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Appendix 1

Zimbabwe Presidential Elections 9-10 March 2002 Statement

SADC Parliamentary Forum Election Observation Mission

March 13, 2002

The Southern African Development Community (SADC) Parliamentary Forum has completed its interim assessment of the Zimbabwe 2002 elections.

On the invitation of the government of Zimbabwe by letter dated February 4, 2002, the SADC Parliamentary Forum Observer mission constituted a delegation of 70 members, consisting of 39 Members of Parliament and support staff drawn from the Secretariat in Windhoek, Namibia and eleven parliaments of the region.

It is the policy of the Forum to observe elections of all member states starting with the pre-election phase. This is the seventh election the Forum has observed in the region since 1999.

Since its inception of the observation programme, the Forum has collectively evolved Norms and Standards for Elections in the SADC region approved in March 2001. The main objective of the Norms and Standards is to ensure the conduct of peaceful, free and fair elections in the region.

In observing the elections, the Forum was guided by the constitutional and legal framework of Zimbabwe and the *Norms and Standards for Election Observation in the SADC Region*. Among other things, the Mission was detailed to assess the security and political environment in which the elections were to be held.

Deployment

The Forum Deployed to all the ten provinces following consultations and interaction with all stakeholders, including political parties, electoral authorities, representatives of civil society, media editors, Security officers and members of the Diplomatic corps.

The teams proceeded to observe the campaign rallies, meetings, preparations for elections, location of polling stations, media coverage of elections, voting and counting processes and actions that impinged on the fundamental rights and freedoms of the citizens of Zimbabwe as enshrined in Part III of the constitution.

The Political and Security Climate

The Forum has observed that the political and security climate in which the elections were conducted was complex. It was characterized by high levels of polarization and political intolerance, lack of communication amongst stakeholders and lack of free flow of information to the electorate, which are necessary conditions for democracy to prevail.

We observed noticeable differences in the provinces but generally there was no euphoria that normally characterizes elections the SADC region.

Violence and Intimidation

The election campaign was marred by incidents of violence in all provinces of the country. Police and party leaders have not denied the fact that there has been violence in various forms. What seemed to be in question was the perpetration of that violence. Violence was visited upon ordinary voters, party supporters and leaders alike. Reports indicated that violence was perpetrated by supporters of the two main political parties-the ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF) and the opposition Movement For Democratic Change (MDC).

Not only did the SADC Parliamentary Forum witness some of these acts, its mission members were themselves targets of an orchestrated attack 10 kilometres out of Chinhoyi on 24 February.

However, evidence indicated that the majority of those affected were supporters of the MDC or those perceived to be opponents of the ruling party and government. Violence was manifest in the number of hospitalized victims, numerous cases of alleged torture, arson, assault and incidences of false imprisonment.

The prevalence of violence is reflected in virtually all reports from our observers in the field, which included abduction of some polling agents of MDC; in one such incident, our observer team intervened when Police in Mashonaland Central detained 24 election agents of the opposition party who were on their way to Harare to vote.

Regrettably, the phenomena of political intolerance and violence seem to have been prevalent since the 2000 legislative elections. Acts of violence appeared to be systematically employed by youth and War veterans with camps dotted around the country.

Police Conduct

In any situation of conflict, the police were expected to be impartial. In spite of the arrests made, there are significant claims that the police have been partisan in handling of the political situation when called upon to intervene. The use of riot squads to disperse potential voters in some Harare constituencies raised questions about the impartiality of the Police.

Voters Roll

A voter's register is considered a basic condition for a successful election. In this election, concerns have been raised regarding the timeous release of the voter's roll which was only made available three days before the polls, leaving no time for the electorate to verify its accuracy. As a result of this, it was observed that a large number of people were unable to vote.

Issues of the voter's roll were compounded by the announcement that a supplementary register had been prepared and would be used in the 2002 elections contrary to earlier announcements that registration for 2002 was closed.

Freedom to Campaign

In any election, contestants should be able to move freely among the electorate. In this election whereas the ruling party's campaign was relatively uninterrupted, some of opposition party meetings were cancelled or interrupted by opponents. It was however, significant, in two instances in Harare and Bulawayo, rallies of opposing parties were conducted in the same city without any violence. This should be the norm.

Polling stations

Information to the electorate and other stakeholders on the location of polling stations was not available to enable the electorate to make informed decisions. Much as we appreciate the increase of polling stations in rural areas, the reduction of the number of polling stations in urban areas had a major impact on the elections. This was particularly so in Harare and Chitungwiza where tripartite elections were held. It resulted in congestion with some people spending more than 48 hours in queues because of their sheer determination to vote.

Voting and counting

We observed that in many provinces the voting was peaceful. Well over 50 percent of the registered voters were able to cast their vote. The major exception was the Harare Province where the voting process was excruciatingly slow resulting in the extension of both times and days of voting.

There were also a number of violent incidents in which the police dispersed voters from polling stations especially in high-density suburbs. Further, although a large number of people voted, a significant number of the electorate was unable to vote as a result of logistical, administrative and other impediments. The counting proceeded very well.

It was significant to note that the recommendation from the Forum observers for the polling agents to ride with the ballot boxes was accepted and implemented. However, free movement of party agents was compromised by acts of intimidation and reported abductions in some provinces.

However, the massive turnout of voters demonstrates the commitment of the people of Zimbabwe to multiparty democracy.

Lack of Independence of the Electoral Commission

Despite various recommendations and practices in the SADC region, Zimbabwe is one of the countries without an Independent Electoral Commission. The assignment of roles to three different electoral bodies, the Electoral Supervisory Commission (ESC), the Election Directorate and the Registrar-General's Office affects efficiency and causes duplication. The government should seriously

consider establishing an Independent Electoral Commission as recommended by the Forum after the 2000 legislative elections and as held by the *Norms and Standards of Elections in SADC*.

Access to Public Media

There was lack of access to the public media by political parties other than the ruling party. The monopolization of the public media by the ruling party went contrary to the guidelines set out by the Electoral Supervisory Commission (ESC) for equal and equitable access to contesting parties. The slanted coverage the state-owned Zimbabwe Broadcasting Corporation (ZBC) and the Zimbabwe Newspapers deprived the electorate an opportunity to make an informed choice.

Conclusion

The climate of insecurity obtaining in Zimbabwe since the 2000 parliamentary elections was such that the electoral process could not be said to adequately comply with the Norms and Standards for Elections in the SADC region.

Major Recommendations

It is evident to us that elections may not, in themselves, be a panacea to Zimbabwe's complex situation of political conflict.

We therefore appeal to the political leadership of the country, the churches, civil society and the business sector to join hands and begin a healing process for Zimbabwe in the face of enormous problems. An election should not be construed to be one of "victor" and "vanquished".

We also urge the Heads of State and Government of SADC countries to urgently engage the leadership of Zimbabwe to facilitate dialogue and reconciliation. We believe it is within the powers of the people of Zimbabwe, through their leaders with the support of SADC to avert a political crisis in the country and bring about peace.

Signed for and on Behalf of the SADC Parliamentary Forum Observer Mission,
Harare, Zimbabwe, 13 March 2002

Hon. Duke G. Lefhoko, MP
Head of Mission

Vice-Chair
Hon Dr Elvy Mtafu, MP

Vice-Chair
Hon. Lutero Simango, MP

Appendix 2

Executive Summary of the Report of the Commonwealth Observer Mission

March 2002

Introduction

The March 2002 Presidential elections took place against the backdrop of widespread Commonwealth and international interest in and concern about the situation in Zimbabwe. The Commonwealth has had close and special ties with Zimbabwe over the years. The association was closely involved in the process leading to Zimbabwe's independence in 1980 and it was in Zimbabwe's capital, Harare, in 1991, that Commonwealth Heads of Government codified the fundamental political values of the association in a landmark document known as the Harare Commonwealth Declaration. Since then the Commonwealth has continued to assist in the strengthening of democracy and in the development of the country.

A Commonwealth Observer Group (COG) was present in Zimbabwe for the Parliamentary elections on 24-26 June 2000. The Commonwealth has also been working closely with other international partners, including the Southern African Development Community (SADC) and the United Nations Development Programme (UNDP), in addressing the land issue and related matters in Zimbabwe.

Our Group was constituted by the Commonwealth Secretary-General following an invitation from the Government of Zimbabwe. An advance staff team, which visited Zimbabwe from 5 to 10 February, found that the main political parties and civil society groups were agreeable to the presence of Commonwealth observers. The team were also assured by the election management authorities that Commonwealth observers would be able to travel freely to all parts of the country and to talk to whomever they wished, subject to a Code of Conduct for international and domestic observers.

The Observer Group and its Terms of Reference

This was the 37th observer Group constituted by the Commonwealth Secretary-General since Commonwealth Heads of Government agreed at a meeting in Kuala Lumpur, Malaysia, in October 1989 that member states could benefit from an election observer facility, as a means of strengthening democratic processes and institutions. The context for our presence at the Presidential elections in Zimbabwe was set by the principles enshrined in the 1991 Harare Commonwealth Declaration, which include "democracy, human rights, the rule of law and just and honest government".

The Terms of Reference for our Group were incorporated in the Secretary-General's letter inviting each of us to participate in the mission in our individual capacity. They are as follows:

"The Group is established by the Commonwealth Secretary-General at the invitation of the Government of Zimbabwe. It is to observe relevant aspects of the organisation and conduct of the Presidential Election in accordance with the laws of Zimbabwe. It is to consider the various factors impinging on the credibility of the electoral process as a whole and to determine in its own judgments whether the conditions exist for a free expression of will by the electors and if the results of the election reflect the wishes of the people of Zimbabwe.

The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgment accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Zimbabwe, the leadership of the political parties taking part in the election and thereafter to all Commonwealth governments".

Within the above terms of reference the Group would form an independent judgement, which would in no way represent either the views of any government, or the Office of the Secretary-General.

The Group was led by General Abdusalami Abubakar, former Head of State of Nigeria, and comprised 42 eminent nationals of Commonwealth member states. The Group was supported by a 19-member Commonwealth Secretariat team led by Mr Jon Sheppard, Director of the Secretariat's

Political Affairs Division. For the first time the Group included representatives of Commonwealth youth organisations.

Method of Work

The Advance Group

Following a formal invitation on 4 February 2002 from the Government of Zimbabwe to the Commonwealth Secretary-General for the presence of Commonwealth observers, a five strong team of staff from the Commonwealth Secretariat arrived in Harare on 5-6 February to make arrangements for the arrival of the Observers. In the week up to Sunday 10 February the staff team, led by Jon Sheppard, met the Registrar-General, the Electoral Supervisory Commission, the main parties and a number of NGOs and diplomats. Four of the five staff were accredited as observers on Thursday 7 February and spent some time observing preparations for the elections and the campaign in Harare and rural areas.

Three 'Advance Observers' arrived in Zimbabwe on Friday 8 February and a further three arrived on Monday 11 February. Supported by Commonwealth Secretariat staff, they deployed in four of the country's nine provinces, including the capital, Harare, where they met with the political parties and civil society groups and also observed the election campaigns.

The Full Observer Group

Our full complement of observers arrived in Zimbabwe on 22-23 February and was briefed on the terms of our mission by the Chairperson and the Secretariat team leader. Our Chairperson had himself been briefed in London by the Commonwealth Secretary-General earlier in the month. We held a press conference in Harare on 24 February, at which we issued an Arrival Statement.

Over the next few days we were engaged in a series of meetings with the Registrar-General, the Chief Elections Officer, the Electoral Supervisory Commission, Commonwealth High Commissioners, senior representatives of political parties contesting the elections, representatives of the Zimbabwe Elections Support Network, civil society, media organisations, war veterans and commercial farmers.

On Wednesday 27 February we divided into 23 two-person teams and deployed to all 10 provinces of the country. 7 other teams were added in the week prior to the poll. The Chairperson, the Secretariat team leader and 4 other teams were based in Harare. On 2 March the Chairperson and some members of the Group were invited to pay a courtesy call on President Mugabe. The Chairperson also made visits to a number of provinces to assess first hand the state of electoral preparedness in those areas and the political climate in the run-up to the elections. On these visits he met officials, members of the public, representatives of political parties, civil society representatives and also victims of politically motivated violence.

A meeting was arranged with the Registrar-General to seek clarification on issues of voter registration, citizenship, postal voting and other related matters. The Chairman also wrote to the Chairman of the Electoral Supervisory Commission and the Registrar-General drawing attention to the need for action to deal with the large numbers of voters at polling stations on Saturday 9 March. On Tuesday 12 March the Chairman of our Group called on the Registrar-General in pursuit of these concerns and to discuss progress in the verification and counting of votes.

On deployment, our teams covered both urban and rural areas. We travelled extensively to familiarise ourselves with our deployment areas, to assess preparedness for the elections and to observe the last days of the campaign. We met local electoral officials, representatives of political parties and independent candidates, local community leaders and observers, representatives of the security forces and other international observers. We attended party rallies and meetings, and observed the training of presiding and polling officers as well as that of monitors. We also observed final preparations for the elections.

Each team submitted regular reports of their observation to the Chairperson. Between 9 and 11 March we observed voting at approximately 700 polling stations and on 12 March were present for the count at 15 constituency counting centres. During our deployment we were assisted by observation notes and checklists prepared by the Secretariat. Our Group reassembled in Harare on 12/13 March for debriefing, having maintained a continuous presence in Zimbabwe for over a month.

On 14 March, we issued a Preliminary Report containing our initial assessment of the electoral process. This Report was forwarded to the Commonwealth Secretary-General and released to the public.

Appendix 3

THE MARLBOROUGH HOUSE STATEMENT ON ZIMBABWE

The Commonwealth Chairpersons' Committee on Zimbabwe met at Marlborough House in London on Tuesday, 19 March 2002. The Marlborough House Statement on Zimbabwe follows in full:

The Commonwealth Chairpersons' Committee on Zimbabwe, consisting of the Prime Minister of Australia, Rt Hon John Howard, the President of Nigeria, HE Chief Olusegun Obasanjo, and the President of South Africa, HE Mr Thabo Mbeki, met at Marlborough House, London on 19 March 2002 to discuss the situation in Zimbabwe. The Commonwealth Secretary-General, Rt Hon Don McKinnon, also attended the discussions.

The Committee recalled the mandate given to them by Commonwealth Heads of Government at their recent meeting in Coolum, Australia, to determine appropriate Commonwealth action on Zimbabwe, in the event of an adverse report from the Commonwealth Observer Group to the Zimbabwe Presidential Election, in accordance with the Harare Commonwealth Declaration and the Millbrook Commonwealth Action Programme.

The Committee noted that the Commonwealth Observer Group, led by General Abdulsalami Abubakar of Nigeria, had concluded that the Presidential Election was marred by a high level of politically motivated violence and that "the conditions in Zimbabwe did not adequately allow for a free expression of will by the electors". They deemed these conclusions, together with other aspects of the Report of the Observer Group, to be an adverse reflection on the electoral process, requiring an appropriate Commonwealth response.

The Committee took note of the various recommendations contained in the Commonwealth Observer Group Report. It also received a Report from the Commonwealth Secretary-General on his consultations with other Commonwealth leaders.

The Committee expressed its determination to promote reconciliation in Zimbabwe between the main political parties. To this end the Committee strongly supported the initiatives of the President of Nigeria and the President of South Africa in encouraging a climate of reconciliation between the main political parties in Zimbabwe which they considered essential to address the issues of food shortages, economic recovery, the restoration of political stability, the rule of law and the conduct of future elections.

The Committee called upon the international community to respond to the desperate situation currently in Zimbabwe, especially the shortages of food.

The Committee noted the reference in the Commonwealth Observer Group Report to national reconciliation being a priority and that the Commonwealth should assist in this process: and requested the President of Nigeria and the President of South Africa to continue to actively promote the process of reconciliation in Zimbabwe between the main political parties and to appoint special representatives to remain engaged with all the parties concerned towards this end.

The Committee decided to suspend Zimbabwe from the Councils of the Commonwealth for one year with immediate effect. This issue will be revisited in twelve months time, having regard to progress in Zimbabwe based on the Commonwealth Harare principles and reports from the Commonwealth Secretary-General.

The Committee mandated the Commonwealth Secretary-General to engage with the Government of Zimbabwe to ensure that the specific recommendations from the Commonwealth Observer Group Report, notably on the management of future elections, in Zimbabwe are implemented.

In line with the Abuja Agreement and the Coolum Statement, the Committee stated that land is at the core of the crisis in Zimbabwe and cannot be separated from other issues of concern, and the Commonwealth will be ready to assist Zimbabwe to address the land issue and to help in its economic recovery in co-operation with other international agencies. The Committee requested the

Commonwealth Secretary-General to remain actively involved with the United Nations Development Programme in promoting transparent, equitable and sustainable measures for land reform in Zimbabwe.

The Committee will actively promote the implementation of all the goals contained in this Statement in consultation with the Commonwealth Secretary-General and will meet at the request of the Commonwealth Chairperson-in-Office.

Appendix 4

Summary of Select Provisions of POSA

From Professional Audit of the Public Order and Security Act, B.B. Kagoro, April 2002.

CLAUSE 5: SUBVERTING CONSTITUTIONAL GOVERNMENT

In 1964 the government of Southern Rhodesia in response to calls for the armed struggle enacted the **Preservation of Constitutional Government Act (Chapter 11:11)**. As demonstrated in the historical overview the Ian Smith regime a year later it subverted constitutional authority by declaring UDI POSA has very broad provisions that incorporate the common law crime of treason. It criminalizes setting up, advocating or suggesting the setting up of a body with the object of “coercing or attempting to coerce” government or assistance any such attempt. Coercion is defined as constraining, compelling or restraining the government. This covers actions such as “civil dis-obedience or resistance to any law, whether such resistance is active or passive”. Threatening civil disobedience or resistance to law fell foul of this Act. The equivalent of this crime in LOMA is contained in section 51, which criminalizes acts of terrorism or sabotage. The action only fell foul of LOMA if it sought to “encourage the achievement, by violence or forcible means “of any political aim, “including the bringing about of any social or economic change”. It would appear that the term forcible means and coercion in both pieces of legislation are references to various forms of passive and armed resistance. The penalty for being found guilty of this crime under POSA is imprisonment for a period of 20 years. Under LOMA owing to the lack of separation between coercive force and armed force the penalty was life imprisonment.

CLAUSE 19: GATHERINGS CONDUCTING TO RIOT, DISORDER OR INTOLERANCE:

This clause criminalizes the same behaviour as does clause 17 on public violence as well the performance of actions or utterance of words or distribution or display of anything in writing that is obscene, threatening or abusive. For the crime to be committed there must have existed a real risk or possibility that a breach of the peace could have been provoked from the conduct in question. This section also criminalizes similar conduct that a real risk or possibility of exposing any class of people to hatred, contempt or ridicule on account of their race, tribe, nationality, origin, colour, religion or gender. LOMA was wholly gender blind and this clause constitutes the first token attempt by POSA to demonstrate gender sensitivity. Conspicuous by its omission are statements targeted at most of the violations in this respect have been related to this particular aspect. A reading of this section might suggest that various sentiments expressed by the President and other ruling party officials about whites were criminal. The section is a part re-enactment of section 36 of LOMA. It transgresses the freedom of expression guaranteed by section 20 of the constitution of Zimbabwe. At least to the extent that it criminalizes unpopular opinions that may potentially result in offended hearers breaching the peace. It is unclear what will become of jokes targeted at lawyers, Samanyikas and even Muzenda in light of this clause. Could it be that humor is now criminal in Zimbabwe?

CLAUSE 24: NOTICE OF INTENTION TO HOLD PUBLIC GATHERING AND CIVIL LIABILITY FOR FAILURE TO NOTIFY POLICE

This clause requires organizers of public gatherings to give the police at least four (4) clear days notice of their intention to do so. And failure to give notice constitutes a criminal offence under clause 24(6), punishable by a fine of up to \$10 000 and imprisonment for a period of up to six months. In the event that any loss or injury results from a public gathering convened without prior notification of the police, then civil liability shall ensue against the organizers. It therefore follows that when a court convicts any person in terms of clause 24(6), it will be obliged to award compensation to any injured party in terms of clause 28. The term loss covers pecuniary loss as well as other forms of quantifiable loss. These provisions are part codification of the common law position whereby the organizer of an event is held liable for any loss or injury sustained as a result of the event. In this respect the clause is –on the face of it- constitutional. Evidently they inhibit the freedoms of expression, association and assembly, which are entrenched in sections 20 and 21 of the Zimbabwean constitution. An organizer who fails to give notice as required by section 24(6) will commit a criminal offence even if no disorder or violence occurs at the gathering. It would appear that the crime would have been committed even if there is no real likelihood of such violence or disorder occurring. As indicated above the organizer of the public gathering will not only be liable for criminal prosecution but also civil damages for any loss, injury or damage resulting from the public gathering. This notwithstanding the fact that the loss, injury or damage would not have been caused by the organizer. On the whole these restrictions are likely to cause a chilling effect on the exercise of the freedoms of expression and assembly. For this reason these clauses are probably unconstitutional.

CLAUSE 32: PERSONS TO CARRY IDENTITY DOCUMENTS

This clause empowers police officers to stop people in public places and require them to produce an identity document. That is, a passport, national identity card, driver's license or entry certificate. Any person who, being above the age of sixteen years, fails to produce an identity document when required to do so by a police officer may be detained until such a time as his identity is established or verified to the satisfaction of the police officer. In ordinary cases that do not involve the commission of a serious arrestable offence a person found in breach of this clause will be accorded seven days within which to produce their identity documents to a specified police station. This clause is a response to the case of *Elliot V Commissioner of Police & Anor 1997 (1) ZLR315 (S)*. In the Elliot case the Supreme Court held that a provision in the National Registration Act (Chapter 10:17) which made it an offence to be found without an identity card violated section 22(1) of the constitution, which guarantees freedom of movement. This clause seems to re-enact the offensive clause struck down by the Supreme Court in the Elliot case. The clause permits the random stoppage of persons going about their business for the purpose of a spot check to see if they are complying with this law. There is no requirement that there must exist some lawful or reasonable ground for such stoppage. The stoppage is dependant entirely upon the discretion of a police officer concerned. There is thus no clear nexus between accepted public interest considerations and the act of stopping the movement of persons to demand the production of identity documents. For this reason this clause is unconstitutional. Clause 32(4)(F) requires that persons at public gatherings and public meetings of a political nature should carry identity documents. This clause may be used by state agents to intimidate persons whose opinions are seen to be different to those of the government of the day. This is not a far-fetched proposition given the prevailing political situation in Zimbabwe. In the result this clause violates the freedoms of expression and assembly enshrined in sections 20 & 21 of the Constitution.

Appendix 5



Analysis of the proposed amendments to the Access to Information and Protection of Privacy Act (AIPPA)

1. Change of Definition of “dissemination of information”

In the main Act,

“*dissemination of mass media products*”, **MEANS** the sale, subscription, delivery, diffusion etc.

In the proposed Bill, it is now

“*dissemination*” in relation to any mass media product, **INCLUDES** the sale subscription, delivery, diffusion etc.

The use of the word “includes” allows the adjudicating authorities too wide a discretion. The question is, what else could possibly constitute *dissemination* at a later stage that has not been mentioned? Where the provisions of a law are so vague and uncertain that an individual is unable to regulate her/his conduct accordingly in order to escape penalties, this would be considered to be unconstitutional.

2. New Insertion - Definition of “Journalists”

The main Act did not define “*Journalist*”

In the draft bill, the new definition reads:

“journalist” means a person who gathers, collects, edits or prepares news stories and materials for any service that produces an advertisement, the total print or part of the total print of a separate issue of a regular newspaper, magazine or journal, bulletin or any other publication with a constant name, a separate issue of a teletext programme, the total data or part of the data of any electronically transmitted material, or audio or video recorded programme (whether or not it also disseminates them), whether as an employee of the service or as a freelancer.

This definition is vague and extremely open-ended. An individual cannot easily establish whether s/he falls within the category. This ambiguity will have especially serious implications in relation to issues of accreditation. Questions that arise are

- (i) Who is a *journalist*?
- (ii) Who should seek accreditation?

We ask such questions because

- (i) in terms of this definition, a legal practitioner who contributes an article to a regular legal publication could have to seek accreditation before having her/his article published, as s/he could possibly be considered to be a freelancer (which remains undefined in the Bill).
- (ii) the committee that collates articles to form one issue of the publication would have to accredit in order to continue producing it.

- (iii) a church group that brings out a regular publication of biblical articles for public distribution could potentially fall foul of the Act if it did not seek accreditation.
- (iv) a neighborhood watch group circulating a monthly newsletter written by members could also have to accredit.
- (v) an individual who decides to set up a web-page giving information and stories about gardening could also be affected by the definition,
- (vi) a playwright who produces scripts which are subsequently performed by actors (also affected) in open-air theatres.

There being risk that we might all have to accredit as journalists, we submit that this definition needs to be reconsidered *in toto*.

3. Definition of a “mass medium” or “mass media”

There is no reference anywhere within the Act to either “a mass medium” or to “mass media”. As such there is no need for this definition to be included in the Act. All references are to a “mass media service”, which is also defined in the Act. To retain the definition would only add to the uncertainty and create further confusion. It is therefore suggested that the definition is removed *in toto*.

4. Definition of “mass media products” and “Mass Media Service”

Whilst the main Act does not define either “*Mass media products*” or “*Mass Media Services*”, the draft bill seeks to define both phrases as follows:

“Mass media products” means an advertisement, the total print or part of the total print of a separate issue of a periodically printed publication, a separate issue of teletext programme, the total data or part of the data of any electronically transmitted material, or audio or video recorded programme.

“Mass media service” means any service that produces mass media products, whether or not it also disseminates them.

These definitions seek to subject extremely wide categories of information to scrutiny under the Act. The first definition is vague and unenforceable, especially when considered under persons required to seek accreditation. Just as an example, the definition of ‘*advertisement*’ is so open-ended that it could be defined to include even private individuals who advertise the sale of a kettle in a mass-circulating newspaper like the Herald and the Daily News.

Some of the terms within the definition themselves would also need to be defined.

Web pages also fall in this category. Can they be subjected to such scrutiny when they can be visited and accessed worldwide? What about web pages not originating from Zimbabwe but which can be downloaded by a person in Zimbabwe? Would the Media and Information Commission has the right (and jurisdiction) to police these and how can it be known who is on the internet, where and downloading what?

There is need to revisit these definitions.

5. Amendment of section 25 of the main Act, Cap. 10:27

Section 25 of the main Act contains regulations on the **Protection of Information relating to personal privacy**. Amendment (b) seeks the removal of the protection against the disclosure of a third party’s **racial or ethnic origin, religious or political beliefs or associations**. It has been stated that this has been done for the purpose of allowing, “bodies like the Reserve Bank [to gather] information about bank-lending patterns”, and allowing “the progress of indigenisation of the economy”. The intention may be noble and important. However the failure by the drafters to maintain the protection of a third party’s rights as regards race and ethnic origin and insert, instead, a proviso with specific exceptions has to be viewed with suspicion. This proposed amendment contravene section 18(1) of the Constitution of Zimbabwe, which states that every person is entitled to the protection of the law. In addition, section 23 of the Constitution ensures that no law shall make any

discriminatory provision, either of itself or in its effect, and that no person shall be treated in a discriminatory manner by any person acting “by virtue of any written law or in the performance of the functions of any public office or any public authority” where the result of that law or treatment would be to prejudice persons of a particular description by race, tribe, or place of origin. Accordingly the amendment should therefore be removed from the Bill.

6. New section substituted for section 35 of Cap. 10:27

In the main Act Section 35 reads as follows:

Penalty for deliberately falsifying personal information

A person who, if requested to do so, deliberately supplies a public body with false personal information shall be guilty of an offence and liable to a fine not exceeding twenty thousand dollars or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

This is to be deleted and substituted with the following provision:

Penalty for deliberately falsifying personal information

*Any person who, when required under **ANY ENACTMENT** (my emphasis) to supply to a public body any personal information verbally or in writing about himself or herself or a third party, supplies any information which he or she knows to be false or does not have reasonable grounds for believing to be true, shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.*

There is an intention here to make the criminal penalties under the main Act applicable to all situations where a person is required to supply information under any enactment. In terms of Zimbabwean law, each Act of Parliament has its own provisions and is covered, where necessary, by its own criminal sanctions. To attempt to alter this and make one law applicable universally is an attempt to override other legislation. AIPPA is not the Constitution of the Republic that has laws that govern other statutes. The section should therefore be altered to read “*Any person who, when required **in terms of this enactment**... or to both such fine and imprisonment.*”

7. Amendment of section 40 of Cap. 10:2

In the main Act, Section 40(2) read as follows

Subject to subsection (3), the Board shall consist of no few than five members and not more than seven members (at least three of whom shall be nominated by an association of journalists and an association of media houses)...

The proposed amendment seeks to delete the provision in brackets.

This is perhaps the most dangerous amendment in this Bill. The Media and Information Commission presently has all of its board members chosen by the Minister of Information and Publicity, after consultation with the President, and is therefore likely to be partisan and non-independent. The proposed scenario would deny the media profession the basic right to choose any representatives to sit on the body that will regulate their affairs.

The media profession will become the first and only professional body in Zimbabwe to be governed by a completely non-representative board. Other professional bodies such as architects, land surveyors, legal practitioners, quantity surveyors, veterinary surgeons, engineers, medical and dental practitioners, pharmacists, and estate agents, all have a majority of board members who are democratically elected by the profession itself. They are therefore capable, due to their skill and expertise, of dealing with issues affecting the profession, its regulation and the protection of their members’ rights. Members appointed by the Minister in most of these cases are within the minority in such boards and cannot seriously influence the decisions of the Board.

Not only should this intended amendment be removed from the Bill, but that the drafters should reconsider the Commission and how it is constituted, as a whole.

The Act should, it is submitted, be revisited to include provisions ensuring a completely independent board, where the majority is drawn from the media profession, with perhaps one or two representatives from the government. The latter would primarily sit on the board to consider policy issues alone.

8. New sections inserted in Part IX of Cap. 10:2752A(1)(a)

This is a new insertion which regulates the **Powers of the Commission**.

This section grants the Commission new powers to decide upon issues relating to reviews, applications for registration, suspension or cancellation of a registration certificate etc. The Commission is therefore being given sweeping and discretionary powers when it comes to enforcing certain duties under the Act.

9. New Insertion - Section 52B(2) – (8); Powers of the Commission: Determinations and inquiries by the Commission

This section confers the Commission with discretion to adjudicate upon all questions of fact and law. In deciding upon issues with legal connotations, the Commission is usurping the functions of a court of law. At the same time the Commission is being given the power to review its own decisions. The question is how can a Commission, which has adjudicated upon and turned down an application for registration impartially and effectively review its own decision? How can the Commission, which has decided to suspend a registration licence, tell itself it was wrong or right to do so?

It is not proper that the Commission become both the regulator and the policing body. The correct procedure is that any review process should be carried out by a *completely independent and non-partisan* board, which has within its ranks members of the legal profession, or those with experience in arbitration, and persons involved should have no conflict between involvement in regulating the media profession, and “policing” it as a review or disciplinary body, with the jurisdiction to make and enforce binding decisions on the parties concerned.

10. New section substituted for section 64 of Cap. 10:27

In the main Act, section 64(1)(d) reads as follows;

Any person accredited or organization registered in terms of this Act shall not make use, by any means, of a mass media service for the purpose of –

- (a) ...
- (b) ...
- (c) ...
- (d) ***knowingly publishing a false record of personal information***

The bill repeals the section above and substitutes it with the following;

A person registered in terms of this Part who makes use, by any means, of a mass media service for the purposes of –

- (a) ***intentionally or recklessly falsifying information; or***
 - (b) ***maliciously or fraudulently fabricating information; or***
 - (c) ***publishing any statement –***
 - (i) ***knowing it to be false or without having reasonable grounds for believing it to be true; and***
 - (ii) ***recklessly, or with malicious or fraudulent intent, representing it as a true statement;***
- or***

(d) committing or facilitating the commission of a criminal offence; shall be guilty of an offence ...

The offences outlined in each of the subsections are adequately catered for within the confines of the common law offence of criminal defamation, as well as by means of civil law remedies. There is therefore no need for the substituted provision. The section should be removed in its entirety.

11. Amendment of section 65 of Cap. 10:27

In the main Act, Section 65 is on the **Restriction of ownership of mass media services**. The aim is to limit ownership of mass media services to citizens of Zimbabwe, a permanent resident of Zimbabwe among others. The additional condition being introduced by the bill seeks to suggest that one may keep on being an owner of a mass media service as long as the mass media service of which he is owner doesn't **publish a newspaper for sale for mass circulation**.

Why is it that it is only mass media owners of **mass circulation newspapers** that are being targeted in this manner and are having their existing rights curtailed. In the absence of specified reasons that are reasonably justifiable in a democratic society, this would clearly be discriminatory.

12. Amendment of section 66 of Cap. 10:27

Of importance in this section is the **introduction of sub-section 7** which makes it mandatory to **file a brand new application if there are material changes in the particulars of the original application**. Any business takes cognizance of the fact that it operates in a changing environment. Why should Media be an exception? With such regulations in mind, no new investments will be undertaken fearing that the certificate may be suspended, cancelled or not renewed. This can only be to the detriment of the free flow of information, perpetuating the unlawful restriction on freedom of expression rights. This requirement of registration should be revisited, and the section deleted.

13. New section substituted for section 68 of Cap. 10:27

The bill seeks to **repeal Section 68** of the main Act and **introduce a new provision**. The new provision in the Bill deals with the **groups exempted from registration**. In Section 68(c), **the Bill proposes exempting a representative office of a foreign mass media service from registration**. This is very misleading. This exemption is said to be read with **section 90 of the Act** which states that a representative office of a foreign mass media service can only operate in Zimbabwe **with the permission of the Commission**. For that an application must be made. This **"exemption"** should be removed from the Bill so as not to mislead the affected persons any further.

Subsection (d) seeks to exempt from registration **"any enterprise, association, institution or other person"** that produces publications disseminated exclusively to members or employees of the organizations unless if the publication **"exceeds a prescribed number"**. The question is what is this prescribed number? The provision should be struck out on the grounds of vagueness.

14. Amendment of section 78 of Cap. 10:27

The Bill seeks to introduce certain **rights for journalists**. The rights are to be referred to as **"journalistic privilege"**. The question is how can a right be a privilege. At the same time the mentioned rights exist under law and are guaranteed under section 20 of the Zimbabwe constitution. So the Bill should not purport to grant people rights which they already have. The subsection should be removed.

15. Amendment of section 79 of Cap. 10:27

The Bill now explains the vagueness that was in the main Act on accreditation of foreign journalists. The main Act had talked of accreditation **for a limited period**. The Bill is express and limits the period to a maximum of **30 days**.

A period of 30 days would seriously impede those who are stationed in Zimbabwe to cover long-term developments. This section will not promote the SADC Protocol on Information, Sport and Culture which calls on countries to draw measures that allow the free movement of journalists in SADC.

16. New section substituted for section 80 of Cap. 10:27

This section refers to Abuse of journalistic privilege. Apart from its reference to **"journalist who abuse his journalistic privilege"**, the section is similar to Section 64 discussed above. With over 15 charges have been brought against journalists for writing and publishing **"falsehoods"** last year, the mere intention to repeal the existing section is a welcome relief for journalists. The accused journalist was **"deemed"** to have committed the offence. In terms of the Constitution, you are deemed innocent

until proven guilty. Again, the section placed the onus on the arrested journalist to prove his innocence whereas in principle, it is the State which has to prove accused was guilty. This has been remedied to some extent by the insertion of new words to make it an offence to “intentionally or recklessly” falsify information, to “maliciously or fraudulently” fabricate information, or to publish a statement either knowing it to be false or without having reasonable grounds for believing it to be true, or recklessly or with malicious or fraudulent intent representing it as a true statement.

Appendix 6

Zimbabwe's silent, selective starvation

International Crisis Group

Nairobi/Brussels, 29 August 2002: The ZANU-PF government of President Robert Mugabe is carrying out a policy of selective starvation against its political enemies. The denial of food to opposition strongholds has replaced overt violence as the government's principal tool of repression in Zimbabwe. Mortality and morbidity rates will continue to accelerate if this policy is not reversed.

The most vulnerable sub-group is Zimbabwe's black farm workers, who have been displaced by ZANU-PF land-grabs. The media, especially in the UK, has concentrated on the plight of hundreds of white farmers forced off the land, but more than 1.5 million black farm workers and family members are at risk of acute hunger.

ICG Africa Program Co-Director John Prendergast has just toured Zimbabwe, and makes these observations:

- AIDS deaths are accelerating as a result of poor nutrition due to the denial of food to certain areas.
- Repression is increasing ahead of district elections to be held in late September.
- The distribution of food aid has already been politicised, but the commercial food sector is also increasingly monopolised and corrupted by ZANU-PF.

"The Zimbabwean government's strategy of using of food as a political weapon is working. People are beginning to die as a result of their perceived support of the opposition party Movement for Democratic Change (MDC)," said Prendergast.

President Mugabe's attendance at the World Summit for Social Development in Johannesburg – and his speech on 2 September – can still be an opportunity for regional leaders, the African Union, the Commonwealth, the EU, and the U.S. to press for the restoration of democracy in Zimbabwe – and save lives.

"The developing famine in Zimbabwe is rooted in bad governance", said Prendergast, "Recent U.S. rhetoric about the illegitimacy of the Mugabe government must be backed up by assertive diplomacy. It is time for real international cooperation in promoting democratic change in Zimbabwe."

The region and the international community must intensify efforts to produce an inclusive interim government, leading to internationally supervised elections. This will require a range of pressures and incentives, with the close involvement of neighbouring states. In the absence of such an effort, thousands of Zimbabweans may die of starvation.

Repression – with food as the primary weapon - is increasing ahead of district elections to be held on 28-29 September. ICG has learned that ZANU-PF officials are telling local chiefs and headmen that if they do not produce a ruling party victory in their areas, they will not receive food.

The distribution of food aid has already been politicised but ZANU-PF is also politicising commercial food distribution. It monopolises food imports, steering food to or away from areas based on political calculations, allowing party officials to profit from the re-sale of food at exorbitant prices, and in some locations requires ZANU-PF membership as a condition of purchasing food.

"Deliberately creating food shortages in opposition areas not only punishes MDC supporters but also provides ruling party officials with further opportunities for profitable food re-sale rackets", said Prendergast. "The system is controlled and corrupted from the top by key ZANU-PF and military officials straight down to the local retailers at the village level. When people die of starvation or diseases related to malnutrition, it is as a result of this political control and corruption."

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Appendix 7

Preliminary Statement on Kadoma Mayoral By-Election 27 - 28 July 2002

Zimbabwe Election Support Network (ZESN)

August 01, 2002

ZESN observed the Kadoma Mayoral Elections which were held on 27 and 28 July 2002. We had one accredited observer in 13 polling stations, 3 observers did not manage to turn up for accreditation. ZESN would like to express its concern and dissatisfaction with the conduct of the voting process, which in the organisation's view compromised the fairness of the election.

Of particular concern was the fact that the pre-election period was marked by significant incidents of violence and intimidation. This clearly resulted in voter apathy: the relatively low turnout - only 13 161 people managed to vote, out of 38 789 registered voters, or about 34% – was in marked contrast to the recent Presidential election, when a very high turnout was recorded.

Although the boundaries of the municipal constituencies and Kadoma Central are not identical they are similar. For the 2000 parliamentary elections there were 22 polling station which were reduced to 13 during the presidential elections and slightly increased for the mayoral election. Despite the slight increase, the polling stations were still less than adequate for voters to be able to exercise their rights. Since we have complained about long queues in the past , one would have thought that for the mayoral election the authorities would have increased the polling station or made the number equal to the one during the 2000 parliamentary elections.

Extremely long and slow-moving queues in the high density areas of Waverley, Mabanana, Kuredza and Mupamombe were observed. This could have been due to the reduction of polling stations. No justification was apparent for the extremely slow processing of votes. It is our view that this may have contributed to the relatively low voter turn out. The issue of low voter turn out should be of great concern to all the contesting political parties and civic society at large.

Large numbers of people were turned away from polling stations for various reasons: for example, at Munyaradzi primary School, by the end of Day 1 of voting, 124 people had been turned away. Equally worrying was that at the same polling station some people were allowed to vote on presentation of registration slips rather than identification cards.

Reports also reached ZESN about a number of people not on the voters roll being allowed to vote, which is clearly against all regulations. We are still investigating and verifying allegations of 'voters' being bussed in from areas outside the constituency. Also, of particular concern is the fact that the voters' roll was not made available to us and other stakeholders.

Another anomaly was that there was an abnormally large number of "assisted votes" cast: this was observed both at Mabanana Primary School and at Munyaradzi Primary School. We strongly recommend that people who need assistance to vote should bring a trusted relative for the task. In conclusion, the significant number of irregularities and problematic features of the election clearly compromise and cast doubt on the freeness, fairness and transparency of the electoral process in Kadoma.

Dr R Matchaba Hove
National Chairperson

Appendix 8

Preliminary Summary of Insiza By-Election

Zimbabwe Election Support Network (ZESN)

October 31, 2002

Background

The election was as a result of the death of the MDC Member of Parliament, Andrew Ndhlovu, who complained of abdominal pains and died after having eaten an apple during a reception at the close of a parliamentary workshop in Masvingo. The election was on the 26th and 27th of October 2002. The nomination court was held on the 4th of October 2002 at the Filabusi District Council offices. The registered candidates for the poll were Andrew Langa for Zanu PF and Siyabonga Ncube for the MDC.

Pre-election Period

The pre-election period was marred by violence which was mainly perpetrated by Zanu PF against the opposition. During the run up to the poll there were shooting incidents which occasioned the death of one MDC supporter, Kadengu who was allegedly shot by either the Zanu PF candidate or one Patrick Hove in a skirmish. There were systematic and selective arrests of MDC youths on allegations of violence by the police as they embarked on a selective process of application of the law.

By Elections are always associated with violence which is sponsored by Zanu PF and the Insiza by - election is no exception. A run down of some of the highlights of the violent cases that have been noted are outlined hereunder.

- **15 October 2002**

At around 11pm MDC are robbed of campaign material at gunpoint by suspected CIO operatives. In the same evening when the MDC officials go to report this matter to Filabusi Police Station and MDC Youth member Darlington Kadengu is shot in the presence of the police and the police yard by Andrew Langa the Zanu PF candidate.

- 2 MDC cars are deflected in the presence of the police by Zanu PF supporters
- 15 of MDC supporters who had gone to make a report are arrested and detained including the injured Kadengu who is denied access to medical attention.

- **16 October 2002**

A rally, which is booked at Filabusi Hall for the MDC Vice President, invaded by Zanu PF supporters who come to the venue and start giving out maize to the residents. As a result of this the MDC rally is cancelled.

- The 15 of MDC supporters who were arrested on the previous day are advised that they would appear at the magistrate court in Gwanda on the 17th of October 2002.

- 15 MDC supporters appear at Gwanda Magistrate court where they are released on a \$5 000.00 bail each but are barred from entering Insiza Constituency until after the election.

- **18 October 2002**

A number of MDC supporters are brutally attacked by Zanu PF supporters

- a. The MDC candidate Siyabonga Malandu escapes an attack in Filabusi when a group of Zanu PF supporters attacked his convoy of 3 trucks. He survived by dashing into the police station where he seeks protection
- b. Thomson Sibanda who was in one of the trucks is hit and fell from one of the trucks and is captured by Zanu PF militia and the youths.
- c. In Avoca a shadow councillor for ward 6 Mark Mahewu Dube is brutally attacked by Zanu PF militia when they tried to force him to attend a Zanu PF rally in Avoca.

- d. In the same area a house belonging to a Patricia Moyo a known MDC supporter is attacked and all the windows are smashed.
 - e. Aglon Matibone Dube is also brutally attacked by the same group of Zanu PF supporters.
 - f. Kembo Mohadi the Minister of Home Affairs and a Shoko who is the Officer in Charge of Filabusi call at MDC Command Centre in Silalatshanio where they make demands that the MDC flag which was on one of the campaign vehicles be removed and the Minister stated that he would not leave until the flag is removed. The Officer in Charge forcibly removes the flag.
 - g. Evening of the same day a truck of Zanu PF militia and youths attacks MDC command centre but they are repulsed by MDC youths.
 - h. Soon after the repulsion of the Zanu PF invaders riot squad comes in and attacks MDC supporters using tear gas.
- **19 October 2002**
The police calls at the MDC command centre and demands that the District Chairman Mr Joel Mzwalili Ndlovu reveals the names of people who were present at the time Zanu PF invaded the command centre.
 - He refused and in the afternoon of the same he is arrested with 6 youths
 - Police carry out search on MDC command centre and confiscate our campaign material.
 - The MDC Vice President Gibson Sibanda addresses a successful rally at Avoca in the various parts of the constituency. In Inyozani Zanu PF supporters invade homestead belonging to MDC supporters resulting in one of the Zanu PF supporters getting injured. Mafios Ndhlovu an MDC supporter is accused of having axed the Zanu PF supporter and is thus arrested and detained at Fort Rixon police station.
 - **20th October 2002**
A rally which is scheduled for Inyozani is aborted because police refuse to grant MDC convoy right to turn to the rally venue by claiming that they have seen some Zanu PF officials going in the direction of rally venue and are thus trying to avoid political clashes. This is despite the fact that the MDC rally had been applied for a permission was granted.
 - **21 October 2002**
There is massive intimidation in the whole constituency and a lot of MDC supporters are assaulted in Ntute 5 of MDC supporters are arrested after having been accused by the police for having had a hand in the making of the so called arms of war that are purported to have been discovered at the command centre.
 - **22 October 2002**
Siyabonga Malandu survives an assassination attempt at Sidzive when he is attacked by Zanu PF thugs.
 - He is initially denied the right to enter Insiza Constituency and is forced to go and get pass at West Nicholson Police Station.
 - When he is in the constituency his convoy of two trucks is trailed by Zanu PF militia and CIO operatives who after Sidzive fire five shots in the direction of the MDC candidate with the intention of killing him.

- **23 October 2002**

ZANU PF Ministers who among other include Goche, Charumbira, Made, Chombo and Jonathan Moyo invade a rally, which is scheduled for Mahole and is supposed to be addressed by the MDC Vice President Gibson Sibanda.

- They get to the venue for the rally and start giving out fertiliser and maize handouts. In the same day our supporters within the area are assaulted. In the same day 7 MDC supporters who were arrested in Silatshani are denied bail.
- In the Fort Rixon area 5 MDC supporters at a road block and one of them by the name Roderick Mtyida is severely assaulted by the police and is forced to give in to demand that he should give a lot of inside information on MDC. He refused and as such he is severely beaten and he later escapes from the police. He is currently receiving medication at a local hospital in Bulawayo.

Polling Days

The network submitted 50 names of observers for the Insiza election observation programme. The number was drastically reduced to 20 by the Ministry of Justice, Legal and Parliamentary Affairs without any reason being proffered. Eventually only 8 managed to be accredited due to logistical problems which the network encountered with ferrying observers who had been invited for accreditation from Insiza to Harare. In this respect communication links with the observers were not readily available. The accredited observers were from Zimbabwe Christian Students Movement, the Catholic Commission for Justice and Peace, Zimbabwe Human Rights Organisation and Fellowship for Reconciliation in Zimbabwe.

To enable the network to observe the election with a limited number of observers the accredited observers conducted a mobile observation programme as against the customary static one. The observers were teamed up and deployed in zones representing particular areas. There were five teams which covered the Avoca, Filabusi, Gwatemba, Lubuze and Shangani areas. Each team would observe their particular zone or area and cover all the polling stations (which were an aggregate of 8) in an area.

In some areas MDC party agents were refused entry into polling stations but at least the party had one party agent in every polling station. The numbers of voters who was turned away was significant with 37 voters being turned away by 10:34 on the first day of polling at Umzingwane Primary School. 10 of them had no Identification cards and 27 did not have their names appearing on the voters' roll. At Mleja Hall 47 voters had been turned away by 12:15 hrs on the first day whilst 55 experienced the same at Chief Sibasa Hall by 12:50 on the same day.

The network is not in possession of the voters' roll which would have enabled verification of some of the reasons for turning away such a significant number of people. A very conspicuous feature of the election was low voter turnout.

Conclusion

The polling period was generally peaceful and few irregularities were recorded. However, the atmosphere was tense due to the presence of militia, marauding war veterans and the pre-election violence which was still vivid in peoples' subconscious. However, the MDC candidate was told not to enter the constituency on the second day of polling by the police under the pretext that his safety was not guaranteed.

Accessibility of polling was a problem to voters some of whom had to travel for a distance of 10km for them to be able to exercise their rights. A number of MDC youths were arrested for sloganeering near a polling station.

The issue of food shortage and hunger coupled with underdevelopment in the constituency was exploited so as to gain political mileage by the ruling party. This was regardless of the fact that food distribution is a humanitarian process which should be free from political sensitisation. People in the constituency voted for the availability of food as against governance issues.

Recommendations

It is recommended that an Independent Electoral Commission appointed by a select committee of

Parliament should be set up which would conduct the electoral process and divorce elections from government machinery which reduces the element of partisanship as far as the conducting of electoral processes is concerned.

Accreditation of observers should be processed timeously so as to enable them to plan logically and observe the pre - election period.

The voters' roll should be accessible to all stakeholders.

Polling stations have to be easily accessible to people intending to vote to enable them to exercise their rights and reduce low voter turnout.

Food distribution and rural development, as a humanitarian processes should be accorded the respect they deserve and not be used as a cheap campaign and electioneering gimmick. NGOs, in governance sector should link with development sector- civic issues.

Appendix 9

Selected Extracts from:

Rural District Council Elections, Urban Council By Elections and Hurungwe West By Election
Zimbabwe Election Support Network (ZESN)
October, 2002

Introduction

The local authority elections held on 28-29 September 2002 were held as part of the four-year cycle of rural district council elections to elect councillors in all the wards in Zimbabwe. The rural district councils were created following the amalgamation of the previously white rural councils covering mainly commercial farming areas and previously black district councils covering mainly communal and resettlement areas.

The two have now been combined so that a typical rural district council will include in its boundaries, commercial, resettlement, communal, purchase areas and rural growth points.

Urban council elections are due to be held in August 2003. However there are some wards, which have become vacant as a result of removal of the councillor through death or disqualification. These were combined with the rural district council elections and held on the same days although the inspection of the voters' roll took place earlier than that for the rural districts councils.

Also held concurrently with the rural district council elections was the Hurungwe West Parliamentary By-Election to fill the vacancy left by the death of the Member of Parliament, Mr Mark Madiro.

Nomination for this election was held on 14th August 2002. Justin Dandawa and Phone Madiro brother to the late Mark were duly nominated as candidates for the MDC and ZANU PF respectively. (...)

5. PRE-ELECTION

5.1 CAMPAIGNING

The campaign period was marred by violence, intimidation and generally unsettled atmosphere, which has characterised the Zimbabwe social and political scene since the 2000 Parliamentary Elections. This has been spearheaded by those individuals and organisations that are aligned to the ruling party as the annexure attached on campaign period incidences details. ZANU PF members and supporters particularly the Women's and Youth League; Youth Militia trained for national service, war veterans and members of the Central Intelligence Organisation, the Zimbabwe National Army, the Zimbabwe Republic Police and the Zimbabwe Prison Service have all been implicated in the reports on violence received by ZESN. Traditional leaders particularly chiefs, sub-chiefs and kraal heads have now joined the fray (See Human Rights NGO Forum definition on violence)

The reports show that organised violence is still very much a part of politics in Zimbabwe and that whilst it changes in form and content depending on how near an election is, it is for the foreseeable future that it is here to stay. The most worrying aspect is that violence has become an accepted feature of political campaign. The land issue, the drought and the accompanying food crisis have provided an excellent opportunity for the ruling party to exploit the rural masses and manipulate voters into voting them back into power.

Reports abound of voters who were told that they would only receive food aid if they voted ZANU PF into power. In the run-up to the September 2002 elections whilst cases of murder, attempted murder, unlawful detention, arrest, and abduction declined in the month of August, cases of political intimidation were increasing in some parts of the country. This was obviously coinciding with the election.

5.2 Candidates

Many prospective MDC candidates withdrew their candidature either as a result of the intimidation by supporters of the ruling party or as a result of direct obstruction by members of ZANU PF and some allege, the office of the Registrar-General itself. This was in the form of direct threatening and intimidating behaviour against the candidates and or members of their families. This included forced

job resignations, hostage situations, arson, banishment, harassment and a dubious application of the law on citizenship. Prospective candidates were also assaulted even before the holding of the nomination court.

On the day of the nomination courts some of the nomination centres were sealed off by ZANU PF, such as nomination centres in Shamva and Murewa South. In Mhondoro at the nomination court for Chegutu Rural District Council, an MDC Member of Parliament, some aspiring candidates and the MDC District Chairperson were the subject of intimidation; assault and some had their nomination papers destroyed by ZANU PF supporters.

Complaints by MDC candidates continued over the campaign as they complained about continued harassment to the point where some who had been brave enough to be nominated withdrew their candidature. In Manicaland, it was reported that over 100 of the nominated MDC candidates fled their homes in the run-up to the election. This obviously gave the ruling party an unfair campaigning advantage and denied the voters their right to hearing from all sides in any poll.

5.3 Voters

The rights of voters, under assault since 2000, continued to be violated and eroded. Fearfulness in voters was deliberately cultivated in order to affect the way in which the voters were voting. Fear of hunger and fear of assault were too important emotions, which were used mostly by the ruling party. It is not an exaggeration to say that a lot of those who went to vote did so not so much out of the desire to vote but out of fear.

As always, misinformation and disinformation were important aspects of the administrative arrangements. In this election more than any other, there was poor information management and dissemination. As already mentioned, for an election of this magnitude, the inspection of the voters' roll was very poorly publicised. The notices appeared in one national newspaper only twice. Given the fact that the national newspapers are not widely disseminated, this is not a desirable arrangement.

On failing to find their names in the voters' roll on election day, many voters complained that they had not known about the voters' roll the inspection. Some expressed shock on not finding their names in the voters' roll as they had voted in the March 2002 election. Furthermore, lack of information was so apathetic that some voters only found out about the poll whilst they were on their way to the shops or church. Even in an environment where voters have now become apathetic and disinterested this is quite simply not good enough.

Thus whilst voters always have the final choice of whether they want to vote or not, electoral authorities should be prepared for all eventualities. One ZANU PF candidate noted that the electoral authorities appeared not to be prepared for the election. This was when his polling agents failed to be accredited at Chewumba School in Hwange because the presiding officer did not have the necessary forms for accreditation.

5.4 The Public

Even those in non-voting areas were denied the right to information about the election and as the Media Monitoring Project of Zimbabwe has shown, they were also denied the right to non-partisan reporting about the election.

Appendix 10

ZESN denounces violence in Kuwadzana *Zimbabwe Election Support Network (ZESN)* 21 January 2003

The Zimbabwe Election Support Network (ZESN) is unreservedly denouncing all acts of political violence, which are taking place in Kuwadzana constituency following clashes between Zanu PF and MDC yesterday.

As ZESN, we call all major political parties campaigning in Kuwadzana to strongly condemn any form of violence and desist from assaulting people.

We urge ESC to facilitate the contesting parties to sit down and map up a way forward to ensure that there is a violent free campaigning and peaceful election.

We therefore deplore any further loss of blood and assault of innocent people.

We urge ZRP and ESC to intensify their commitment in ensuring that there is peace in Kuwadzana constituency.

ZESN urges all voters in Kuwadzana to democratically vote freely, peacefully in the forthcoming by-elections and to say **NO** to intimidation and violent campaigns.

Appendix 11

Immediate intervention for peace - Kuwadzana

Zimbabwe Civic Education Trust (ZIMCET)

February 20, 2003

Background

The Zimbabwe Civic Education Trust is concerned about the up coming by-elections in Highfield and Kuwadzana at the end of March. Our election monitoring team in Kuwadzana has revealed that the alleged dismantling of base camps in the constituency was just a hoax. Most of the base camps are still operational although violent activities have been scaled down. The base camp that was manned at the Kuwadzana library is still in existence and the only thing that has changed is that there are no more flags marking the presents of the youth.

Fortunately enough, the level of violence related to the by-election has been restricted to minor skirmishes and verbal threats. ZIMCET however believes that if these continue unabated, full-scale violence will mark the launch of campaigns in the constituency.

The ZIMCET election monitoring team has also revealed that vote buying is continuing with one candidate (Mr. Mutasa) alleged to be using the shortage of mealie meal as a way of coercing voters to vote for him. These allegations have been further substantiated by the alleged collection of names, addresses and identity card numbers of those wanting the commodity by youth assembled at Kuwadzana 5 base camp. The camp has been noted as the most notorious one and is manned by two war veterans and at least ten youths. The activities of that particular camp have been confined to morning and evening raids on illegal black-market vendors, who are mostly women, and confiscation of commodities like bread, maize meal and cooking oil. Apparently, it is not just the illegal black-market traders who are suffering, so are the informal traders. At the end of the day, people engaged in legitimate means of self empowerment are having their wares sold at ridiculously low prices and most of it taken to the five base camps and consumed by the self-proclaimed consumer watchdogs.

ZIMCET fears that even though violence in the constituency has been restricted, once the parties contesting begin to campaign for the seat, all hell may break loose. Experience has taught the Trust that politically driven violence is normally sparked off by a minor incident, and in Zimbabwe it follows a particular sequence.

Base-camps are set up to monitor the situation.

The occupants of the camps then begin to engage in anti-social behavior – harassment and intimidation, illegal curfews and/or roadblocks and in extreme cases, open and direct physical violence against people opposed to their party.

At times they assume the role of champions of the cause of the ordinary suffering people in an attempt to capture the support of the majority.

In so doing they split the community along social lines, the rich against the poor – hence creating conflict.

If no situation arises for the creation of conflict, occupants of the base camps instigate violence against members of their opposition.

Some of these indicators have already begun to appear in Kuwadzana and Highfield may follow suit in the not so distant future. What is even more disturbing about the whole scenario is the fact that women are the major victims of the whole process of winning a parliamentary seat. The majority of the legal and illegal traders in Kuwadzana are women and their attempts at self-empowerment are being rebuffed by an illegitimate grouping only interested in self-sustenance. It is feared that if no mechanism is put in place by civic society to avert the escalation of victimisation towards women, the scourge may resurface in Highfield in a more mature form.

Women in the urban set-up contribute to the survival of the entire family. They are responsible for the procurement of the basic commodities. It is sad if these women are to be ignored as they spent most of their time queuing for commodities for both consumption and resell, only to have them confiscated by vigilantes, sold for next to nothing or even destroyed. It would be sad for civic society to turn a deaf ear to the pleas of some of these women who are breadwinners, to be harassed and assaulted in the process of having their wares unceremoniously taken away. Their only crime is trying to feed their

families in these trying economic times and the unjustifiable objectives of the bands of youth perpetrating such atrocities is to appear advocates for justice and champions of the suffering masses, in an attempt to gain acceptance of and support for their party.

For the first time since the formation of a strong opposition political party, women have been direct victims of violence at a large scale and the mere fact that this violence is being perpetrated before campaigning starts, dread what the future will hold.

Way Forward

The Trust acknowledges and welcomes the putting together of a coordinating committee by the esc to promote dialogue between contesting parties. As a way of complementing this positive development towards the staging of a truly peaceful, free and fair election, ZIMCET proposes the following, in an attempt to set an example for Highfield and any future by-election that violence of any nature or form is retrogressive.

The convening of a press conference by all contesting candidates in the constituency to make bold and clear statements denouncing violence and calling for peaceful, tolerant, free and fair elections.

Unreservedly calling for the dismantling of existing base-camps in the constituency by all contesting candidates at the press conference.

Requesting the contesting candidates to passionately publicly seek police clearance for a march for peace in the constituency.

Mobilise the churches in the constituency together with women engaged in informal trading to set aside one Sunday to march peacefully throughout the constituency calling for peaceful campaigning by all contesting parties and individuals.

Convince the contesting candidates to join the electorate in the march for peace.

Conclusion

The Zimbabwe Civic Education Trust is confident that if all these proposals are carried out before the candidates begin to campaign formally, a possible blood bath may be averted and for the first time in the history of elections in the country, a peaceful by-election can actually be recorded. More importantly, the plight of urban women may be brought under spotlight for the first time and these women will actually begin to realise and use the authority that they possess not just as the majority of the electorate, but also as mothers of the community.

The support of the contesting candidates will be very pivotal in setting an example, that with the right planning and political will, peace can actually be fostered during an election period.

Lastly, the situation prevalent in Kuwadzana at the moment challenges ZIMCET with an opportunity to exercise practical methods of building peace in a conflict situation. Any successes recorded in the project will have a direct bearing on the overall performance of the Trust in peace building.

David Chimhini
Executive Director

Appendix 12

Organised Violence and Torture in Zimbabwe from 20 to 24 March 2003

Crisis in Zimbabwe Coalition

31 March 2003.

The cases discussed in this document occurred after a successful two day stay-away on 18 and 19 March. This report highlights just a few of the hundreds of cases of victimisation by state agents against individuals who were believed to have organised the stay away.

Zimbabwe has been governed by Zanu PF since independence in 1980. In February 2000, Zanu PF was dealt its first ever defeat after two decades of consolidating power and entrenching its stronghold over Zimbabwe. The government's draft Constitution was rejected by the Zimbabwean people in a referendum, after a concerted campaign by Zimbabwean civil society actors including the National Constitutional Assembly (NCA).

Reeling from this defeat, the ruling party launched its violent and chaotic land reform programme, and instigated an organised and carefully planned system of violence directed against perceived dissidents.

This has been characterised by repressive legislation, partisan and brutal policing, politicisation of state security forces including the army, the police and the CIO, the development of non-legislated militia forces, partisan food distribution, harassment of activists, closure of democratic space, intolerance of the independent press and consistent and repeated violations of human rights.

In the past three years, attempts by concerned citizens and civil society organisations to speak out against victimisation and oppression by the regime have been met with resistance and further brutality. The state has developed tactics to suppress dissent, and uses violence and intimidation as its preferred tool to repress pro-democracy voices.

The level of state repression in Zimbabwe has had a tendency to rise and fall with events. For example, the beginning of 2003 witnessed a decrease in organized violence and torture, whereby the majority of the violence perpetrated was by the police on detainees. However at the end of March 2003, a massive upsurge occurred. It is not coincidental that such a rash of violence would begin after the Commonwealth had agreed to postpone any decision on Zimbabwe's suspension until November this year. Perhaps the government believed this gave them another seven months to act with impunity before its human rights record would come under any scrutiny.

However, the most recent wave of violence started after a largely peaceful two day stay-away, organized by the legally elected official opposition party in Zimbabwe, the Movement for Democratic Change (MDC). Individuals believed to be active in the opposition, or whom were suspected of having mobilised support for the stay-away were specifically targeted. A vitriolic speech by Robert Mugabe, on 21 March 2003, given at the graveside of the deceased minister Swithun Mombeshora, further demonstrates that the violence after the stay-away is not accidental. In this speech, Mugabe warned the MDC that, in resisting government through mass action, they were playing with fire, and that "those who play with fire will be consumed by that fire."

In short, the most recent wave of violence, like other acts of political violence in Zimbabwe, are part of an organised, coordinated and targeted campaign meant to terrorise and intimidate any voices of dissent into silence by brutally retaliating against perceived dissidents.

More than 250 people, an unprecedented number, were seen at the emergency departments of a number of hospitals in the capital city, Harare, over a period of four days. This is far greater than any number previously recorded over a similar period of time, even during an election. This is despite the fact that over the past three years, elections in Zimbabwe have been directly linked with a pattern of increased violence. All victims examined by medical personnel during this week's attacks had physical injuries consistent with the weapons used in past cases of torture.

Typical Characteristics

The following summary indicates some of the key characteristics of the attacks of the past four days.

Type of injury

Injuries included bruises, welts, soft tissue injuries, cuts, broken limbs, burns, electrocution and internal bruising. More than thirty of these casualties required admission to hospital for stabilization and orthopaedic and surgical intervention, and the degree of injury was far more severe than previously seen.

Perpetrators

The majority of the perpetrators were dressed in Zimbabwe National Army uniform, and were conveyed in military vehicles to the homes of the victims. Some perpetrators were in police uniforms. Victims taken by the police for questioning were handed over to Zanu PF youth for further assault. In most cases, the attackers worked in groups of between twenty and fifty, assaulting individuals or small families.

Types of Weapons

The perpetrators used fists and booted feet to beat their victims. They also used blunt instruments including batons, sticks, and AK rifle butts. The perpetrators were also equipped with sjamboks (whips), chains and hosepipes.

In addition, many victims reported the use of torture tactics, including electrocution. Other traumas included burning with cigarettes and acid, inserting foreign objects into women's genital areas, urinating in the victim's mouth, and forcing the victims to drink substances such as urine.

Psychological torment was also used, as victims were often threatened with a slow and painful death, and warned not to seek medical treatment or to report the incident.

Victims

In nearly every case, individuals were targeted based on their perceived involvement with the opposition and were accused of organising the recent stay away. Victims included active members and senior officials of the MDC, (including district and provincial leaders, councillors and Members of Parliament), their family members including their children and their neighbours and associates. Both men and women were targeted in these attacks.

The process

Victims were targeted, normally at their home in the early hours (e.g. between 1-3am). The personnel involved in the torture had the names and addresses of the victims, and in many cases, if the victims were not accessible, the other occupants of the house were assaulted. Neighbours were also assaulted physically, and in some cases sexually. In many cases, the victims' political material was taken away, their homes were looted and possessions were stolen.

In most cases, the victims were attacked at their homes and abducted, normally blindfolded. They were taken to a torture cell and further assaulted, being held for up to 48 hours. They were tortured and interrogated over their involvement with the opposition, the activities of the opposition, plans for future actions, and their assessment of the stay-away. Most victims were then abandoned in the bush near a residential area.

Many of the victims are unable to return to their homes, and have continued to receive threatening phone calls. Many were threatened with further assault, if they reported their injuries. In several cases, victims who had received life saving treatment at a hospital and were discharged were assaulted again, requiring readmission for other injuries.

Gender based violence

In several cases, women were deliberately targeted for attack. In others, women relatives and neighbours of the intended victim were also attacked when the perpetrators came. Specific assaults against women included beating with booted feet and blunt objects, slapping with fists, and sexual assault including inserting foreign objects into a woman's vagina.

Previous reports published by the Human Rights NGO Forum have listed the perpetrators of political violence, and indicated their organisational affiliation¹. The attacks this week constitute the first time in three years that the military (or individuals in military uniforms) have constituted the highest percentage of perpetrators. In addition, this is the first time that the majority of the victims have not been able to name the perpetrators. This indicates a new trend, of using perpetrators who are not known by the victims, and who are not from the same area as their victims. This trend may indicate concern by the state that impunity may not be everlasting in Zimbabwe.

The violence recorded this week was more organised than we have seen in the past, and it was carried out by uniformed agents of the state. The methods of torture and interrogation were systematic. These attacks are indicative of a systemic trend of brutal retaliation against dissent. The lives of many Zimbabwe citizens are at serious risk if this level of state organised violence and torture is maintained or increased. The threat that this poses to the freedom and security of Zimbabwe, and consequently the region, cannot be ignored.

Affidavits and medical reports of three representative incidents are included as Cases 1-3 of this report.

¹ See, for example, **Zimbabwe Human Rights NGO Forum** (2001), *Who was responsible? A consolidated analysis of pre-election violence in Zimbabwe*, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM, and **Zimbabwe Human Rights NGO Forum** (2002), *Are They Accountable?: Examining alleged violators and their violations pre and post the Presidential Election March 2002*, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

Case 1

Testimony:

The statement of ES, a 45 year old Harare resident was recorded on Sunday 23 March, 2003. In it he states:

They came to my home at 1:00 am on Friday 21st March, 2003 – 2 Army Officers in uniform and 6 men in civilian clothing. They beat me, my cousin NS who is 27 years, my sons aged 14 and 11 years. They wanted to know where my wife was and asked why I allowed her to be a member of the MDC, even though I used to work for Government. (I retired from the Army in 2000.) My wife is a councillor for Harare, and she managed to escape over the residence's boundary wall.

The army officers then handcuffed me and started beating me with chains all over my body. They covered my face with cloths and carried on beating me. They tied my feet with rope, blindfolded me and took me in a vehicle to a room in the bush near the airport.

They were saying:-

- ◆ You are going to die today
- ◆ You will never see your children again
- ◆ Where are you training people?
- ◆ What are MDC's plans?
- ◆ What is going to happen in the near future?
- ◆ Why did you go out to that farm with the white people – those Americans?
- ◆ What is your position in the MDC?

I was kept blindfolded and beaten with batons and sjamboks (whips). Wire was tied to my genitals, small toes and fingers and I was electrocuted.

They kept asking what strategies were used in the mass action and who the organisers were. Following this questioning some of them urinated in my mouth.

I was released on Saturday during the afternoon – they threw me into the bush near Msasa suburb, approximately 12ks from the Harare CBD.

Statement recorded on Sunday 23rd March, 2003.

Medical Report

The medical report in this matter indicated that :

“The patient has extensive deep bruises of his back, buttocks and legs with many open wounds consistent with his story of blunt trauma with batons and whips.

He is presently admitted in Hospital under the care of a specialist surgeon.”

Analysis:

ES faced an early morning raid, attack in his own home, victimization of his family, including his children, beating, looting of his home, abduction, blindfolding, electrocution and drinking urine. In this case, the attacks on ES and his family represent a violation of their personal security and of their political rights and freedom of assembly.

Photographic Evidence



ES's back, recovering in hospital, March 25 2003.

Case 2

Testimony:

32 year old MK states:-

I reside in Mabvuku high density suburb, and am the MDC Secretary for Harare.

At approximately 1am on Sunday 23rd March, 2003 twenty men (16 in **army uniform** and 4 in civilian clothing) climbed over the boundary wall surrounding our home. When my father answered the knocking on the door the men burst in shouting that they wanted his wife. They called her out and attacked her.

She was wrapped in a cloth, and they did not wait for her to dress before they started to beat her with hose pipes and the butts of their AK 47 assault rifles. Her cloth fell off leaving her naked and they continued to beat her. They locked my father and the younger children in a bedroom. I heard my mother screaming – they made her open her legs and they tried to push the barrel of an AK into her vagina.

When I came out of my room they started beating me. They cut the wire cord off my iron and used that and hose pipes to beat me. They took the poster of Mr. Morgan Tsvangirai off my wall and all the party materials, including T – shirts, leaflets, constitution, documentation and party cards from my room.

They took me outside to their vehicle and wanted to know who my colleagues were and where they lived – I did not tell them, but they already knew. They had a list of all the MDC activists. I was then escorted to a colleagues house MRS. C who lives nearby. They kept taking turns to beat me with the hose pipe. In the meantime they had taken my mother to the house where my brother CK was in hiding (they knew exactly where he was). MRS. C and I were taken back to my house where she was beaten but later released. My mother had managed to escape while they were beating my brother.

They then took me and C away in the army truck. One of the soldiers was burning my hand with his cigarette and pulling the skin off the back of my hand with his finger nails. We were driven to the other side of Mabvuku – Chizhanje. En route the soldiers were beating us alternately. We were taken to MRS. G 's home (vice Chairman of MDC Mabvuku). The soldiers jumped over her wall and proceeded to beat her husband AG. When he passed out, they left him and brought his wife to the vehicle. We were driven around Chizhanje while they beat us on our backs, then we were dropped off about 500 meters from Mrs. G's home at about 3am. I was unable to walk as the soldiers had stamped on my knees with their boots, so Mrs. G dragged me to her house. They drove off with my brother C.

The soldiers stole \$10,000.00 from our home. I had to borrow \$3000.00 to get my mother and myself to hospital.

My mother and I were treated in hospital, where we later found C. It is clear that my mother was severely traumatised by the attack. She has said that she wants to commit suicide.

Medical Reports – K family.

The medical reports for this case highlight the following:

- Patient M. K has extensive deep bruising and laceration on her back and legs and deep bruising of both buttocks. Both forearms are swollen and tender and she has minor linear lacerations on her face. Her injuries are consistent with her testimony of being beaten with hosepipes and rifle butts.
- Patient C. K has acid burns on his back and extensive deep bruising and lacerations of his back and buttocks and legs. He also has severe chest wall and abdominal tenderness consistent with his story of assault with boots and blunt instruments. He is admitted in hospital.

- Patient Mrs. K has a large bruise of her right eye and tender swellings on her head. She has multiple deep bruises of her back, buttocks and legs and a bruise in her vagina consistent with her story of assault with a rifle barrel in her vagina. She is at present admitted in hospital. She shows signs of acute anxiety.
- Patient AG has a fractured scapula and ribs and extensive deep bruising of his back, buttocks and legs, consistent with his history of severe sustained blunt trauma.

Analysis:

In this incident, the violence against the victims was broad. MK and his family suffered brutal assaults including beatings and sexual assaults. His home was looted and material was sabotaged. He and his family were beaten, kicked, abducted and abandoned.

These attacks represent a violation of the family's constitutionally guaranteed political freedom. In addition, a woman was targeted for sexual assault, including violation of her genitals with a rifle butt. In this manner the attackers compromised the integrity of her body. This woman is now suffering severe psychological trauma as a result.

Photographic Evidence



MK's back and hands, recovering in hospital March 25 2003.

Case 3

Testimony:

RM is a 46 year old man who states:

I am the MDC Chairperson for X. At 1am on Wednesday 19th March, 2003 I was at my home in Chitungwiza when 6 men, 2 in **ZR Police uniform** and 1 in **army combat uniform** arrived. They were all armed with hand guns. They took my T shirts, Rural Council fliers and my children's birth certificates. I was dragged out to a white and blue Nissan Sunny car. My head was covered with a hood and they assaulted me with their hand guns and elbows while we were in the car. Whilst we were driving they kept punching me in the face with fists.

They said they were taking me to "wafa wafa" (which means "die, die") and wanted to know if I was the one who burned a bus and been paid \$120,000.00 by Mr. Tsvangirai to do so. They said "you will never go back, we are going to kill you". They kept hitting me with sticks. I was leg ironed and handcuffed. The handcuffs were so tight I pleaded for them to be loosened. They refused saying "we are killing you bit by bit, don't worry about the pain". I asked them to rather shoot me one time. They said "no we will kill you bit by bit so you feel the pain". I was taken to a room in a barrack (it looked like a soldiers barracks) and told I could lie down. The hood was on my head but I managed to peep to see where I was.

The next morning they asked me where I was trained to be a liberation fighter. They said I was with Edgar Tekere in ZUM and that they would not hit me in the day time but only at night when they were drunk.

They took my wallet with my CABS card (forced me to give them the secret number), \$2000,00 in cash, ZIMRIGHT card, ICRIC card, and my diary. They wanted to know about JG, BG, IK(all farmers) and why I had their names and numbers in my diary and when I had meetings with these people. They asked about my meetings with these people. They asked about my meetings with JAG (Justice for Agriculture) – I told them that I had never had a meeting with JAG.

They also wanted to know if I had joined the War Liberators Platform and took a photocopy of my War Veterans card (the original was "confiscated" by CIO at the time of the war vets pay out because I had joined ZUM).

At 5 pm that evening wires were attached to my toes, ears and genitals and every time they asked me a question they would shout "on" and switch on the electricity. I was blindfolded. They were also hitting me with sticks.

After what seemed hours they took me out of the building and started beating me again. They then took off the handcuffs and leg irons, put me into a vehicle saying that they were taking me to Chinhoyi. I was dumped in the bush, the blindfold was removed and they sprayed tear gas into my eyes. I managed to find my way to safety and arrived at my home at 7.30 am.

Medical Report

The medical report in this incident shows that the patient was extremely unwell on admission and required admission to a high care unit due to his prolonged torture by electrocution. He had multiple deep bruises and lacerations on his back and legs, consistent with his history of blunt trauma.

The photographs available in support of this report give evidence of the soft tissue injuries sustained by the victim during the torture.

Analysis:

In this case, the victim was robbed, assaulted, blindfolded, handcuffed, threatened, abducted, electrocuted, and abandoned.

The interrogation and threats suffered by RM during these attacks constitute a violation of his freedom of assembly and his right to political freedom. There is also a breach of his right to protection of property. In addition, there is a violation of his children's right to citizenship and identity, as their birth certificates were confiscated.

Appendix 13

Soldiers perpetuating violence against women

Zimbabwe Civic Education Trust (ZIMCET)

March 04, 2003

Before the dust has settled after the Christmas tragedy in Gweru and countless others before that, another soldier in Nyanga has used a service gun to kill not only his wife but also, four others. In all instances the reason for such violence are domestic disputes with wives.

The army owes society an explanation. The tragedies hit the headlines and disappear after the deceased have been buried. The army is simply not taking any action to avoid such occurrences in the future. Why do soldiers have free access to guns when the authorities know that some of the soldiers use them to gun down innocent civilians?

The Zimbabwe Civic Education Trust (ZIMCET) is urging the Ministry of Defence to take urgent action to curb the growing violence against women who are unarmed in all the instances that disaster strikes. It is high time someone in the army does something to save many other women who have relationships with soldiers. It is sad to note that this incident happens just a few days before Zimbabwean women join the rest of the world to commemorate the International Women's Day on March 8. Zimbabwean women are demanding the end of gender-based violence. Women are not at peace until this happens.

Appendix 14

Woman raped, husband beaten in post-election retribution in Kuwadzana

MDC Information Department

03 April, 2003

Twelve Zanu PF militia took turns to rape Rejoice Moyo (21) while her husband Hector Mudhokwani was forced to watch the act in the couple's Kuwadzana home in the early hours of today as Zanu PF youths step up post election retribution in Kuwadzana.

About 20 Zanu PF militia broke into the couples home at about 1.00am today, assaulted Moyo and asked her where her husband was. Mudhokwani had hidden under the bed as he had sensed danger after he had been awakened by the noise emanating from the youths' struggle with the door as they forced their way into the house. They finally found Mudhokwani and pulled him from under the bed, took him to the roadside and severely assaulted him. After assaulting him they took him back to the house, where 12 of them raped his wife.

After raping his wife, the youths took a total of Z\$10 000 from the couple before taking away Mudhokwani to a hill about one and a half kilometres from the house, where they severely tortured him. One of the youths urinated into Mudhokwani's mouth. The youths left him after covering his head with a plastic paper and attempting to burn him. As he could not walk, Mudhokwani crawled back to his home.

Mudhokwani had to be carried by some good summaritans to the MDC HQ where arrangements were made to take him to hospital.

Appendix 15

March 2002 Presidential Elections: Post-Election Assessment

Zimbabwe Election Support Network (ZESN)

March 12, 2002

The Zimbabwe Election Support Network (ZESN) has been monitoring the 2002 Presidential Elections since the general parliamentary elections in the year 2000. The pre-election period has been marked by the following developments:

The 'fast tracking' of legislation that impacts on the electoral process resulting in:

- Disenfranchising voters through the voter registration process;
- Registration of voters beyond 3 March 2002;
- "Correcting" the voters' roll;
- Control of voter education through the Electoral Supervisory Commission;
- Drawing election supervisors and monitors from the Ministries of Defence, Home Affairs and Education;
- Disallowing postal voting;
- Constituency-based voting;
- Simultaneous holding of municipal and Presidential elections;
- Restrictions concerning the accompanying of ballot boxes;
- Printing of extra ballot papers;
- Very restrictive and oppressive Public Order and Security Act;

In addition, several other measures have been of great concern to us:

- Unequal access to the state controlled media, in particular the state media, with a bias towards the ruling party;
- Restrictions concerning both local and international observers;
- Confiscation and destruction of identity cards by youths of the ruling party;
- The establishment of illegal road blocks by youths of the ruling party;
- Political violence, including torture and murders, largely perpetrated by ruling party supporters against members and supporters of the opposition;
- The selective enforcement of the law by law enforcement agents;

The conduct of the poll

The Electoral Supervisory Commission accredited, at the last minute, only 400 observers from our network, less than one hundredth of the names that ZESN had submitted. This severely curtailed the ability of ZESN and its network of 38 civic organizations from effectively observing the elections.

We are very concerned about the deliberate distribution of polling stations countrywide. There was a phenomenal increase in the number of polling stations in the rural areas, in particular mobile polling stations that are difficult to monitor and observe. Stations in the urban areas were reduced by as much as 50 percent in some constituencies while those in the rural areas were increased. In Harare and Chitungwiza, this was particularly worrying in that there were tripartite and bipartite elections being held. The result was chaotic. Tens of thousands of Harare and Chitungwiza voters were unable to vote even after the extension of voting by one day. It is important to note that reports from Gweru,

Masvingo, Mutare, Bulawayo and Matebeleland North indicated that several voters were no able to vote by Sunday night and many were under the impression that there would be an extension of voting days countrywide. Hence, even as vote counting begins, tens of thousands of Zimbabweans were deliberately and systematically disenfranchised of their fundamental right to participate in the governance of their country. Without the participation of the full electorate there can be no democracy.

Meanwhile, we express great concern about the figures we are being provided concerning the number of registered voters in the rural and urban areas. It appears there has been a deliberate attempt to significantly inflate the numbers of voters in the rural areas.

ZESN commends the Zimbabwean populace for their resilience and determination to remain peaceful in the face of this potential national crisis.

Conclusions

These elections violate almost all of the SADC Parliamentary Forum Norms and Standards.

- Voter registration was discriminatory and not transparent.
- Voter education was disrupted and there was insufficient time for the ESC to conduct voter education after the legislation was drafted.
- The fast tracking of legislation meant that there was insufficient time for the ESC to train its 22 000 monitors all of whom were civil servants in particular the army and police.
- It is inappropriate to include civil servants to monitor the Registrar General's office. This task should have remained with civil society.
- There were disturbing episodes of violence even during the polling days – opposition polling agents and our own monitors harassed and prevented from carrying out their work.
- There was questionable data on the rural and urban divide which stated that there was a higher voter turnout in the rural areas than in the urban centers.

In summary, there is no way these elections could be described as substantially free and fair.

As a result of these issues, ZESN recommends the need for an Independent Electoral Commission that is protected by law and well resourced to carry out elections.

ZESN warns that a flawed electoral process a potential cause of conflict but calls on the people to remain calm but firm, resolute even after the results are released.

Dr Reginald Matchaba-Hove
ZESN NATIONAL CHAIRPERSON

Appendix 16

Press statement on election results

Crisis in Zimbabwe Coalition

13 March 2002

The Presidential election result announced today does not reflect the will of the people because of the violence, fraud and rigging which characterised the pre-election and polling periods.

The period leading up to the election was fraught with innumerable irregularities. The passing of the Public Order and Security Act made it almost impossible for the opposition party to campaign and hold political meetings. The opposition was also denied access to the electorate through the public media. Voter education by civic groups was criminalised until 9 days before the election.

The polling days were characterised by threats and violence. Polling agents from the opposition party and observers drawn from the civil society were assaulted, harassed and in some cases chased away from polling stations. The net effect of this was that many counting centres had no polling agents from the opposition. The voting process was further manipulated by the reduction of the number of polling stations in areas perceived to be strongholds of the opposition, such as Harare, Gweru, Bulawayo, Mutare.

The figures published for most rural constituencies are suspicious and do not correlate with our observations and press reports of rural voter turnout during the two days of polling.

We therefore reiterate our rejection of the election results. The will of the people has been subverted. The product of a subverted electoral process cannot be called a government, but a regime.

We also wish to express our absolute dismay at the unfortunate position taken by the South African observer group regarding the election. As Zimbabwean civic groups we hold that it was neither free nor fair. In particular there was failure on the part of the state to comply with the Electoral Act, SADC Norms and Standards for Free and Fair Elections as well as International Human Rights Instruments.

We call upon Zimbabweans to register their concern in accordance with the Constitution starting this Friday.

- A. Nongogo (Spokesperson)
 - B. Kagoro (Coordinator)
- Tel: 263 (04) 793246 793247 793277

Appendix 17

ZESN Preliminary Press Statement on the Kuwadzana and Highfield By-Elections

Zimbabwe Election Support Network (ZESN)

March 31, 2003

The Zimbabwe Election Support Network (ZESN) an umbrella body of 36 civic organisations through its member organisations fielded 34 observers in the just ended Kuwadzana and Highfield by-elections. Out of a total of 110 names that ZESN member organisations submitted to the Electoral Supervisory Commission, only 22 were invited for accreditation and 17 managed to obtain accreditation. These were assisted by another 17 parallel observers who were operating outside the stipulated 100m radius.

The network notes with concern serious anomalies in the conduct of the two days of polling. Firstly, the pre-election period was marred by violence, visible vote buying and the failure by the Registrar General's office to release the voters' roll to contesting candidates on time. The actual polling days were characterized by vote buying, violence, abductions of observers and party polling agents, intimidation, denial of access to the polling stations to accredited observers, and a heavy presence of the uniformed forces and ZANU PF youths in the vicinity of the polling stations. We also observed that there were no police officers at some polling stations where they were required. Also of grave concern was the disruption of the voting process by riot police on the second day of polling in Kuwadzana.

Three ZESN observers were beaten up by people who identified themselves as ZANU PF supporters. One was abducted from Kuwadzana 4 Primary Polling Station and taken to a private house where he was beaten up before being driven to, and dumped at Lilfodia Farm along the Old Bulawayo Road. According to medical reports, he suffered soft broken tissues on both feet. The other one was abducted from Kuwadzana 1 Primary Polling Station and taken to Tongogara base in Kuwadzana 6. He was beaten up and managed to escape half naked. The third observer was beaten up at Rusvingo Primary Polling Station. His shirt was torn and cell phone damaged by the attackers. The three lost their national identification particulars to their assailants.

An accredited observer was chased away from Kuwadzana 2 Primary Polling Station by people who claimed to be war veterans while another was ordered out of a polling station by a police officer who claimed that observers were not allowed to be at polling stations for the whole day. The presiding officer agreed with the police officer. ZESN is worried by this act that is in contradiction to *Section 15C(1)(a) of Statutory Instrument 41B of 2002 Electoral (Amendment) Regulations No. 13*, which states "observe" in relation to any election means...observe the conduct of polling at the election.

ZESN also observed a heavy presence of marked ruling party vehicles from several provinces that were transporting supporters around the two constituencies. Some of the vehicles were carrying people chanting ZANU PF songs and sloganeering in some cases inside the stipulated 100m radius. In Kuwadzana the ZANU PF trucks were spotted carrying youths who were distributing beer to people around the constituency especially at beer halls, and urging them to go and vote.

ZESN observed long queues at most polling stations on the first day of polling but few people turned up on the second day. Voting figures made available to ZESN by the constituency registrars indicate that fewer people voted in this election than in the 2000 general elections and last year's presidential elections. About 30 000 people cast their vote in the two constituencies in the by-elections compared to 41 541 who voted in the 2002 presidential elections in the same constituencies. The low turnout may be attributed to the very tense atmosphere that prevailed in the two constituencies before and during the elections.

On the last day of polling ZESN withdrew its observers from Kuwadzana constituency an hour before the end of polling due to security considerations as the riot police were throwing teargas and bashing people.

ZESN observed that the police were manning a second ink detector outside some polling stations. This is a new development in our electoral system and we are concerned that this might mean the uniformed forces are now taking over the role of the ESC.

We call upon the Electoral Supervisory Commission (ESC), the Registrar General's Office and the law enforcement authorities to observe and enforce the electoral laws and arrest this uncivilized practice

that denies citizens their right to freely choose their leaders. We also urge Zimbabwe to abide by the SADC and other international Electoral Norms and Standards which Zimbabwe is party to.

In view of all these anomalies that have become part of our elections, we re-emphasize our call for an independent electoral commission, and the need for electoral laws that encourage citizens to participate freely and peacefully in any elections.

DR REGINALD MATCHABA HOVE
ZESN NATIONAL CHAIRPERSON

Appendix 18

Violence Mars By-Elections

Crisis in Zimbabwe Coalition

31 March 2003

Parliamentary by-elections in Highfields and Kuwadzana were held in Harare from March 29 to 30 2003. Pre-poll violence and intimidation in the two constituencies made many observers fear low turn out and the possibility of vote rigging by the ruling party.

During the polls, observers in the constituencies reported a high presence of individuals in military uniforms in both Highfields and Kuwadzana. The objective of this intimidatory military presence is not clear.

Despite this, the first day of voting (Saturday March 29) was relatively peaceful, but reports indicated that voting was slow. In addition, there were reports of intimidation at the polling stations themselves. Individuals in both Highfields and Kuwadzana reported that there were groups of Zanu PF youths loitering near polling stations. These groups would enable some voters, particularly known Zanu PF activists from the area, to move to the front of the queue, while harassing other voters who were waiting, shouting at them and heckling them. While this was witnessed by polling agents and presiding officers, little was done to stop it.

On day two, (Sunday March 30) voting was even slower, and by most accounts peaceful. However, the situation became violent towards the end of the day in both Highfields and Kuwadzana. In both constituencies, groups of youth militia members began to move around to polling stations and shopping centres, attacking people who were waiting to vote. At this time, however, there were very few people left who had not yet voted. It is suspected that the gangs wanted to gain access to the ballot boxes. Several casualty wards at Harare hospitals reported many victims of assault coming in for treatment.

Observers were also among the people harassed on the polling days. On Saturday March 29, a vehicle carrying representatives from the Netherlands Embassy was stoned as it approached a polling station in Kuwadzana. On Sunday March 30, three observers from Zimbabwe Election Support Network (ZESN) stationed at three different Kuwadzana polling stations were assaulted by people who identified themselves as Zanu PF supporters.

Ballot boxes were carried to the constituency counting centre this morning (Monday, March 31). Votes were counted, and an MDC victory was announced in both constituencies. Over 14000 people voted in Highfields, and over 17600 voted in Kuwadzana. These figures both show a significant decline from the March 2003 Presidential Election, when 18280 and 23440 people voted in Highfields and Kuwadzana respectively.

Violence marred the freeness and fairness of this election. The Crisis in Zimbabwe Coalition condemns this violence. Such violence represents a blatant infringement on Zimbabwean citizen's most basic democratic right to vote freely in a peaceful environment. The Coalition hopes that Zimbabwe will soon move towards democratic governance, where the rule of law and human rights are respected.

Appendix 19

The arrest of Judge Paradza

Legal Resources Foundation (LRF)

February 19, 2003

The Trustees of the Legal Resources Foundation wish to express their concern at the unprecedented arrest of Mr Justice Paradza, a sitting Judge of the High Court of Zimbabwe, on allegations that he attempted to obstruct the course of justice.

The LRF condemns the arrest and subsequent detention overnight of Mr Justice Paradza as unwarranted and high-handed. It is the view of the LRF that an internal inquiry ought to have been conducted in the first instance by the Judge President into allegations levelled against Mr Justice Paradza before criminal proceedings were invoked against the Judge.

The unseemly haste with which the Judge was arrested and detained is an affront to the dignity of the Office of Judge and creates in the minds of the public an unfortunate impression that Mr Justice Paradza is being harassed for making judicial pronouncements that have not been favourable to the authorities.

Appendix 20

Expert expresses grave concern over arrest of another judge in Zimbabwe

UN Special Rapporteur on Independence of Judges and Lawyers

February 19, 2003

Dato' Param Cumaraswamy, the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers, today expressed grave concern over the arrest and detention of another judge in Zimbabwe.

According to the Special Rapporteur, the judge, Justice Benjamin Paradza, charged with an alleged obstruction of justice, was arrested in his chambers and detained overnight on 17 February 2003. He was then brought before a court on the morning of 18 February 2003 and released on bail. Justice Paradza had previously handed down decisions that were unpalatable to the Zimbabwean Government. In January 2003, soon after Justice Paradza delivered his judgment on the Harare Mayor Elias Mudzuri case, ordering his release, he was intimidated and threatened with reprisal by police intelligence officers. The Government is reported to have alleged that Justice Paradza had attempted to influence a fellow judge in a case involving an application for the release of a passport of an accused in a murder trial.

Last September 2002, retired Judge Blackie was arrested and detained in humiliating circumstances and subsequently charged with obstruction of justice. Prior to his retirement, Judge Blackie had convicted and sentenced the country's Minister of Justice to three months imprisonment for contempt of court. The Government had alleged that Judge Blackie had delivered a judgment quashing an appeal of a jail term imposed on a white woman without concurring with the other judge who sat on the appeal with him. In a press release of 24 September, Mr. Cumaraswamy had expressed his outrage over that arrest, detention and charge.

"What is common and very conspicuous about the alleged charges against Justice Paradza and retired Judge Blackie is that the principle witnesses to prove the alleged charges would be fellow judges. This is pitting judge against judge and setting the members of the judiciary on a collision course between what will be seen as the independents and the compliants. While judges are not above the law, subjecting them to arrest and detention in such humiliating circumstances is tantamount to intimidation of the gravest kind. This leaves a chilling effect on the independence of the judiciary."

"This latest development is but one in a series of institutional and personal attacks on the judiciary and its independent judges over the past two years, which have resulted in the resignations of several senior judges and which have left Zimbabwe's rule of law in tatters.

"When judges can be set against one another, then intimidated with arrest, detention and criminal prosecution there is no hope for the rule of law which is the cornerstone of democracy. It paves the way for governmental lawlessness," the Special Rapporteur said.

Appendix 21

This land is our land: A secret government report shows how officials are grabbing farms and violently evicting landless farmers

Africa Confidential

21 February 2003

A confidential government audit of Zimbabwe's land reform has found widespread evidence of corrupt allocations and the use of violence by senior politicians and military officers to evict landless small farmers – the very people President Robert Mugabe claimed the land reform policy would help. Reports corruption and abuses uncovered by the auditors will embarrass Mugabe, who has staked his domestic reputation on the speedy transfer of land to Zimbabwe's more than two million landless poor farmers.

Now, from the government's own investigations, it appears that not only has the policy precipitated a catastrophic fall in food crop production which, along with the regional drought, is causing as many as seven million Zimbabweans to go hungry but above all, the policy has financially benefitted the nomenclatura of Mugabe's ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF).

The audit, the Addendum of which is attached, reveals that some of the worst violations the land reform policy were committed by Mugabe's closest political allies, such as Air Marshal Perence Shiri and Information Minister Jonathan Moyo, as well as Mugabe's sister, Sabina Mugabe.

This is the President's dilemma: his credibility with the ZANU-PF grassroots supporters demands action against violators named in the audit but many of these are major figures in his own political network.

One farm good, four farms better becomes harder still for Mugabe to take punitive action against offenders in the ZANU-PF hierarchy as party factions jockey for the succession. Mugabe, who is yet to state when he will retire and call a fresh presidential election, is unwilling to commit himself publicly to one faction. Most of the transgressions reported in the audit were committed by his closest political allies, Zezuru politicians from Mashonaland.

For example, the report of those violating the 'one man, one farm' rule reads like a list of the ZANUPF elite and their allies: Information Minister Moyo, presidential sister Sabina Mugabe; former Higher Education Minister Ignatius Chombo; Defence Minister Sydney Sekeremayi; the Air Force Commander, Air Marshal Perence Shiri; Provincial Governors Eliot Manyika, Obert Mpofu, Peter Chanetsa, Josia Hungwe; newspaper publishers Ibbo Mandaza and Mtumwa Mawere; and Barclays Bank Chief Executive Alex Jongwe.

Both Mandaza and Mawere fiercely deny that they have violated the land policy. They accept they have investments in companies that own several farms but say their inclusion in the audit is a result of 'mischief making' by their political enemies. The audit accuses both Mawere, who has investments in FSI, and Mandaza, who has a stake in Rainbow Hotels, of 'prejudicing the rights' of poor landless farmers.

Mawere said he'd heard no complaints from landless farmers about FSI's operations and insisted that, although he was a friend of leading succession contender Emmerson Mnangagwa, he had no political agenda. The wealthy Mnangagwa's absence from the audit's list of transgressors may do him some political good. Mandaza accused former Interior Minister Dumiso Dabengwa and Matebeleland Governor Mpofu of running a politically and ethnically motivated smear campaign against him. He said that the individuals whom he was trying to evict from his farms were 'middle-class Zimbabweans' not the landless poor farmers that his opponents claimed.

The worst case reported in the audit involves Mugabe's in-law and business ally Air Marshal Shiri, who identified as owning at least three farms, with one of them – the 1,460 hectare Eirin Farm in Marondera over three times the maximum size allowed. According to the audit, Shiri is trying to evict 96 landless families from Eirin who had been allocated the farm under the government resettlement scheme.

Shiri had approached Agriculture and Land Resettlement Minister Joseph Made (AC Vol 44 No 2), who issued a certificate saying the state had 'no interest' in Eirin, effectively countermanning the decision of the local land committee. Shiri then brought in troops to remove families who have effectively resisted the attempts to evict them. Shiri was not available for comment.

Back in 2000, Mugabe's advocacy of 'fast-track' land reform was a political masterstroke: after two decades of foot-dragging, some 70 per cent of the most productive land in Zimbabwe was still in the hands of less than one per cent of the population. Its propaganda value boosted Mugabe's standing when ZANUPF's popularity had sunk to new lows with the launch of the Movement for Democratic Change.

Land reform made Mugabe's stolen victory in the 2002 presidential election seem more plausible to some and won him regional support as a born-again freedom fighter: African access and ownership to land is a critical grassroots issue in Southern Africa. It also enabled the government to punish those whites who supported the MDC by pushing them off their land. Mugabe and allies such as Moyo tried to explain the resulting economic disaster by blaming it on a combination of drought and foreign sabotage. Last month, the government banned the broadcast of weather forecasts that are not checked first with the Information Ministry.

The land reform strategy aimed to seize land from most white landowners (apart from the select coterie of whites who actively support and directly benefit from the ZANU-PF government), then divide up the massive farms, allocating the parts to black Zimbabweans on the principle of 'one man, one farm'. It was also agreed there should be a maximum farm size, ranging from 300ha. in Mashonaland to 750ha. in Midlands, to promote the widest distribution of land and development of agricultural extension services to the new class of farm owners.

Black entrepreneurs and their foreign partners complained such limits were impractical: the government responded that the bigger farms should remain the property of the state but could be leased to wealthy individuals or agri-business concerns. In practice, the ZANUPF elite, senior military officers and their business allies have breached both the 'one man, one farm' rule and the limits on individual farm size.

Some of Mugabe's allies own as many as five farms each. Many smallholder farmers who had moved on to former white-owned farms have been violently evicted by senior party figures, using state security forces or their private militias.

Grassroots supporters of land reform and war veterans began to pressure ZANU-PF leaders over these abuses. They made their own audit at provincial and local level, sending their dossiers to Mugabe.

Some of these reports were put together with the cooperation of white farmers swindled by senior politicians who had promised them some protection in exchange for their agreeing to clandestine land deals.

Such complaints, together with growing food shortages, had started to challenge the legitimacy of the land strategy, even in the eyes of the most nationalist Zimbabweans.

As calls for redress mounted, Mugabe commissioned a national audit of land reform through the office of Vice-President Joseph Msika. It began in August 2002 under the auspices of the Minister of State in the Vice-President's office, Florence Buka. At ZANU-PF's December congress in Chinoyi, Mugabe announced that the audit was progressing and promised to act on its findings.

The interim audit is now complete and has been sent to Mugabe. It looks certain to further factional divisions within ZANU-PF. Many of those mentioned in the report told Africa Confidential that they were furious about the allegations made against them and believed they were being smeared by political opponents in the succession struggle.

Much of the blame falls on Agriculture and Land Minister Made, who is empowered by Parliament to

allocate land. The audit suggests he is allowing the improper allocation of land to the political elite. The audit repeatedly accuses him of refusing to cooperate with the investigation and withholding information. Time and again the audit refers to his issuance of certificates of 'no interest' which are used by politicians and businessmen to claim ownership of farms (often in side deals with their previous white owners) who then try to evict the landless farmers allocated the property by the local land committee.

Privilege and patronage characterise a land policy in shambles.

ADDENDUM TO THE LAND REFORM AND RESETTLEMENT PROGRAMME NATIONAL AUDIT INTERIM REPORT

1. Introduction

This addendum covers the following provinces which were the subject of my audit. Midlands, Mashonaland Central, Mashonaland West, Mashonaland East, Manicaland, Matabeleland North and Matabeleland South. The audit was carried out to identify anomalies and policy violations in the implementation of the Land Reform and Resettlement Programme with a view to realigning the programme implementation to the policy and legislative provisions.

The addendum will therefore highlight policy violations and will give specific information related to the Provinces so far visited.

2. Land Acquisition

2.1 Certificates of No Present Interest

It is disturbing to note that Certificates of No Present Interest have been issued to some indigenous people authorising them to purchase farms that are already resettled resulting in the displacement of resettled people. When the Ministry of Lands, Agriculture, and Rural Resettlement was questioned on this development, the Permanent Secretary Cde Masoka promised to furnish the Hon Vice President Cde Msika with a list of farms under this category whose Certificates of No Interest had since been rescinded and the farms regazetted but up to now we have not received this list in spite of concerted efforts by my office to obtain it from the relevant office. Cde Tzvaki whose section is responsible for this information could not make it available to my officer.

The following farms are reported as having been acquired after some people had already been officially resettled:

Mazowe District

- i) Oldbury (915.8700 ha) purchased by O Gumbo
- ii) Howick Vale 8 and Howick Vale 9 (Howick Vale Estate) 1478.8554 ha
- iii) Rockwood Estate
- iv) Bedford Estate

Bindura District

- i) Benridge (81.1830 ha)
- ii) Dimitra Farm (1317.1163)
- iii) Balcombe (472.5730 ha)

Makonde District

- i) Chaosina (577.7828 ha)
- ii) Dalston (1223.3000 ha)
- iii) Kashwao (1337.9233 ha)

(All allegedly bought by Alex Jongwe of Barclays Bank)

- FSI a company owned by Cde Matumwa Mawere is also alleged to have acquired a number of farms or the buildings and equipment on those farm thereby prejudicing the resettled families. Cases were reported in Mashonaland West and Mashonaland East.

Bubi District

- i) Subdivision 1 of Graves End (905.45 ha)
- ii) 19 of Robert Block (646.64 ha)
- iii) 20 of Robert Block (6046.7 ha)
- iv) Muckleneuk (2452.1287 ha)
- v) Induba (2544.57 ha)

All the above-mentioned properties were allegedly purchased by Dr Ibo Mandaza who has since taken the settled families to court in an attempt to evict them from the properties. The situation on these farms is potentially volatile and requires a speedy resolution.

Hwange District

- i) Dete Dahlia (3165.156 ha) allegedly sold to ZDB

Umguza District

- i) Redbank A

NB. Other properties in this category could not be ascertained due to the non-availability of information from the Ministry of Lands, Agriculture and Rural Settlement as indicated above.

2.2 Gazetting

There are allegations that the Hon Deputy Minister of Foreign Affairs Cde A. Ncube and the Chairman of the Gwanda Rural District Council Cde O. Miilo have an over bearing effect on the Gwanda District Land Committee to the extent that they have directed the DLC to gazette Tod's Guest House and the Jesse Hall Hotel (both hotels) for compulsory acquisition which is both a violation of the National Land Policy and the Land Acquisition Act.

3. Settler Emplacement

3.1 Replanning A1 Farms to A2 Model Farms

The following farms which were originally settled under the A1 model have been replanned to A2 model farms thereby displacing the A1 settlers.

- i) Mayfield in Mazowe District (2126.9700 ha) where Cdes Chris Pasipamire and Mike Moyo are violently evicting 36 settlers who are recognised by the province which has recommended the withdrawal of the latter's offer letters. Some of the 36 settlers have been assaulted and reports have been made to the ZRP Marlborough.
- ii) Problems also exist at Fariview.
- iii) Maryvale in Mazowe (671.3533 ha) where Cde J Makamba has removed settlers.
- iv) Calgary in Mazowe (1500 ha) where the Hon Chindori-Chininga MP moved in.
- v) Harmony in Mazowe (500 ha) allocated to Cde S. Kasukuwere
- vi) Oldbury in Mazowe (915.8700 ha) taken by Cde O. Gumbo
- vii) Whitfield in the same district (202.6600 ha) involving Councillor Nyakudya
- viii) Louisrust, Tsatse and Kwayedza farms in Mazowe are also affected.

- ix) Eirin Farm in Marondera allocated to Air Marshall P Shiri at the expense of 96 families.
- x) Ulva Farm in Marondera allocated to the Hon S. Sekeramayi MP moving 21 families.

NB All A2 Model allocations of more than 350 ha in Mashonaland Central are made with the blessing of the Hon Governor Cde E Manyika. All the Mashonaland Central mentioned above are above 350 ha meaning that the Hon Governor is aware of the existing problem caused by these allocations.

3.2 Dr R Ngwenya is reported to be causing havoc in the Goromonzi area where he was allocated land under the A2 model. He is alleged to be encroaching onto other beneficiaries plots e.g. Prof Chetsanga and is uprooting irrigation equipment from these plots for use on his allocated area.

3.3 A2 Allocations

3.3.1 Gwebi/Hunyani ICA

The Gwebi/Hunyani ICA in the Nyabira area of Mashonaland West with almost 90 farms has remained unallocated for almost two years now because the Hon Governor and Resident Minister Cde P Chanetsa and the Ruling Party Zanu (PF) Provincial Leadership including the provincial Chairman Cde P Chiyangwa and the Hon Minister of Local Government Public Works and National Housing Dr I. Chombo have failed to come to an agreement of the prospective beneficiaries.

It is imperative for the province to resolve this impasse urgently as the area in question is traditionally a highly productive area which normally contributes to our food security. Moreover, Mashonaland West is lagging behind other provinces in in terms of A2 allocations.

3.3.2 Contentious Allocations

- i) Fountain Farm, Insiza District

The Insiza District Land Committee reported that it had recommended that Fountain Farm which has highly developed infrastructure and produces poultry, citrus and livestock, be allocated to youths from the Ministry from Youth Development, Gender and Employment Creation's National Service training programme as an agricultural skills training centre for the Ministry.

However, the District Land Committee was surprised when the Hon Minister for Small and Medium Enterprises Development Cde S. Nyoni MP was allocated the farm under the A2 Model directly from Harare. When the District Land Committee queried this, it is alleged that the Hon Minister of Lands, Agriculture and Rural Resettlement Dr J Made MP promised to withdraw the Hon Mrs Nyoni's offer letter but to date this has not been done.

It is disturbing to note that violence is the order of the day on this farm with 'hired thugs' allegedly driven in from Bulawayo by the Hon Minister. The violence has not spared the members of the District Land Committee who threatened to resign if the relevant authorities did not intervene. These cases have been reported to both the ZRP in Gwanda and the President's Department in Gwanda and arrests were effected at the time of my audit

- ii) Holderness Farm in Makonde District was recommended for allocation to 7 A2 beneficiaries by the Provincial Land Committee and offer letters were duly written by Ministry of Lands, Agriculture and Rural Resettlement. However, a Mr A Mawere from the same ministry is alleged to have sent an AREX team from Harare to replan the farm and made an allocation to 11 other people without the knowledge of the province.
- iii) Cde Munetsi the Hurungwe DA who is suspended pending investigations of allegations of impropriety is alleged to have held back the delivery of 504 offer letters to A2 beneficiaries and instead substituted some of these with letters of his own allocating plots to illegal beneficiaries on Buffalo Downs and Buttervent Farms. It is suspected that outright corruption might have occurred as money is alleged to have changed hands in exchange for plot allocations. ZRP is investigating.
- iv) The District Land Committee in Muzarabani allocated themselves A2 plots on Lot 1 of Mutorazeni and Carse Farms outside the National Land Policy.

4. Multiple Farm Ownership

The following have been identified as owning more than one farm which is a violation of the one man one farm policy of our Land Reform Programme.

- Hon Dr I.M.C. Chombo MP Allan Grange (300 ha) and Oldham in Chegutu
- Hon J. Gumbo MP – Lot 12A of Nuanetsi Ranch A in Mwenzi and Wolewehoek (1299 ha) in Makonde
- Hamadziripi M.K. – Bailineety in Nyabira (3147 ha) and Wolwehoek (1299 ha) in Makonde
- Hon J. Hungwe MP – Lot 21 A of Nuanetsi Ranch in Mwenzi (14713 ha) and Bryn Chegutu
- Kangachepa Kufaingano – Mafuta (1300 ha) and R/E of Mvurachena Estate (711 ha) both in Makonde district
- Brig E.W. Kanhanga – Stella (425 ha) and Stokwill (2443 ha) both in Mazowe district
- S. Kasukuwere MP – Pimento Farm, Bamboo Creek and Harmony
- J. Macheke – Cairnsmore (300 ha) in Mazowe and Doornfontein (864 ha) in Masvingo
- E. Madzongwe – Bourne and Corburn 13 both in Chegutu
- Hon S. Mahofa MP – Lothain in Gutu, Lochnivar, Eyrie, Spring SP
- N. Makura – Brecknin and Laung Glen in Seke district
- Hon E. Manyika MP – Duiker Flats and Sub Division of Caledon
- M. Mawere – Sanga (1137 ha) Goromonzi and Chigori (871 ha) in Murehwa
- Hon K. Mohadi MP – Bothasrus and Bea Ranch allocated to Mrs Mohadi – both in Beitbridge
- Hon Prof J. Moyo MP – Little Connemara 1 – Nyanga, Patterson, Mazowe, and Lot 3A of Dete Valley in Lupane
- Hon O. Mpfu – Auchenburg in Nyamndlovu, Umguzu Block in Umguzu and one other farm he is understood to have purchased
- S. Mugabe – R/E of Mlembwe (1037 ha) Longwood (924 ha) and Gowrie Farm
- F. Mukunowengwe – Watakai and Nan Terra in Mazowe district
- L. Mutemeri – Carlton Curlieu of Trelawney Estate (570 ha) Makonde and Corburn 33 (234.30 ha) Chegutu
- V. Mashwita and spouse – Dendere/Harmony and Watakai in Mazowe
- Boniface Shamu – Meando and Vilendy in Marondera
- Air Marshal P. Shiri – Eirin (1460 ha) Marondera Maple Leaf and R/E of Audrey Farm
- C. Shumba – Maine Farm Chegutu Chinomw Estate Makonde and Lot 1 Orange Grove in Chegutu
- W. Bvudzijena – Templeton Ranch and Koodoo Hill
- Hon P. Chanetsa MP – R/E of Riverside E, Greensleaves of Biri, Gabaro Farm in Hurungwe, Romsey Farm in Makonde
Spouse – Erewhon Farm
- C. Chingoso – Makarara, Showers B, Solitude, Retreat of Sanzara, Chigori, Rapids all in Marondera and Lot 6 of Mkwasine Central in Chiredzi

- M.M. Chinomona – Plot 14 of Rathmines and R/E of Redbuck Kop in Goromonzi
- E. Chauke – Farm 748 Ngwindi Sugar Estate n Chiredzi and Sikato 10 in Masvingo District
- J. Chibizhe – Sabi Dog and S/D 9 of Lot 6 Essanby
- N. Machwori – Morning Star and another farm he bought on his own

NB The list is not exhaustive as the people interviewed were scared to reveal any information least they might be victimised by the multiple farm owners who seem to have their loyalist within the various land committees.

It is very urgent to take urgent corrective measures particularly where the leadership is the perpetrator of anomalies as the general public is restive where such cases exist and a multitude of people are still on the waiting list.

5. **Recommendation**

It is recommended that the information supplied by this audit be utilised to take corrective measures immediately so that the Land Reform and Resettlement can be brought back in tandem with the policy. Perpetrators of all cited anomalies should be censured and institutional arrangements strengthened so that all land committees can operate freely within the policy guidelines.

Appendix 22

ZIMBABWE: Economic problems exacerbate violence against women

IRIN News

December 05, 2002

JOHANNESBURG - Zimbabwe's economic problems are exacerbating violence against women and their sexual exploitation, women's groups say.

"With all the economic problems, violence has taken a new twist," matrimonial lawyer Nomsa Ncube told IRIN on Thursday. Ncube was one of the organisers of a march on government offices in Zimbabwe's second city Bulawayo this week, to protest violence against women.

Over the last few years Zimbabwe has suffered serious economic problems. Salaries have failed to keep pace with inflation which hit 144 percent in October, and unemployment has risen. The land reform programme has also seen farms change hands with thousands of farmers and farmworkers facing an uncertain future.

The government has tried to intervene through price controls on basic commodities, and by fixing the foreign exchange rate. But this has spawned a lucrative market for hoarders and speculators who have taken advantage of shortages.

"Our main concern at the moment is that women are being forced to have sex with hoarders [of commodities]," Ncube said.

"The woman goes to the corner house where things are being sold and she is served by a man usually between 19 and 25. She is charged a very high price for maize and says she doesn't have enough money, and her kids haven't eaten. He looks her over and says she has something else to pay with and tells her to come back in the evening.

"I find that so cruel. A lot of women related the same experience," Ncube said. "We feel so frustrated. That's why we went and banged our pots on the march."

Violence against women can also have a direct political dimension.

A researcher for an organisation that studies organised violence said there were many cases of politically active women who supported the opposition Movement for Democratic Change (MDC) in the March presidential election who were targeted for assaults, and sometimes rape.

"There are still some new cases of assault and death threats, usually because the women support the MDC," the researcher said.

Sheila Mahere, director of the Musasa Project, an organisation that provides shelter for victims of domestic violence said: "We feel domestic violence is on the increase and reporting on it is on the increase, which is a good thing because it is not hidden."

But, she added, some women have been too frightened to lay charges of assault, or because the perpetrator could be a bread winner.

"We have seen an increase in relation to the economic environment in Zimbabwe. When you have shrinking resources in the home, this can exacerbate a situation between spouses, it causes frustration and unleashes violence. We don't want poverty to be an excuse for violence, but it does exacerbate the situation," Mahere said.

The Zimbabwe Women's Resource Centre and Network (ZWRN) have taken another approach, and are currently calculating the losses domestic violence causes the economy.

A similar American study found that companies reported they lost anything between US \$3-5 billion a year in profit from women and men who missed work because of gender-based violence.

ZWRCN would calculate the cost to the economy of one or both spouses dying, the cost to the government of sending an ambulance to help a women who had been beaten, the cost of the investigating officer's time and resources, and the cost to the courts and prisons as the case was followed through, ZWRCN director Isabella Matambanadzo said.

"We want to know what price we are paying for violence against women," Matambanadzo said.

For many women, new hope would come when the Domestic Violence Act, drafted by the Musasa Project, in consultation with other organisations, was finally passed.

Mahere said they were lobbying parliament and women's groups to make sure the draft goes through unchanged and becomes law.

However, Zimbabwean women still needed support institutions like a gender commission to ensure proper implementation of anti-violence laws, she said.

Appendix 23

BBC NEWS

Thursday, 28 November, 2002, 17:46 GMT

Zimbabwe food crisis warning



Not everyone in aid queues gets food

Zimbabwe's food crisis is deteriorating rapidly, say the United Nation's World Food Programme.

The government and foreign aid agencies are unable to import enough aid stocks to feed almost half of the 14 million population that is estimated will eventually need assistance.



WFP said there was a rise in hunger-related diseases, children were dropping out of school and families were resorting to desperate measures such as surviving on wild fruit to cope.

President Robert Mugabe's government denies that its controversial land reform programme is exacerbating problems caused by the drought.

The government has been repeatedly accused of diverting food aid to its own supporters and ignoring opposition activists.

A United States official even warned that the US may have to take "intrusive" measures to ensure that food aid was properly distributed.

Shortfall

The WFP said it faces a food shortfall of close to 200,000 tonnes in Zimbabwe between now and March 2003.



Mugabe blames the food crisis solely on poor rains

It added that Zimbabwe's state-run Grain Marketing Board (GMB), which has a monopoly on distributing food, is being severely limited in its ability to import enough cereal due to an acute foreign exchange shortage.

The WFP says its food distribution operations have proceeded relatively unimpeded, despite repeated reports of government interference preventing food from reaching its political opponents.

The WFP and its partners distributed 20,000 tonnes of food to two million Zimbabweans in October.

"We are approaching the very worst period of the crisis, when 6.7 million Zimbabweans will need food aid and yet WFP does not even have the resources to meet our target of three million beneficiaries in November," it said.

"It is an extremely serious situation and it is only going to get worse," said Kevin Farrell, WFP representative in Zimbabwe.

"We will all have to work non-stop over the coming months if we are to prevent millions of people from starving in Zimbabwe."

He said that donors needed to do everything possible to increase the flow of food into the country, "otherwise the suffering that we are already seeing is only going to become more widespread and more acute".