



22 May 2023

Email: hrc-sr-defenders@un.org

Submission to the UN Special Rapporteur on the situation of human rights defenders on the challenges faced by women human rights defenders (WHRDs) working in conflict, post-conflict or crisis-affected settings.

We attach our written submission in response to the invitation for comments on the challenges faced by women human rights defenders (WHRDs) working in conflict, post-conflict or crisis-affected settings

Should you have any queries, it would be appreciated if you could contact me at the following email address: nicole@hsf.org.za.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nicole Fritz', is positioned below the typed name.

Nicole Fritz
Director

Director: Nicole Fritz
Trustees: Nick Binedell • Max du Plessis • Cora Hoexter • Nick Jonsson • Daniel Jowell • Kalim Rajab • Gary Ralfe • Phila Zulu
Patrons: Prof. Thuli Madonsela • Lord Robin Renwick

1. Are you doing human rights work in a conflict, post-conflict or crisis-affected setting? Please describe the conflict context in which you work.

I am the Executive Director of the Helen Suzman Foundation (“HSF”), a civil society organisation, operating in South Africa (“SA”). While SA is neither a conflict nor post-conflict setting, many of those most vulnerable and marginalised in South Africa can be said to be crisis-affected, and it is work in relation to these groups that I intend to address.

Migrants in South Africa in particular can be said to be crisis-affected, subject to rising levels of SA xenophobia. A recent [statement](#) from UN experts warned that due to ongoing 'scapegoating of migrants and refugees, and the widespread violence and intimidation against these groups... [SA] is on the precipice of explosive violence'.¹

The rise of vigilante and paramilitary-like groups, such as “Operation Dudula” and “PutSouthAfricaFirst” has seen violent protest, intimidation of migrants from accessing public services such as healthcare, of children of migrants from accessing schooling and the destruction of migrant owned businesses and homes. Early in 2023, Operation Dudula embarked on a campaign to remove children of foreign nationals from government schools² and further denied foreign nationals access to some clinics and government health care facilities.³ Of further concern is that the rhetoric of these vigilante-type groups increasingly seeps into mainstream political discourse, with political parties such as the “Patriotic Alliance” and “Action SA” increasingly scapegoating migrants ahead of the 2024 national elections. These developments make for a crisis for foreigners living in South Africa.

2. What challenges does the conflict, post-conflict or crisis situation present to your work as an activist? (This may include, for example, criminalisation, threats, harassment, sexual harassment/assault, online abuse, intimidation, disappearances, smear campaigns, office/home raids, attacks on family members, physical assault, restrictions on freedom of movement, assembly and association, killing).

HSF's work within the area of human rights and migration has brought it to the attention of these anti-migrant groups who look to intimidate and harass those protect and promoting the rights of migrants. Last year, HSF instituted litigation that challenged the SA government's decision to terminate the Zimbabwe Exemption Permit (“ZEP”), part of a special dispensation regime in existence for over a decade and which has served to regularise the stay of 178 000 Zimbabweans in SA for that period.⁴ Engaging in this litigation has placed HSF in the cross-hairs of these anti-migrant groups and has exposed our HSF to intimidation, harassment and abuse, particularly on social media.

Among the various threats directed at HSF is that our offices will be set alight. I am personally the target of a large number of the threats, with the most egregious of these threatening physical harm to me and my family – in one instance, my young daughter. The threat of physical harm to myself and my young daughter follows an earlier threat from the

¹ United Nations 'South Africa: UN experts condemn xenophobic violence and racial discrimination against foreign nationals' (15 July 2022). The full statement is available [here](#).

² [Takudzwa Pongweni](#) 'Operation Dudula threat to remove migrant children from schools sparks warning from activists' (10 February 2023). Full article available [here](#).

³ Kimberly Mutandiro *Ground Up* South Africa: Operation Dudula Chases Immigrants Away From Joburg Clinic' (18 January 2023). Full article is available [here](#).

⁴ A list of frequently asked questions about our case can be read [here](#).

same individual warning me of being surveilled. We have had to take additional security measures in response and these threats have a chilling impact on our freedom of movement such as working from home and monitoring my movements more carefully.

3. What is the impact of your work in your view; do you believe the work you are doing, in broad terms, is contributing towards promoting and protecting human rights and/or building sustainable peace? If so, please describe how and give examples.

HSF's work, broadly, aims to promote constitutional democracy, rule of law and human rights in South Africa. In particular, we seek to undertake public interest litigation that safeguards the rights of vulnerable persons who are unable to utilise the ordinary political process in order to do so.

Our ZEP litigation, if successful, will serve to provide relief to the many ZEP holders who are being put to an excruciating choice: either to leave South Africa which has been their home for well over a decade or to remain here, now as undocumented migrants with all the vulnerability that such status accrues. Success for HSF's application before the courts will ensure that ZEP holders are consulted, met with fair process and sufficient reason prior to any further decision to terminate the permits, allowing the holders sufficient time and opportunity to apply for other lawful status or properly plan their affairs and financial matters for their return to Zimbabwe where possible.

4. How do any of the following increase the risks you face as a WHRD working in a conflict, post-conflict or crisis-affected setting: your ethnicity, race, religion, identity, sexual orientation and gender identity, disability, gender, age, geographical location, class, social status or profession? Please give examples. If possible, also describe the gender-specific nature of attacks against WHRDs and/or their specific impact, taking into account the local context and social norms.

The attacks and abuse are primarily directed online. There is unquestionably a gendered, sexist character to the threats directed at me personally. Moreover, in that I am white and perceived to be economically affluent, the narrative constructed by those seeking to intimidate and abuse is that mine and HSF's efforts are compelled by a desire to economically benefit from ZEP holders and not from genuine concern to promote and protect their interests.

5. Are there particular types of work you do in this context that may increase the risk you face, for example documentation of violations; advocacy – local, national or international; supporting victims directly; being part of movements seeking accountability?

HSF's work involves public advocacy. The personal, individualised nature of the attacks and abuse has meant there is greater apprehension about carrying out this aspect of our work for fear of encountering those engaging in the attacks and abuse.

6. Have you or your colleagues been involved in, or had the opportunity to contribute to, any formal peace or political processes, from design to monitoring and implementation? If so, please outline your experiences. If not, what barriers have you faced in participating in peace processes? What steps would you recommend that would enable you to participate in the future?

No.

7. Do WHRDs operate in a safe physical and virtual environment? What steps do you as a WHRD take to mitigate the risks that you face in your work? (Are you part of any formal or informal network that offers support when a risk escalates? Do you have measures you put in place after receiving a threat? Do you have allies in other civil society organisations, the media, the government, embassies, UN offices? Have any strategies in particular worked well?). Are there any WHRDs-specific networks and spaces in the area/country where you work?

In a panel discussion hosted by the Human Rights Council, it was stated that online violence against women should be framed in a larger context of violence against women. This is particularly relevant in South Africa, which experiences one of the highest levels of Gender-Based Violence worldwide.⁵ Women are vulnerable in both the physical and virtual environment in South Africa regardless of the position they hold or work that they do. Clearly however, women occupying visible roles in South African public life – whether as human rights defenders, journalists, political figures – attract alarming levels of online trolling and abuse.

At the height of the threats directed at HSF and me personally for the ZEP-related litigation, civil society offered staunch support. A statement issued by the organisation Global South Against Xenophobia, and endorsed by 43 other organisations, condemned the threats and urged action by SA authorities.

No, there are not any WHRDs-specific networks and spaces in the area where I work as far as I know.

8. What are protection gaps for women human rights defenders in the area where you work? What further protection measures would you like to see:

- from states?
- from the UN?
- from civil society?
- from your community?

In answering this question, please consider what you would need in order to continue to do your work more safely. This could relate to political support, financial support, resource support, UN-mandated support etc.

When it comes to online intimidation and harassment there are few effective avenues for dealing with violent threats besides reporting to the relevant platform. Redress is largely dependant on what the relevant platform itself provides.

The UN Special Rapporteur on WHRDs should look to engage with social media and Artificial Intelligence companies in order to explore mechanisms by which WHRDs might be afforded effective redress in the face of complaint.

⁵ Amanda Gouws *The Conversation* 'Violence against women is staggeringly high in South Africa' (02 December 2022). Full article is available [here](#).

9. Have you been subjected to any intimidation or reprisals as a result of planning to interact or interacting with any UN actor or UN body, including in particular the Security Council?

No.

10. Have you been able to access funds and donors in general? If not, what obstacles have you been facing?

Yes.

11. Do you, and WHRDs in your country in general, have access to effective remedies to human rights violations that take into account the gender-specific barriers women may face when reporting attacks and seeking justice? Are investigations of threats and attacks against WHRDs carried out promptly and exhaustively, and are they adequately prosecuted?

Online intimidation and harassment is a relatively new phenomenon and South Africa, like many other jurisdictions, has yet to develop effective, available systems by which investigate, prevent and prosecute threats of violence and abuse online.

12. Are WHRDs denied registration/accreditation due to who they are, the collective or movement they may be part of – or not part of, and/or what they represent/work on. Are WHRDs denied legal capacity due to gender and other factors (e.g. age, disability)?

No