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President of Zimbabwe Mr. Robert G. Mugabe Office of the President Private Bag 7700 Causeway, Harare, Zimbabwe

Dear President Mugabe:

I write on behalf of the Association of the Bar of the City of New York to express our concern over the intimidation of and criminal charges against Arnold Tsunga, a human rights lawyer with Zimbabwe Lawyers for Human Rights.

The Association is an independent non-governmental organization of over 22,000 lawyers, judges, law professors and government officials, principally from New York City, but also from throughout the United States and 50 other countries. 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 within the United States. The Association also follows legal and policy developments in Africa through its African Affairs Committee.

It has been brought to the Association's attention that on January 21, 2006, two police officers and one soldier forcibly entered Mr. Tsunga's home. Mr. Tsunga was not at home and the officers instead arrested Mr. Tsunga's housekeepers. The police detained the housekeepers for four days, and severely beat them, causing one of them to suffer a perforated eardrum. The police refused to release Mr. Tsunga's housekeepers until Mr. Tsunga appeared for questioning, a tactic known as "ransom arrests."

When Mr. Tsunga appeared for questioning, he and his five companions were arrested and charged under Section 7.1 of the Zimbabwe criminal code with operating a broadcasting service in Zimbabwe without a license, a charge punishable by a two-year sentence. However, the station, the Voice of the People, is registered, located and operated in Madagascar and therefore is not subject to the broadcasting law of Zimbabwe. Consequently, the activities of Mr. Tsunga and his colleagues, all of whom serve as trustees for Voice of the People, do not appear to fall under the reach of the Zimbabwe broadcasting law, and the charges against them should be dropped immediately.

It has also been reported that Mr. Tsunga has received what appear to be death threats from a member of the Zimbabwean military. On January 26, 2006 a soldier appeared at the offices of the Zimbabwe Human Rights Association and explained that the Military Intelligence Corps was monitoring Mr. Tsunga's movements and had received orders to kill him.

The Association would like to remind the President of the obligations of Zimbabwe under several international agreements. Repression of human rights defenders generally and the grave threats made against Mr. Tsunga in particular are in conflict with Zimbabwe's obligations under the International Covenant on Civil and Political Rights ("ICCPR"), to which Zimbabwe acceded on May 13, 1991, and the African Charter on Human and Peoples Rights ("Banjul Charter"), which Zimbabwe ratified in 1986. The Association also notes that the Declaration on Human Rights Defenders, adopted by the United Nations General Assembly by consensus in 1999, is relevant in interpreting Zimbabwe's obligations with respect to its actions against human rights defenders such as Mr. Tsunga.

First, the detention of Mr. Tsunga's housekeepers in order to provoke Mr. Tsunga's appearance for questioning violates Article 6 of the Banjul Charter and Article 9 of the ICCPR because of its arbitrary nature. Article 9(1) of the ICCPR requires that: "No one shall be subjected to arbitrary arrest or detention." The Banjul Charter requires that: "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." In addition the ICCPR Article 10(1) requires that: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." The treatment of Mr. Tsunga's housekeepers did not adhere to this standard since they were detained for four days and one was beaten and suffered injuries.

Second, Article 2(1) of the ICCPR requires States to "respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as ... political or other opinion..." Article 2 of the Banjul Charter entitles every individual "to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as ... political or any other opinion..." The detention and harassment of Mr. Tsunga, carried out as it was in retaliation for his human rights work, violates these standards.

Finally, the government of Zimbabwe must hold accountable anyone who would threaten or impede the work of a human rights defender such as Mr. Tsunga. Article 12.2 of the Declaration on Human Rights Defenders requires that States ensure that human rights defenders are protected from violence, threats and retaliation for exercising their rights under the declaration.

In light of Zimbabwe's international obligations and out of concern for Mr. Tsunga's safety and ability to continue his human rights work, I respectfully request on behalf of the Association that you end the campaign of intimidation against Mr. Tsunga, the Zimbabwe Lawyers for Human Rights and all human rights defenders and uphold Zimbabwe's international obligations.

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

Bettine & Slevan

Bettina B. Plevan

President

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