

**34TH CHRISTOF HEYNS AFRICAN HUMAN RIGHTS MOOT COURT COMPETITION
UNIVERSITY OF CAPE TOWN, CAPE TOWN, SOUTH AFRICA
29 JUNE – 5 JULY 2025**

**HYPOTHETICAL CASE
before the
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
in the case between
AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
(on behalf of the Association for Zambezi Migrants)
and
BAHARIA**

1. Baharia is the most prosperous nation in central Africa. Its economy is boosted by mineral resources such as gold, diamonds, platinum, rare earth elements and oil and gas, which contribute about 55% of its gross domestic product (GDP). It is estimated that Baharia has untapped natural wealth of about US \$30 trillion. Unlike many countries in the region, Baharia has no history of civil war, has managed its natural resources exceedingly well and boasts well-developed infrastructure as well as high quality public services such as schools, hospitals and the internet. In sharp contrast, its neighbouring countries are poorly governed and plagued by political instability, which have caused severe economic hardship. As a result, a large number of citizens from neighbouring countries have migrated to Baharia over the years. The most recent census, conducted in 2018 by the independent Statistics Commission, found that approximately 10 million of the 58 million people currently residing in Baharia were documented and undocumented migrants, asylum seekers and refugees. Among these, around 350 000 have been formally granted refugee status. Kande is the capital city of Baharia.
2. Baharia has a typical francophone legal system, monist in the relationship between national and international law, and is undergirded by the 1963 written Independence Constitution, containing (in Chapter 1) as justiciable rights all the civil and political rights, but none of the social-economic rights, enshrined in the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights or the International Covenant on Economic, Social and Cultural Rights. One of the compromises emerging from the independence negotiations, contained in Chapter 1 of the 1963 Constitution, was that full voting rights were guaranteed to "non-nationals who have lived in the country for at least 10 years". The 1963 Constitution in article 5 provides for the amendment of its provisions by a two-third majority of Parliament, with the exception of Chapter 1, which requires a 75% majority. In its Preamble, Baharia's 1963 Constitution proclaims reverence

for the “high office of the President”. The Constitution also provides that “every person who by 31 December 1950 was living on the territory of Baharia is considered a Baharian citizen”. The 1963 Electoral Act of Baharia permits non-citizens who provide convincing proof that they have lived in the country for at least 10 years to be registered as voters, and to vote in all elections. The 1965 Nationality Act of Baharia provides that children who are born to Baharian parents are Baharian nationals; and that children born to non-national mothers become nationals of Baharia if proof is provided that their fathers are of Baharian nationality. The country’s judicial architecture consists of magistrates’ courts, several High Courts, a single Supreme Court, and a single High Council of State. The Supreme Court is the highest and final court in all matters except matters of a constitutional nature. While the High Council of State is the highest and final court on all constitutional matters, all courts may adjudicate on the application and interpretation of the Constitution. Even though individuals have access to all courts on all matters, exceptionally, questions as to the constitutional *validity of legislation* can only be decided by the High Council of State, and only upon a referral supported by one-third of sitting Parliamentarians. Under the Constitution, the President may issue decrees to “in the interest of good governance”, which become legally binding only upon unanimous ratification by Parliament.

3. Zambezia lies to the east of Baharia. The two countries are separated by Lake Zambezia, Africa’s largest freshwater lake. Both Baharia and Zambezia obtained independence from France in 1963. Zambezia has however fared much worse economically than its western neighbour, in part due to protracted civil war that broke out in Zambezia in 1968. The newly independent government of Zambezia at the time declared itself a “Marxist-Leninist state with capitalist characteristics”. Shortly after independence, the Zambezan government nationalised all commercial farms and took over the running of these farms to ensure, as its President remarked at the time, “that the land served the people, not the profiteers”. This led to an outflow of capital as French companies withdrew from the country, and as a result, food production plummeted, leading to frequent food shortages. More than 60% of the migrants, asylum seekers and refugees currently living in Baharia came from neighbouring Zambezia.
4. The Zambezan government moderated its economic policies after the United States of America (USA) government agreed in 1982 to invest in massive infrastructure projects, which stabilised the economy and led to the adoption of the Turtle Peace Accord of 1988, which ended the civil war and helped to pave the way for the first multi-party elections in 1995. Despite achieving moderate economic growth since the late 1990s, the country remains one of the least developed countries in the world. According to a 2020 UNDP report, Zambezia

then had a population of approximately 45 million people, of which 60% lived below the poverty line in rural areas, where they lacked access to clean water, electricity, and an adequate standard of basic education. The same report estimated the unemployment rate to be at 36%, with an unemployment rate of up to 50% among people under the age of 30. The salaries of skilled workers in Zambezia were, according to the UNDP report, on average 50% lower than for their counterparts in Baharia. As a result, both skilled and unskilled workers have flocked from Zambezia to Baharia in search of economic opportunities and better education for their children. The rural economy of Zambezia is largely sustained by remittances from Baharia.

5. Despite the mixed fortunes of the two countries, Baharia and Zambezia have much in common. According to historians, a kingdom that was founded in the early 14th century, extended for three centuries to what now constitutes the geographic territories of Baharia and Zambezia. To this day, the inhabitants of Baharia and Zambezia share a common culture and language (Baza). The inhabitants of the area moved relatively freely across the region until formal French colonisation in 1815.
6. Baharia share borders with two other countries, Lucia and Mawago. These countries have colonial histories different from Baharia and Zambezia. Only a handful of people from Lucia and Mawago have migrated to Baharia, consisting of around 5 000 skilled migrant workers (who obtained work permits) and 20 000 undocumented migrants, including around 7 500 children. All these states are active members of the African Union (AU) and United Nations (UN).
7. France created the Federation of Baharia and Zambezia (FeBaZa) in 1820, under the control of a government ruling on behalf (and in the name) of France. Shortly after FeBaZa was established, the French government imported a large number of slaves from rural West African communities into Zambezia. These slaves, known as "*Nkoafo*" in the Baza language, worked on farmlands allocated by the French government. After slavery was prohibited in FeBaZa in 1849, the *Nkoafo* gradually became integrated into the shared Zambezian and Baharian culture and tradition. A study by the Centre for African Colonial History (CACH) released in April 1975 reveals that the *Nkoafo* have lost their ancestral connection, national identity, and cultural roots and, as a result, they are less likely to succeed in any attempt to retrace their ancestral roots. While they lived in Zambezia, the French government offered the *Nkoafo* protection but did not accord them federal citizenship status.
8. The French government undertook development efforts in Baharia as it saw this as a necessary precondition for the cost-effective extraction of the mineral resources

of the region. By contrast, it regarded Zambezia solely as a source of labour and agricultural land to supply food to Baharia. The colonial government also claimed ownership of large tracts of land in Zambezia after forcibly removing those living on the land. Some of this land was held in the name of FeBaZa and designated as protected areas for wildlife, while the rest was distributed for agricultural use by the *Nkoafu*, who have earned a reputation of being extremely hard-working and trustworthy. The displaced Zambezians either migrated to Baharia or were forced to provide labour on commercial farms owned by the government. Thus, by 1963, when the Federation was dissolved and the two countries gained independence as separate countries, Baharia was significantly more developed than Zambezia. This was made worse when a civil war broke out in Zambezia in 1968 due to a succession battle within the ruling and only recognised political party.

9. Baharia and Zambezia secured their independence from France in 1963 through the Independence Charter, concluded between the federal colonial government and pro-independence groups. The agreement required the two newly independent states to guarantee the right of the *Nkoafu* who lived in Zambezia to move to Baharia. It also required Baharia to open its borders to all French citizens and settlers who wished to make Baharia their home, and to protect the political rights of all the settlers and the *Nkoafu*. An influx of French settlers from Zambezia to Baharia, preceding the elections, swelled the size of the “French settler” population in Baharia from around 20% to approximately 30% of the total population. The Independence Charter stipulated that French settlers living in Zambezia were entitled to the same rights and privileges as French settlers living in Baharia, and the other way around. The French settlers and the *Nkoafu* in Baharia formed a political party, the *Parti Républicain* (PR), and contested the inaugural election that followed Baharia’s independence. With additional support of migrant voters and huge financial donations from French multinational companies, PR emerged victorious in the first independence elections held in 1964. The coalition between PR and migrant groups remained in power until 2015 when it was replaced by the Movement for Radical Reform (MRR).
10. In 1965, the Parliament of Baharia enacted the Presidential Reverence Act (PRA), which provides:

Any person who denigrates, insults, or threatens the President commits an offence and shall be liable to imprisonment of not less than two years and not more than twenty-five years, without the option of paying a fine. Where the High Court is satisfied that the act or conduct of a person convicted of this offence is prejudicial to the vital interest of the President or the state, it may deprive that person of his Baharian citizenship.

Prior to the events described herein, the PRA had been invoked only five times, in each instance leading to a conviction and resulting in sentences of two-year imprisonment. The last time the PRA was invoked was July 1997. However, no one convicted under the PRA has been deprived of their citizenship.

11. Baharia is a state party to the treaties, shown below with the year of ratification:

Treaty	Date of Ratification/ Accession
African Charter on Human and Peoples' Rights (African Charter)	20 January 1985
OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention)	30 August 1975
UN Convention on the Status on Refugees and the 1967 Protocol thereto	25 August 1975
African Charter on Democracy, Elections, and Governance	23 October 2019
International Covenant on Civil and Political Rights	10 June 1980
International Covenant on Economic, Social and Cultural Rights	10 June 1980
UN Convention on the Elimination of All Forms of Racial Discrimination	10 June 1980
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Migrant Workers Convention)	22 July 2014
UN Convention on the Rights of the Child	21 February 1995
Protocol to the African Charter on the Right of Women in Africa (Maputo Protocol)	12 April 2007
Protocol to the African Charter on the Rights of Persons with Disabilities in Africa (Disability Rights Protocol)	23 April 2019

Protocol to the African Charter on the Rights of Citizens to Social Protection and Social Security	15 October 2023
Protocol to the African Charter relating to the Specific Aspects of the Rights to a Nationality and the Eradication of Statelessness in Africa	20 March 2024
African Charter on the Rights and Welfare of the Child	15 June 2008
Protocol to the African Charter establishing the African Court on Human and Peoples' Rights (African Court Protocol)	25 June 2005

Apart from these treaties, Baharia is not a state party to any other treaty relevant to the events described herein. Limited amendment to align domestic legislation with some of the treaties has occurred subsequent to the ratification of the treaties. Since acceding to the African Court Protocol, Baharia has not deposited a declaration under article 34(6) of the Protocol.

12. Upon election in 1964, the PR government implemented radical pro-business and free market policies, which it continued to support throughout its administration. Baharia's economy boomed, in large part because the country continued to rely on the cheap labour of migrants from Zambezia, including the labour of refugees who had fled the civil war. Even after the end of the civil war, Baharia continued to welcome migrants from Zambezia. Although the migrants faced no impediments from entering the country, even when they did not have proper documentation from their countries of origin, they could not acquire permanent residence status in Baharia. Migrant workers were given two to five-year long work permits which they were expected to renew as many times as they wished. During the civil war, Baharia did not recognise asylum seekers from Zambezia as refugees. Rather, it regarded them as migrant workers which it was all too willing to welcome. An independent study published in 2018 concluded that the migrant labour force had, between 1966 and 2016, annually contributed an average of 25% of the country's GDP. Until 2010, migrant groups never raised the lack of more durable residential permits in Baharia as an issue, partly because migrants faced no discrimination or impediments to enjoying their rights in the country.
13. To better assimilate the *Nkoafu* into the Baharian society, the PR government issued a decree, granting citizenship status to all the *Nkoafu* and their children. The decree also provided that, in order to "advance national unity" all French nationals who had lived in the country for more than ten years qualify for Baharian

citizenship. The government's decree was unanimously ratified by the Parliament of Baharia in October 1968. In the years that followed, the PR government, with the approval of the Baharian Parliament, relocated the *Nkoafo* to Adane, a small town in northern Baharia, in an area well-known for its fertile ground and agricultural potential. Adane also hosts large deposits of platinum and gold. Over the years, extractive companies in Baharia have, to a large extent, engaged in safe and responsible mining in the area. However, residents in Adane have over the years made eight formal representations to government entities, complaining of the environmental impact of the mining activities in the area. In particular, the *Nkoafo* complained of these mining activities gradually displacing them from their households and farmlands, affecting the quality of their livelihoods. The PR government, while in power, announced a rehabilitation policy to reclaim the destroyed households and farmlands of the *Nkoafo*. However, the implementation of this policy stalled, as the Baharian Parliament consistently rejected the proposed budget, citing irregularities and the lack of accountability and transparency in the cost and expenditure computations from previous government flagship projects.

14. For many years since independence, PR remained in power, while the opposition was fragmented into seven small parties. However, in the wake of the 2008 global financial crisis, which led to a deep recession in Baharia, opposition parties united in 2010 to form a coalition to remove PR from power. Dubbed the Movement for Radical Reform (MRR), the coalition fiercely criticised PR for its exclusionary economic policies. According to a 2010 UNDP report, despite the fact that the GDP of Baharia is equal to that of Spain, about 20% of its population lives in extreme poverty, and the unemployment rate stands at 30%, with the youth and Black Africans being the most severely affected. Much of the economy remained in the hands of the descendants of French settlers. MRR politicians were also critical of the migration policies of PR. The leader of the youth wing of MRR, The Man Manowa, for example, made a rousing speech during the election campaign promising to “chase out all migrants from Baharia”, whom he also called “leeches”.
15. Despite a strong electoral showing, the MRR did not win the 2010 election, against the PR and its coalition partners who ultimately formed the government. However, MRR rejected the results of the elections. Drawing attention to the Electoral Act's provisions permitting non-citizens to vote in elections, The Man Manowa claimed that “these foreigners have stolen the election” just because of a “historical sell-out compromise”. Large-scale pro-MRR demonstrations were held across the country, followed by widespread violent unrest, which targeted businesses (including small businesses) owned by migrants. Many shops were looted and burnt down and about 300 people were injured. It is estimated that property amounting to US \$20

million was damaged and lost during that protest. A team of investigative journalists revealed that of the 22 million voters registered for the 2010 elections, around 1.5 million were “non-nationals”. In an effort to control and stop the spread of the protests, the ruling party initiated an amendment to the electoral law (Electoral Amendment Act of 2013), in terms of which only citizens would in the future be allowed to vote in the national election. The Baharian Parliament on 31 December 2013 adopted the amendment with a 67% majority. PR subsequently attempted to change the citizenship law to make it easier for migrants to gain Baharian citizenship, by allowing all Zambezians who were born in Baharia to be registered as Baharian nationals. However, when this Bill was considered in 2014, it was not adopted, since only 45% of Parliamentarians voted in favour.

16. With the support of the required number of MPs, a group of Zambebian migrants in 2014 challenged the Electoral Amendment Act of 2013 before the High Council of State, arguing that the Act was unconstitutional, as the prescribed majority for amending Chapter 1 was not attained. The Council on 31 October 2016 handed down its decision, rejecting the challenge on the basis that a “fundamental change of circumstances” made the constitutional requirement inapplicable in the particular case.
17. The Association for Zambebian Migrants (AZM) is registered as an NGO in Zambezia, where it has its headquarters. AZM was previously registered as a political party in Baharia, where it had participated in elections as a coalition partner of PR between 1985 and 2014. After the amendment to the Electoral Amendment Act of 2013 had disenfranchised migrants in Baharia, the Baharia Electoral Commission deregistered AZM as a political party, and declared it an unlawful organisation on the ground that its members were illegal migrants. Towards the end of 2014, AZM secured registration as a non-profit making organisation under Zambebian law, with its main purpose to advocate for the rights of migrants in the region. AZM claims to have a membership base of five million, 80% of whom reside in Baharia. AZM does not enjoy observer status with the African Commission on Human and Peoples’ Rights (African Commission).
18. With the Electoral Amendment Act of 2013 in place, the MRR won the 2015 election with a clear majority. Shortly after coming to power, the MRR government implemented what it calls “broad-based empowerment programmes” aimed at uplifting the previously marginalised African population. It enacted legislation, the Redress Act of 2016, which requires all employers in the public sector, and private companies who employ more than 10 people, to prioritise the appointment of suitably qualified “indigenous Africans”, meaning Black Baharian Africans. Within this context, the government in 2019 adopted the Indigenous Advancement Policy

(IA Policy), which introduced a large state-funded higher education bursary scheme to fund the first three years of higher education of all “indigenous Africans” who qualify for admission to any of the country’s universities. The IA Policy expressly excludes Zambezan migrants or the children of Zambezan migrants as beneficiaries, irrespective of how long they have lived in Baharia. The IA Policy also provides that schools may not enrol non-citizen children who do not have the required residence permits. It however provides that exceptions to the exclusion of non-nationals (from the bursary scheme and the requirement of residence permits) may be allowed, based on “exceptional merits and need”. So far, no exceptions have been allowed for Zambezians, while limited exceptions have been allowed for nationals of Lucia and Mawago. Because the government senses that the IA Policy was not strictly adhered to, it created a special police unit called the “Migrant Watch”, to ensure that schools do not enrol non-citizen children who do not have the required residence permits. The Migrant Watch unit was soon accused of harassing school principals who turned a blind eye to the admission restrictions. As a result of actions by the Migrant Watch unit, many Zambezan children were forced out of school.

19. A sizable part of the Zambezan population living in Baharia consists of persons with various disabilities, which in large part resulted from the 20-year civil war in Zambezia. Persons with disabilities were attracted to migrate to Baharia due to the shortage of services for persons with disabilities in Zambezia. Services for persons with disabilities are much more advanced in Baharia, and includes the provision of special, dedicated schools for children with disabilities. There are ten such schools in Baharia, and they have consistently been all full to capacity. However, the IA Policy determined that children with disabilities, born from a parent who is a Zambezan national, are excluded from attending special schools for children with disabilities, due to the “specialised nature of education for children with disabilities, and the attendant cost implications”, which according to the Policy “necessitate that these services be made available only to nationals”. Between 2019 and October 2024, no Zambezan child was registered in a specialised school for children with disabilities.
20. In September 2016, as part of what it termed as “revolutionised extraction”, the MRR government granted mining licenses to two multinational mining companies, Aders Lynx Industry and Aminsangari Company Limited, in return for a 50% shares stake in each of the companies. These two companies were granted a ten-year mining lease to mine gold and platinum in Adane. Within two years of mining in the Adane area, the two companies rehabilitated the farmlands and households of families, including the *Nkoafo* who had suffered from previously mining activities in the area, citing corporate social responsibility as the basis. As time passed by,

in April 2021, the media reported that Aders Lynx Industry's and Aminsangari Company Limited's mining have started having serious negative effects on the livelihoods of the local people in and around Adane, as the main water bodies which serve the people have been polluted. Three months later, a report by the United Nations Environment Programme (UNEP) confirmed the media reports and projected that two-thirds of the Adane township could be displaced by January 2026 if the government does not take swift measures to salvage the situation.

- 21.** As they became disenchanted with the government's unresponsive posture, the population of Adane started street demonstrations, calling the MRR government to come to their aid. These demonstrations continued for several months. In an interview on BTV, a national televising station, the government's Chief of Staff, Zumbe Duba, indicated that the reports circulating in the media space were false. According to him, the joint ministerial forum on mining, in its March 2021 mining performance review report, rated Aders Lynx and Aminsangari companies as the best mining companies committed to safe mining practices and corporate social responsibility. Dismissing these reports, the inhabitants of Adane began to obstruct the operation of Aders Lynx and Aminsangari companies. They mounted roadblocks preventing the entry of the workers and machinery of the two companies. This situation of insecurity lasted for ten months. During this period, it was estimated that the government lost over US \$195 million in revenue. A leading Baharian economist projected that further disruptions in Baharia's mining sector will increase the poverty rate to 45% and unemployment rate to 60% in the following six months.
- 22.** In early February 2022, a group numbering over 2 000, believed to be the *Nkoafo*, invaded the precinct of the Presidential house in Kande, to protest. The protestors held placards, some of which read, "MRR government is corrupt", "Our lives are being sacrificed for money", "We are coming! Just wait and see us destroy your government", and "We are the *Nkoafo*; we have France behind us. Neglect us at your own risk". Others chanted ancient Zambebian war songs and mounted roadblocks, obstructing traffic to and from the Presidential house. At the protest, a number of heavily armed faceless men were captured on live television attempting to attack the Presidential convoy en route from the Presidential house. Some media reporters alleged that the President, Albertina Omonzo, was in the car the men attempted to attack. The car in question has tinted glass and bears the flag and coat of arms of Baharia. The police and armed forces deployed to contain the situation could not restore the calm. They shot rubber and plastic bullets on the protestors, dispersing them. To date, no statement has been issued confirming whether the President was in the targeted vehicle at the time.

23. Three days after the incident, President Albertina Omonzo addressed the country. Her speech read in relevant part:
- “Since time immemorial, our country has been a home to everyone. We welcome all manner of people, including outcasts and slaves and treat them right. The events of the past three days have shown that we are cutting our nose to spit on our face! The *Nkoafos*, whom we assimilated into the Baharian community, have caused us serious harm as a nation. And we cannot sit aloof while their atrocities fester, impeding our collective interest and progress as a nation. As all of you may be aware, these slaves are not of Baharian origin; they became one of us on the ticket of the neo-colonial *Parti Républicain*. It is time to cleanse our citizenry space. Therefore, effective today, the *Nkoafos* who joined the protest must be arrested, prosecuted, and punished in accordance with the PRA. I task all law enforcement agencies to hunt and arrest those miscreants and bring them to book. They must be taught the lesson of their miserable lives!”
24. The President’s speech stirred mixed reactions from the general citizenry and civil activist groups, local and international. Between March and June 2022, the police arrested 400 men and women who had participated in the February protest from among the *Nkoafos*. The remaining majority went into hiding for fear of arrest and prosecution. In August 2022, all the 400 arrested persons were arraigned before the Kande High Court on charges that they “threatened” the President, in violation of the PRA. After five months of trial, the Kande High Court convicted all of them and made an order depriving them all of their Baharian nationality on 23 January 2023. The Court reasoned that the actions of the *Nkoafos* were “seriously prejudicial to the vital interest” of Baharia to the extent that they threaten the machinery of government, the president’s security, and Baharia’s economic interest. One week later, they were all expelled to Zambezia where they remain to this day, and have been granted stateless status. On 27 March 2023, AZM lodged an appeal to the Supreme Court challenging the deprivation of the nationality of the 400 *Nkoafos*. To date, no date for the hearing has been set.
25. Following the expulsion, some states in the Global North, including the United Kingdom and USA (which are economic allies of Zambezia) have condemned the deprivation and expulsion of the 400 *Nkoafos* as “inhumane” and called for the immediate restoration of nationality. Conversely, other states, particularly some in the Global South, have viewed the deprivation as a sovereign act within the limits of international law. At the international and regional levels, neither the UN nor the

AU have decried Baharia's deprivation of the nationality of the 400 *Nkoafo* even though several petitions have been made to the UN and AU to intervene and impose sanctions on Baharia.

- 26.** Baharia's treatment of Zambezia migrant workers and the 400 *Nkoafo* severely strained relations between the two neighbouring countries. A bilateral meeting held on 10 to 13 October 2023 in Kande between the Presidents of the two countries, failed to resolve their differences. The diplomatic crisis worsened after the President of Zambezia claimed that most of the migrant workers deported by Baharia to his country were not citizens of Zambezia and had no or little connection with the country. "They have no relatives here", the President said, "and they can't remember what village they come from or where it is". In her response, the President of Baharia accused Zambezia of "abandoning its people and expecting us - its neighbour – to address the self-created economic woes" in Zambezia. "We cannot continue to absorb this flood of illegal foreigners who come from Zambezia to make trouble here", the President, complained.
- 27.** While a section of the electorate in Baharia have welcomed the implementation of policies of "racial inclusion and anti-migration", the Covid pandemic and the war in Ukraine have severely affected the economy of Baharia, causing higher inflation, and leading to widespread resentment against the government. Sensing growing unhappiness with the ruling party among the electorate, the MRR ratcheted up its rhetoric against migrants. At a rally in Kande on 5 July 2023, held in the largest football stadium in the country, filled to capacity, the recently elected leader of the Youth Wing of MRR, the son of The Man Manowa, referred to as The Boy Manowa, blamed the economic hardships currently being experienced in the country on migrants from Zambezia whom he accused of "conspiring with White settlers for generations to deprive the Baharians of their God-given natural resources". He called upon patriotic Baharians to "wrestle control of the economy from the migrants by taking what is their own" and to "take back our county with whatever means necessary".
- 28.** After the rally, throngs of the youth went on the rampage in densely populated residential areas, ostensibly targeting small shops and other small businesses run or owned by foreign nationals, looting some and burning to the ground those they could not loot. The youth from other cities joined in the frenzy the following morning. Over the following 24 hours, two unarmed young men were shot dead, and at least fifty others were admitted to hospital with shot wounds, but later recovered. Initially, the Minister of Foreign Affairs and Internal Security, Dr Zihale, downplayed the scale of the attacks, accusing organisations calling for the police to intervene "agents of foreign governments". He also informed the public that

“unfortunate instances of shooting took place—as far as feasible using rubber or plastic bullets in the context of security agents defending their bodily integrity and security from stones and petrol bombs being thrown at them”. On the third day and following wide international coverage of the attacks, President Omonzo read a public statement in which she dismissed Dr Zihale for underestimating the scale of the attacks and commanded the police and army to take appropriate action to stop the attacks. Due to the fact that the attacks were widespread and well organised, it took about 10 days for the police and the army to restore law and order. On 31 July 2023, the President appointed a commission, consisting of a retired judge of the High Council of State, to conduct an independent investigation.

- 29.** It is estimated that the damage to property caused by the attacks amounted to US \$250 million. The report of the independent investigation commission, released on 1 October 2023, revealed that attacks did not reveal any particular pattern of targeted entities. It also found that more than 50% of the victims were migrant shop owners, some of whom suffered bodily injuries including sexual assault. The report further identified several masterminds of the attacks, all of whom were connected to the ruling party. The report recommended the arrest and prosecution of the ringleaders, but not payment of any compensation, arguing that it was not possible to estimate and verify the loss suffered by each victim, that most of the victims were informal traders who did not have business permits or registration documents, and that their businesses had no record of paying taxes. Five of the seven ringleaders were duly arrested, prosecuted and convicted. The Baharian Director of Public Prosecutions indicated that “further investigations were still pending”. The five sentences ringleaders received sentences ranging from 10 to 20 years of imprisonment.
- 30.** On 1 September 2023, AZM launched a case before the High Court in Baharia against the government of Baharia, raising several legal issues. First, it asked the Court to order the Baharian government to compensate victims and their families for the losses and personal injuries suffered by migrants from Zambezia due to the July 2023 violent attacks. Second, it contended that the various aspects of the ‘Indigenous Advancement Policy’ discriminated against Zambezians. The High Court dismissed these claims on the basis that AZM could not prove that it was acting on behalf of all Zambezians and because it was not recognised as a legal person in Baharia. The Supreme Court on 30 November 2023 upheld this ruling.
- 31.** After the Supreme Court had handed down its judgment, AZM started with a sensitisation and advocacy campaign in Baharia, “The Contribution of Zambezians to Baharian society”, in which it highlighted the cultural and economic contributions of some high profile Zambezians to Baharian society. Its aim was to change the

public mood and perceptions of non-nationals, particularly in the wake of upcoming elections. However, AZM's hopes of seeing a reversal in political control failed, when on 1 October 2024, MRR won a parliamentary majority of 70%, its largest winning margin ever.

- 32.** On 31 October 2024, AZM submitted a communication to the African Commission alleging various human rights violations committed by Baharia against the Zambezian migrants and *Nkoafu*. In this communication, AZM stated the following: “We urge the Commission to refer the matter to the African Court for its binding decision on this urgent and pressing matter.” On 29 March 2025, the African Commission declared the communication admissible, and referred the case to the African Court to make the following findings:
- (a)** Baharia’s adoption and implementation of the Electoral Amendment Act of 2013 is incompatible with the African Charter and other applicable international human rights treaties.
 - (b)** Baharia’s deprivation of the nationality of the 400 *Nkoafu* rendering them stateless is unlawful and thus violates the African Charter and other international human rights norms.
 - (c)** Baharia violated the African Charter and other relevant international human rights law by adopting and implementing the ‘Indigenous Advancement Policy’.
 - (d)** Baharia violated the African Charter and other international human rights instruments by expelling Zambezian migrants *en masse* to Zambezia and by failing to protect them from the attacks of July 2023.
- 33.** The Commission in its referral notes that the basis for the referral is that “the issues this case raises are serious and may require the invocation of binding remedial orders”. The African Court scheduled the hearing of the case for 29 June to 5 July 2025. Prepare separate written submissions on behalf of the African Commission (the Applicant), and Baharia (the Respondent). In respect of each of claims (a) to (d) above, address the issue of jurisdiction, admissibility, merits and remedies.