



UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Centre for Human Rights
Faculty of Law

PRESS STATEMENT

CENTRE FOR HUMAN RIGHTS URGES ZAMBIAN AUTHORITIES TO DROP TREASON CHARGES AGAINST OPPOSITION LEADER HAKAINDE HICHILEMA

9 May 2017

The Centre for Human Rights, Faculty of Law, University of Pretoria, expresses deep concern about the treason charge Zambia's opposition party leader Hakainde Hichilema is facing.

The Centre is deeply concerned about the serious recent ethnic tensions in Zambia, which appear to be politically motivated and to be part of an orchestrated campaign by sections of senior level politicians seeking to earn political dividends at the expense of peace in the country.

Hichilema faces two charges, one for obstructing President Edgar Lungu's motorcade, and another for treason, which is a non-bailable offence. Treason is an extremely serious offence, for which the maximum penalty is the death penalty.

The definition of treason under Zambian law is as follows:

(1) A person is guilty of treason and shall be liable to suffer death who

(a) Prepares or endeavors to overthrow by unlawful means the Government as by law established; or

(b) Prepares or endeavors to procure by force any alteration of the law or the policies of the Government; or

(c) Prepares or endeavors to procure by force the setting up of an

Centre for Human Rights
Faculty of Law,
University of Pretoria,
Pretoria, 0002, South Africa

Tel +27 (0)12 420 3810
Fax +27 (0)12 362 1525
Email chr@up.ac.za
Web www.chr.up.ac.za



Independent state in any part of Zambia or the secession of any part of Zambia from the Republic; or

(d) Prepares or endeavors to carry out by force any enterprise which usurps the executive power of the State in any matter of both a public and a general nature; or

(e) Incites or assists any person to invade Zambia with armed force or unlawfully to submit any part of Zambia to attack by land, water or air, to assist in the preparation of any such invasion or attack; or

(f) In time of war and with intent to give assistance to the enemy, does any act, which is likely to give such assistance.

Clearly, Hichilema's conduct falls short of a treason charge. What he is accused of hardly amounts to 'procure by force' any policy change, and cannot conceivably be viewed as an attempt 'overthrow the government'. Rather, it appears that the charge has been designed to intimidate and stigmatise him, and to disrupt the opposition party's effective functioning. Using the criminal law to fight political battles should not be part of any democracy.

The Centre for Human Rights also condemns the heavy-handed manner in which Hichilema was arrested on 11 April 2017. Police allegedly stormed his home without an arrest warrant, and tear-gassed the occupants who included Hichilema, his workers and family. His workers were beaten and pepper-sprayed on their genitals.

These actions violate the Zambian Constitution, which in article 11(d) guarantees everyone the right to protection of the privacy of his or her home and imposes an obligation on the State to respect a person's family life. The ill-treatment of workers as the police searched for Hichilema goes against article 15 of the Zambian Constitution, which guarantees the right to freedom from torture, inhuman or degrading treatment or punishment.

We deplore that Hichilema was initially held in custody for a week without access to health care and his legal team. He was also denied visits from his family, infringing on his right to the highest attainable standard of physical and mental health, also guaranteed by the Constitution. The Centre however welcomes Magistrate Malumani's ruling on that Hichilema be allowed to be seen by a doctor of his choice and visits by his lawyers and family. Similarly, the Centre welcomes Magistrate Simusamba's latest ruling, which ordered police to return the two vehicles, cellphone and other property they seized from Hichilema without a seizure warrant on the night of the raid.

We therefore call upon the Zambian government to:

- drop the charges and release Hichilema and his co-accused unconditionally, as the use of treason charges to silence dissent goes against the ethos of democracy;
 - cease arbitrary arrests of political opponents;
 - investigate the ill-treatment of the workers in Hichilema's house and bring the culprits to book; and
 - take immediate action to halt the rapidly deteriorating political situation in the country, in particular, to prevent the clearly emerging tide towards ethnic polarization and ethnic cleansing.
-

For more information, please contact:

Prof Frans Viljoen

Director

Centre for Human Rights, Faculty of Law, University of Pretoria

frans.viljoen@up.ac.za

www.chr.up.ac.za