6 below showing some of the school buses with Zanu Pf posters that were used to ferry people to the youth interface rallies.



5



6