

GCB media statement on xenophobic violence

The General Council of the Bar of South Africa associates itself with all those who condemn the inhumanity of a section of our society bent on xenophobic violence. This group's failure to listen to the calls of respected leaders is deplorable.

There is no place for this barbarity. Its helpless victims generally came to this country because of civil violence or famine in their own country. They remain, like us, fellow citizens of Africa whose rights we must respect not only because it is right to do so but also because we have committed ourselves as members of the African Union to do so.

There are adequate structures for our own citizens to air their grievances in a structured way without resorting to violence to make some statement or another or to prove some point.

We call on government, religious leaders and all other community leaders in South Africa to use Africa Day on 25 May 2008 to address their constituencies and followers. We also urge government to take decisive steps to protect our fellow Africans and to deal with those who continue to instigate hatred. 

Jannie Eksteen SC, chair of the General Council of the Bar
Brian Spilg SC, convenor: Human Rights Committee of the GCB
21 May 2008

ICAB resolution on Zimbabwe

At the World Bar Conference of the International Council of Advocates and Barristers (ICAB) held in Dublin and Belfast from 27 to 30 June 2008, the Bars of Australia, England and Wales, Hong Kong, Ireland, Namibia, Northern Ireland, Scotland, South Africa and Zimbabwe, being the member Bars of ICAB, unanimously resolved:

- To deplore the defiance by the government of Zimbabwe of its human rights obligations under domestic and international law;
- To call upon the secretariats of the Southern African Development Community, the African Union and the United Nations to initiate all steps necessary to procure the return of the rule of law to Zimbabwe and respect by the government of Zimbabwe for the rule of law;
- To condemn the detention without trial of our colleague Eric Matinenga, Member of Parliament of Zimbabwe and leader of the Harare Bar, and the defiance of the order for his release granted on an urgent basis by the High Court.
- To call upon the members and secretariat of the Southern African Development Community to ensure that independent legal observers are permitted to be present in all courts in Zimbabwe throughout the trials of members of the legal profession who are being prosecuted for alleged offences;
- To demand that the lawyers of Zimbabwe be permitted without intimidation or penalty to perform their duty to represent and defend their clients in accordance with the rule of law and ensure the entitlement of their clients to basic human rights;

To demand that the magistrates of Zimbabwe be allowed to adjudicate impartially and without intimidation on the cases which come before them;

To demand that the Attorney-General independently and impartially exercise his powers to uphold the rule of law. 

Media statement by the GCB on human rights abuses in Zimbabwe

The General Council of the Bar of South Africa (GCB) notes the compelling evidence of orchestrated and brutal political intimidation that has targeted supporters, and in particular organisers, of the party that has democratically come into power.

As a body committed to upholding the rule of law and human rights, we are concerned that the African Union and the SADC leaders have failed to speak out and condemn the serious repression of human rights perpetrated by President Mugabe's regime against citizens of Zimbabwe who exercised their basic democratic right to vote for change.

The serious human rights abuses in Zimbabwe do not make it possible for people freely to exercise their right to vote in any presidential election re-run.

It is essential that the rule of law be restored and that an environment be established free of fear and intimidation before Zimbabweans can be expected again to exercise their right to vote. There can be no democratically competent election re-run without ensuring beforehand that repression, intimidation and fear of reprisals end, and are seen to end. It is therefore essential that a level playing field be secured now.

Accordingly, in our view, the provisions of the African Charter to which Zimbabwe is a signatory, can only be respected if there is freedom from fear at the ballot box, secured in advance both by a UN endorsed international arms embargo and guarantees being secured from President Mugabe to the African Union or to the world body ensuring that intimidation in whatever form ends and guaranteeing the free movement of and access by truly independent observers appointed by the UN in consultation with the African Union as from now until the announcement of the successful presidential candidate. 

JW Eksteen SC, chair of the General Council of the Bar
BS Spilg SC, convenor : Human Rights Committee of the GCB
6 May 2008