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CITY BAR

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President Thabo M. Mbeki
Union Buildings - West Wing
Private Bag X1000
Pretoria
Republic of South Africa

Dear President Mbeki:

I am writing on behalf of the Association of the Bar of the City of New York (the "Association") to express our deep concern over the recent detentions and beatings of Morgan Tsvangirai and other leaders and members of the Movement for Democratic Change ("MDC"), as well as a persistent pattern of violence against opposition political activists and members of civil society in Zimbabwe. We are also troubled by the arbitrary and extra-judicial detention of human and civil rights advocates in Zimbabwe and by the brutal beatings and torture that they have suffered in government custody. Arbitrary detentions and the violent suppression of legitimate political dissent violate Zimbabwe's commitments under both international law and the Constitution of Zimbabwe. We urge you to demonstrate strong regional leadership to provide an African solution to the crises in Zimbabwe. We respectfully request that you act expeditiously to ensure that the government of Robert Mugabe immediately cease such practices and honour its international and national legal commitments.

The Association is an independent non-governmental, professional organization of over 23,000 lawyers, law professors, judges and government officials, principally from New York City but also from throughout the United States and 50 other countries, including many states in Africa. Founded in 1870, the Association has a long history of dedication to human rights, notably through its Committee on International Human Rights, which investigates and reports on human rights conditions around the world, including the United States. The Association also follows legal and policy developments in Africa through its Committee on African Affairs, which includes many African lawyers.

Since 2005, opposition politicians and civil society advocates in Zimbabwe have been subjected to sustained attack, including physical beatings at public demonstrations, arbitrary detentions, and torture while in custody. On March 11, 2007 the Zimbabwean police raided a meeting in the Highfield section of Harare and arrested Mr. Tsvangirai and Arthur Mutambara, another MDC leader, along with other MDC officials. An opposition party supporter was killed by government forces. The following day large numbers of people demonstrating against this killing throughout Zimbabwe were arrested by the Zimbabwe police. Mr. Tsvangirai was severely beaten while in police custody and suffered serious and well-documented injury. On March 28 Mr. Tsvangirai was again detained at the MDC's offices in Harare, along with other MDC officials and members.

Such brutal suppression of political dissent by the Mugabe regime is a stark violation of Zimbabwe's obligations under several international legal instruments, including the African Charter on Human and Peoples' Rights (the "African Charter"), and the basic principles enshrined in the Constitution of Zimbabwe.

As a signatory to the International Covenant on Civil and Political Rights (the "ICCPR"), Zimbabwe is required, under Article 21, to recognize its citizens' right of peaceful assembly and to refrain from unduly burdening that right. The rights "to assemble freely with others" and to "participate freely in their government" are similarly enshrined in Articles 11 and 12(1) of the African Charter, which Zimbabwe ratified in 1986. The ongoing use by the Zimbabwean government of the threat of violence and detention to intimidate opposition parties and civil society groups and to stop them from engaging in legitimate political discourse is clearly inconsistent with the duties that Zimbabwe assumed upon entering into those agreements.

The Zimbabwean authorities' continuing and repeated detention of opposition leaders, political activists and members of civil society who voice dissent also is inconsistent with Zimbabwe's obligations to protect its people from arbitrary arrests and detentions. Article 9 of the ICCPR requires Zimbabwe to ensure that its citizens "shall not be subjected to arbitrary arrest or detention" and that they shall not "be deprived of [their] liberty except on such grounds and in accordance with such procedures as are established by law." Similarly, Zimbabwe assumed the duty, pursuant to Article 6 of the African Charter, to protect the right of its citizens not to "be arbitrarily arrested or detained." The recent, repeated detentions of Mr. Tsvangirai are but the most prominent illustration of the Mugabe regime's policy of using arbitrary arrests and detentions systematically to mute dissent, in direct contravention to its obligations under international law.

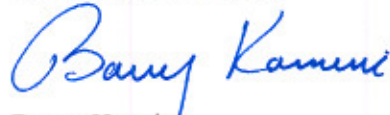
Additionally, by subjecting opposition leaders and other political and civil society activists to torture while they are held in official custody, the Zimbabwean authorities have brazenly rejected a basic tenet of customary and statutory international law and are acting directly contrary to the Constitution of Zimbabwe. Basic norms of international law no longer countenance torture; Article 7 of the ICCPR, for example, enshrines the right to be free from torture or cruel, inhuman or degrading treatment or punishment. Similarly, Section 15(1) of the Zimbabwean Constitution also expressly guarantees the right of Zimbabwean people to be free from such treatment. Nonetheless, according to reports by credible international human rights organizations such as Human Rights Watch, Mr. Tsvangirai and many other political leaders and civil society activists have been severely harmed while in police custody.

Finally, as you are aware, these enumerated actions of the Zimbabwean government are contrary to the principles of the Southern African Development Community ("SADC"), of which Zimbabwe is a founding member. Article 4(c) of the SADC Treaty, calls for states to act in accordance with and promote "human rights, democracy and the rule of law". We respectfully submit that the Zimbabwean government is acting in violation of these founding principles. We are hopeful that the Communique of the 2007 Extra-Ordinary Summit of Heads of State, held in Dar-es-Salaam on March 28-29, reaffirming the mandate granted to you to facilitate constructive dialogue between the political opposition and the Mugabe government, will create opportunities for peaceful resolution to the crises in Zimbabwe.

In light of Zimbabwe's obligations under international law and to its own constitutional principles, and out of concern for the safety and freedom of the political leaders and civil society activists in Zimbabwe who correctly and legally insist on exercising their right to assemble and to participate in the political processes in their country, we respectfully request that you demand that the Mugabe regime immediately cease the practice of relying on physical violence, arbitrary detention, and cruel treatment and torture of Zimbabweans to suppress peaceful dissent. Please take all steps within your power to ensure the immediate cessation of such practices.

Thank you for your time and attention to this important issue.

With deepest respect,



Barry Kamins

Appendix

Excerpts from the relevant provisions of the African Charter are set forth below:

- Article 6: “Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.”
- Article 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.”
- Article 12(1): “Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.”

Excerpts from the relevant provisions of the ICCPR are set forth below:

- Article 7: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”
- Article 9(1) and (2): “1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. 2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”
- Article 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.”
- Article 25: “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives ...”

Excerpt from the relevant provision of the Zimbabwean Constitution is set forth below:

- Section 15(1): “No person shall be subjected to torture or to inhuman or degrading punishment or other such treatment.”

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