

consultation with other players in the inclusive government. The GPA also provides protection against land invasions, however according to OSISA, the General Agricultural Plantation Workers Union of Zimbabwe provides that over 1, 325 families have lost their properties, since February 2009. Furthermore, the government continuously refuses to implement the decision of the SADC Tribunal of 2005, which ordered the government of Zimbabwe to reinstate the confiscated land in favour of the applicant. Madam Chair, the continued arrest and trials of members of the MDC on unsubstantiated charges remains a concern of this transition unity,. in particular, the arrest of Deputy Agricultural Minister designate Roy Bennett. All these problems pose potential security to the SADC region including hosting the FIFA World Cup in 2010, as trafficking of people including women and young girls into neighboring states aggravates the vulnerability of Zimbabwean migrants and worsens xenophobic situation in South Africa to which the government is battling to address. Madam Chair, the South African Migration and Refugee Coalition reported that, the SADC Interim Office has a backlog of over 17, 000 Zimbabwean applications, of which only 3 are being processed and out of this two is under investigation. The SADC as the grantor of the GPA should assume the oversight role of the GPA as the parties' differences has become irreconcilable. The refusal of entry of the UN Special Rapporteur on Torture, Mr. Manfred Nowak after invitation to examine torture in the country, the raiding of the MDC owned property, the recent abduction of the MDC transport Manager, Mr. Pascal Gwezere, arrest of CSOs personalities such as Zimbabwe Election Support Network officials, NANGO Director, the Chairperson and Human Rights Lawyer Modesai Mahlangu to list just a few, dictates intervention of the SADC to protect the people of Zimbabwe from falling back to the degenerated political crisis of March 2008.

Madam Chair, the SADC held an extraordinary meeting on 4 November 2009 on Zimbabwe to ensure stability in Zimbabwe, the African Commission should urge the government of Zimbabwe to

- Full cooperation of the parties, full implementation of the GPA, in particular, the swearing in of Minister designate Roy Bennett,
- Reversal of illegal appointment of the Reserve Bank Governor,
- Immediate cessation of farm invasions and thorough land audit, an inclusive transparent and accountable constitution making process,
- Observance of the rule of law, by government agencies, including police, army state security,
- Peaceful political environment in Zimbabwe free from violence and military involvement in political campaign and promotion of media.
- The African Commission to use its rights as an AU organ to submit the decision of the SADC Tribunal ON Zimbabwe as an application seeking advisory opinion to the African Court

particular to a human rights lawyer Thulani Maseko who was arrested for allegedly making seditious statements by canvassing for the Lozitha Bridge to be named after the freedom fighters, (Musa Dlamini and Jack Govender). Political opponents such as Mario Masuko, Amos Mbedzi were arrested and the former Times of Swaziland Columnist Mfomfo Nkhambule faced victimisation. Sadly after Maseko's acquittal, Wandile Dlamini the president of the youth wing of the banned political party PUDEMO, and other members of the party including journalists were brutally beaten up by correctional services warders for celebrating Masuko's release while the journalist were thrashed for recording the warders impunity on 21 September 2009, at Matsapa Maximum Prison facility. These incidents are indicative of impunity against free speech, association and human rights campaigning in the country. In addition, Madam Chair, these atrocities happened in the country despite Swaziland serving as the Chairperson of the SADC Organ on Politics Defence and Security, from August 2008 – August 2009.

Madam chair, a report of AJPD asserts that in Angola, besides violations of freedom of expression, assembly and draconian policies impeding operatives of HRD's, the country is experiencing severe looting of natural resources and minerals that continue taking place on a daily basis. Basic fundamental rights such as the right to land, health, education, access to justice, human dignity, extra judicial executions, remain a challenge in the country. Forceful removals in communities, especially in search of diamonds, continue to affect the poor. The community at Boa Vista has been in displacement for over 3 years. However, this community is still sheltered in tents without accessing remedies accorded to them in the UDHR, and the ACHPR, particularly Article 21 and 22 respectively of the African Charter are contravened. Madam Chair, we would like to bring to your attention that the State periodic report of Angola is long overdue, despite the technical support requested by the government from the Secretariat of the African Commission in 2007.

Madam Chair, FOCUS reported that, Democratic Republic of Congo is another country which experiences problems of looting of natural resources and contributing to the proliferation of light weapons in the region. This debilitates community's right to development and self determination. As a consequence, rebels continue committing sexual offences such as rape of women and young girls. In 2007 the joint report of the MONUC and DRC NGOs provided that 45 000 women and young girls between the age of 1-70 years old were sexually abused. The crisis is still ongoing in the east of the country despite the joint military operation between DRC and Rwanda, (KIMIA 1 and 2 respectively, in January 2009). Arbitrary arrest to HRDs, journalists and opposition affect freedom of expression, assembly and religion still continues. For example, Bishop Fernando Koutino has been arrested and detained without due process of the law since 2005 (still in detention). Leader of opposition, Mokia, suffered continuous harassment and arrest for his opinion and popular activism in the media. Human right defender, Golden Misabiko was incarcerated, tortured for 4 months (April - August 2009) for exposing illegal exploitation of uranium in Katanga by some French companies and individuals who collaborated with some government officials. Misabiko is now recuperating from the trauma in South Africa, (rehabilitation treatment is provided by an NGO called the Southern African Centre of Victim of Torture).

Madam Chair, in Zimbabwe, the GNU established in February 2009 is under threat as a result of ZANU PF's failure to fulfill obligations of the GPA.. It has blatantly contravened the agreement by dishonoring obligations to implement critical issues that seek to bring Zimbabwe to transition, including reform of the security services sector and the full democratization of the electoral and political environment that would finalise in democratic legitimacy and free and fair elections in the country. Madam Chair, A report of Crisis Coalition in Zimbabwe, provides that the state of constitution making process remains only known to the parliamentary select committee. Article 20 of the GPA accords contracting parties with executive authority. However ZANU-PF has unilaterally reappointed Attorney General, Johannes Tomana and Reserve Bank Governor, Gidion Gono without



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Honourable Commissioners
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Distinguished Guest
Colleagues, Ladies and Gentlemen

Statement of the Human Rights Institute of South Africa, presented at the 46th Session of the African Commission on Human and People's Rights, 11-25 November 2009.

The situation of human rights in the SADC region, with special reference to Angola, Congo, Swaziland, South Africa and Zimbabwe

Thank you Chairperson for the opportunity to present this statement. I also wish to extend my congratulations to you for your appointment as the new Chair of the African Commission and Commissioner Malila as the Vice Chair. I wish you both a successful term of office and look forward to continued relationship with this Commission. Congratulations and a warm welcome is also extended to the new Commissioners.

Chairperson, HURISA would like to take this opportunity to commend the government of Botswana for submission of its first periodic report and congratulates them for their cooperation in addressing human rights problems in their country. Their positive response towards calls of NGOs to build good governance and accountability in the region is also noted. Madam Chair we encourage all SADC member states to domesticate the African Charter and other regional treatise and those with overdue reports to update their status of reporting. .

Chairperson, the SADC is facing many challenges; especially the political and socio economic framework is impeded by failure of states to respect and fulfil their international, regional and national obligations. The practice of torture, arrest and detention without trial has been used to frustrate the promotion and protection of human rights. Madam Chair, a report of OSISA (Swaziland) provides that, the Suppression of Terrorist Act of 1938 as amended, allows the Swazi police to randomly arrest anyone suspected of terrorism. As a consequence, a quite sizeable number of individuals from civil society, political parties and the media have been victims of this law, either through questioning by state forces, torture, arrest and detention. The police have unleashed this law with impunity, in

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