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ZIMBABWE

The toll of impunity

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SUMMARY

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Introduction

Amnesty International has reported on human rights violations in Zimbabwe both before and since independence in 1980. Most recently Amnesty International has reported on widespread politically motivated violations before, during and following the March 2002 presidential elections. These violations were primarily committed by members of "state-sponsored militia", and also by state security forces -- police officers, army officers or agents of the Central Intelligence Organization (CIO). Amnesty International uses the term "state-sponsored militia" to indicate that these forces operate with the consent or acquiescence of the state, and are supported by the state with resources and public encouragement.

Amnesty believes that the perpetrators of these abuses have operated with a sense of impunity, engendered by the government's repeated and deliberate failure to bring to justice those who commit serious human rights violations. By ignoring the violation, and thereby exempting the perpetrator from any accountability, the government of Zimbabwe has created a climate in which violations flourish. Such impunity intensifies the suffering of victims and their families, when they fail to see justice done or to obtain redress.

Impunity for human rights violations is contrary to international human rights law and standards. The UN Special Rapporteur on torture has noted that "impunity continues to be the principle cause of the perpetuation and encouragement of human rights violations and, in particular, torture."

In its new report, *Zimbabwe: The toll of impunity*, Amnesty International looks at how impunity has been promoted by the Zimbabwe government in the context of the parliamentary elections in 2000, the by-elections in certain constituencies in 2001 and the presidential elections in 2002. The report uses case studies to illustrate a systematic failure by the authorities in Zimbabwe to bring those responsible for serious violations to justice.

In Zimbabwe structural impunity has been given expression through a number of mechanisms: the granting of presidential amnesties, clemencies and indemnities; obscuring identification of the state's agents in perpetrating human rights violations; preventing human rights defenders and the independent media from investigating and publishing accounts of human rights violations; political manipulation of the police; and eroding the independence of the judiciary.

Presidential amnesties, clemencies and indemnities

The ultimate failure of the state to bring perpetrators of human rights violations to justice is the enacting of legislation to grant immunity. Zimbabwe has a long-standing history of granting legal immunity to those who commit human rights violations through the use of official pardons or clemencies.

Under the present constitution the president has the power to grant a pardon, amnesty or clemency, both to those convicted of a crime and those liable to criminal prosecution. President Robert Mugabe has used this power on several occasions to grant wide-ranging immunity for politically motivated human rights violations, including following politically motivated violence surrounding elections in 1995 and 2000.

Case study: Budiro

In the weeks and months prior to the June 2000 parliamentary elections Amnesty International received reports of systematic torture by “militia” members of supposed Movement for Democratic Change (MDC) supporters at a doctor’s surgery in Budiro, a high-density suburb of Harare. The surgery was owned by **Chenjerai “Hitler” Hunzvi**, the then-leader of the Zimbabwe National Liberation War Veterans Association (ZNLWVA). During a visit to the area in May 2000 Amnesty International met with two men who said they had endured torture at the surgery.

The first victim was abducted on 8 May 2000. He was taken to the surgery where he was forcibly stripped and then tortured with electric shocks, and beaten with whips and sticks. A witness to his abduction informed the police who later intervened to rescue him but left several other victims at the surgery. The second individual to whom Amnesty International spoke was abducted on 13 May. He was beaten and had his head held upside down in a toilet, which was repeatedly flushed. On 17 May police finally took action and arrested 46 “militia” members, some of whom were held in custody on charges of assault.

However, the Clemency Order proclaimed by President Mugabe on 6 October 2000 granted indemnity to every person liable to criminal prosecution for any politically motivated crime committed during the period from 1 January 2000 to 31 July 2000, excluding the crimes of rape, murder and fraud, but including grievous bodily harm (i.e. torture).

Obscuring state involvement

Although “militias” have often been organized, transported and supported by the Zimbabwe Republic Police, the national army, the CIO and other state agents, the government regularly denies any link with the “militia”. The disavowal of the “militia” shows the importance of ‘deniability’: impunity is facilitated in Zimbabwe by the state being able to deliberately obscure its involvement in the activities of the “militia”.

“Militias” were actively engaged in politically motivated campaigns of intimidation and violence during the 2000 parliamentary elections, subsequent by-elections and the 2002 presidential election. Following the March 2002 presidential election “militia” members began a coordinated effort to track down, attack and abduct members of the opposition. Using the published lists of names and addresses of those who acted as polling agents for MDC, “militia” members have attacked, abducted and destroyed the homes of opposition officials.

Preventing human rights defenders and the independent media from investigating and publishing accounts of human rights violations

The Zimbabwe government has attempted to ensure impunity for perpetrators by preventing investigation of and reporting on their actions. In the run up to both the 2000 parliamentary elections and the 2002 presidential elections “militias” created no go areas where independent journalists, human rights lawyers, election observers and others were unable to enter.

Legislative measures to curtail freedom of expression have been introduced. The 2002 Public Order and Security Act criminalizes a wide range of activities associated with freedom of expression, as well as freedom of association and assembly. The Act violates Zimbabwe’s obligations under international human rights law. In particular, it violates the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples’ Rights. On 15 March 2002 President Mugabe signed into law the Access to Information and Protection of Privacy Act. The Act grants broad powers to the Information Minister including the power to launch investigations into the operations of media houses without the involvement of either the police or the judiciary.

Political manipulation of the police

Impunity is reinforced when the state undermines the professionalism and effectiveness of the police. Police officers in Zimbabwe who impartially and professionally discharge their duties have been purged from the service or transferred to relatively inferior or rural postings, or to the ‘Commissioner’s Pool’, an administrative limbo where officers are kept without desk, duty or command.

Throughout the election campaigns of 2000, 2001 and 2002 the Zimbabwe Republic Police exhibited political bias in the manner in which they carried out their duties. Not only have the police consistently failed to take action when “militia” members assaulted civilians suspected of supporting the opposition MDC, they have been directly responsible for violations, including arbitrary arrest, beatings and torture. In dozens of cases described to Amnesty International the police have appeared to collude with the “militia”.

A former police officer, who asked to remain anonymous, described the police relationship with the “militia”: “Many of the police officers are frightened of the war veterans, since they have their own command structure that goes right to the top and that will get them out of jail if they are arrested. Plenty of police officers left the force because of that.”

Case study: The killing of Tichaona Chiminya and Talent Mabika

During a court hearing on a legal challenge to the result of the 2000 parliamentary elections in the Buhera North constituency in Mashonaland East Province a witness described how two individuals -- a CIO agent and a war veteran -- allegedly killed MDC supporters Talent Mabika and Tichaona Chiminya.

The witness testified that he was among a group, including the two alleged killers, in a ZANU-PF Manicaland Nissan twin cab truck when they overtook and stopped a red Mazda truck in which MDC supporters were travelling. The two alleged killers pointed AK47s at the MDC group and then took a container of liquid, sprinkled it inside the Mazda truck and set it alight. Although some of the occupants of the Mazda escaped, both Talent Mabika and Tichaona Chiminya died in the attack.

Following the witness testimony, the judge ordered the two suspects to appear in court in connection with the case; neither made an appearance. Police said they could not locate either man to serve the summons. The record of the court proceedings was sent to the Attorney General, who ordered a police investigation. However, on 30 August 2001 the Minister of Justice, Legal and Parliamentary Affairs Patrick Chinamasa contradicted the Attorney General, saying the court had no legal right to order a prosecution. To date no one has been brought to justice for the killings. The CIO officer alleged to be one of the killers remains on active duty.

The undermining of the judicial system

Zimbabwe has had a strong historical tradition of judicial independence, and throughout the first two decades of independence the courts remained tough on government violations of human rights. However, during the last two years the government has openly defied superior court rulings that contradict its policy. Starting in 2000, on the issue of land occupations, the government has ignored repeated High Court and Supreme Court orders. Furthermore, it began a campaign of harassment to force those judges perceived to be critical of state policy to resign or retire. Between 2000 and 2002 two Supreme Court Judges (including the Chief Justice) and four High Court Judges resigned from the bench.

In March 2002 the United Nations Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, expressed grave concern about the state of Zimbabwe's judiciary, stating: "These latest developments seen in the light of previous attacks, harassment and intimidation of the judiciary by the executive and others, as well as defiance of court orders by the Government, are indicative that Zimbabwe is no longer a government of laws but of men who have no regard whatsoever for the independence of the judiciary and the majesty of the law...".

Recommendations

At the end of the report '*Zimbabwe: The toll of impunity*' Amnesty International makes seven recommendations to the Zimbabwean government and the international community to contribute to re-establishing the rule of law and respect for human rights in Zimbabwe.

The steps advocated are:

1. thorough, impartial and transparent investigations by the Zimbabwean authorities into all allegations of human rights violations. Zimbabwean civil society and international organizations, working together, should also investigate human rights violations;
2. the government should ensure that the police abide by international human rights standards and the highest standards of professionalism;
3. further international and regional pressure should be applied on the Zimbabwean authorities to allow the United Nations Special Rapporteurs on torture and on the independence of judges and lawyers to take action;
4. a review of legislation and the Constitution with the aim of repealing or amending those laws that not in conformity with international human rights standards;
5. Zimbabwe should ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
6. an independent police monitoring mechanism should be created and
7. reforms should be carried out to ensure the independence of the judiciary.

This report summarizes a 60-page document (139,649 words), ZIMBABWE: The toll of impunity (AI Index: AFR 46/034/2002) issued by Amnesty International in June 2002. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email: <http://www.web.amnesty.org/web/news.nsf/thisweek?openview>

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