

## Appendix 1

### *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 affiliation<sup>1</sup>. 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.

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<sup>1</sup> 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 21<sup>st</sup> 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 23<sup>rd</sup> 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 23<sup>rd</sup> 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 19<sup>th</sup> 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 2



### **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 3

### ARRESTED MEDIA PRACTITIONERS 2003

The year 2003 started on a very sad note for the media profession. This is also despite the fact that the year 2002 had ended on another very sad note as well with over fifteen media practitioners having been arrested by the police.

Indications on the ground show that 2003 promises to be an equally bad year. Already two media practitioners have already had a brush with the law. **The Editor of Masvingo Mirror, NORNA EDWARDS** was **arrested on the 3<sup>rd</sup> of January 2003** and **appeared in court on the 6<sup>th</sup> of January 2003**. She was charged for having contravened Section 80 of the Access to Information and Protection of Privacy Act. This follows a publication in the weekly, Masvingo Mirror alleging that the editor had published a story which claimed that police in the town (Masvingo) wanted to charge the MDC and NCA activists who had organized a stay away with sabotage, banditry and insurgency. Whilst the state alleged that the story was false, the 4 activists had indeed been arrested but charged under POSA and released on \$5 000 bail each.

The author of the story, KENNEDY MURWIRA went underground when he had that police were looking for him that Friday only to hand himself over on Monday the 6<sup>th</sup>. The police from the Law and Order section quizzed him for about two hours. They later released him without taking him to court. One wonders the logic of releasing the author and charging the editor.

#### *14 January 2003*

Police in midlands province, Gweru take-in for questioning, Willy Muponda, editor of The Sun newspaper. They demand from him his registration certificate or a receipt to show that he paid the \$500 000 registration fees. He did not have the receipt. It is his argument that small newspapers held a meeting with MIC boss, Mahoso were they were told to pay in instalments. In the interim they were allowed to submit their applications without the requisite deposit. Police among other things accused him of being anti-government taking that cue from a story which once appeared in his newspaper, The Sun, headlined "Ascot man beaten to death by CID officers". He alleges the Provincial Commanding Midlands Province and head of CID Fraud squad IN Midlands questioned him.

#### *16 January 2003*

Daily News reports that the Editor-in-chief of The Financial Gazette was yesterday summoned to Harare Central Police Station in connection with an advertisement carried by the newspaper last year. She went to the police station in the company of her lawyer Linda Cook of Atherstone and Cook. She was charged for having contravened Section 15(1)(a) and Section 16(2)(b) of the Public Order Security Act (POSA).

Whilst no mention of the advert is mentioned, Daily News is of the opinion that the issue concerns the running of adverts of President Mugabe's "mock trials" that were organized by NCA and Resistance Movement.

#### **27<sup>th</sup> January 2003**

Daily news reporter, Fanuel Jongwe has been arrested by police in Zvishavane. Jongwe was put under house-arrest by police on Friday evening when he was told that he could not leave the hotel that he was staying in. Today, he eventually went to the police in the company of

his lawyer where he was charged for having contravened Section 72 of the AIPPA in that he practiced as a journalist without a licence.

Jongwe was eventually released without being charged on the 28<sup>th</sup> of January 2003.

### **28<sup>th</sup> January 2003**

Tsvangirayi Mukwazhi, a Daily News chief photographer and two American reporters, Dina Kraft of the Associated Press (AP) and Jason Beaubien, an African correspondent for the National Public Radio covering the food crisis were on this day detained by the police in Bulawayo. The journalists had visited the GMB depot in that city where they sought to interview the officials. They were accused of unlawful entry and taking pictures of a protected lace. The arrests were made despite the fact that the foreigners were accredited by the govt. They were taken to Western Commonage Police Station for questioning.

### *18 March 2003*

Daily News Legal Advisor and Cooperate Secretary Ms Gugulethu Moyo and Daily news photographer, Phillemon Bulawayo have been arrested. Ms Moyo was arrested at Glen View police station where she had gone to seek the release of photograher, Bulawayo. Bulawayo was assaulted by the police whilst taking pictures of people who were being forced to roll on the tarmac.

At the police station, Ms Moyo was first assaulted by the police before wife of the commander of the defence forces, Joycelene Chiwenga also assaulted her.

Both were only released 20 March 2003 at 1500hrs despite there being a high court ruling issued at 2230hrs on the 19<sup>th</sup> of March 2003.

Box CY434 Causeway, Harare  
Email: [crisis-zim@transparency.org.zw](mailto:crisis-zim@transparency.org.zw)

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To: The Honourable Patrick Chinamasa  
Minister of Justice, Legal and  
Parliamentary Affairs

Cc: Minister of Home Affairs  
Commissioner of Police  
Members of Parliament  
SADC High Commissioners  
Commonwealth High Commissioners

Date: 12 March, 2003

RE: Civil Society Leaders Demand the Repeal of POSA

Mr Chinamasa

Since its enactment, the Public Order and Security Act (POSA) has been used to wantonly detain, intimidate and victimise pro-democracy actors such as labour activists, students, women, congregants, civil society activists, civic and political leaders, and the generality of Zimbabweans. In just one year of POSA's existence, several thousand citizens have been unlawfully arrested and detained. This number far exceeds the arrests made under LOMA in the late 1970's, a time when the country was less peaceful.

Meetings of the above civic groups, have been unlawfully disrupted by the police, representing a severe constraint on citizens' rights to discuss their concerns freely and openly.

This says nothing of the torture including beatings, falanga and use of electric shocks which some have undergone while detained by the police. Incidents of police brutality are on the increase, and "preventative detention" has become commonplace.

The heavy-handedness with which law enforcement officials have disrupted meetings, detained individuals, and used brute force against detainees is reminiscent of Rhodesian-era policing and repression. It is an insult to the democratic principles upon which Zimbabwe is founded.

What is most perturbing is the selective application of the draconian provisions of POSA against those groups that are perceived to be unsympathetic to the establishment. This politicisation of law enforcement along clearly partisan lines is unfortunate and anti-democratic. Further, there is a disturbing sense in which the police misinterpret POSA to mean that they should "sanction" or "permit" every public gathering or procession, and even church meetings. Clearly, the existence of criminal penalties for merely organising a public meeting without notifying the police is undemocratic and blatantly unconstitutional.

Beyond the blatant and deliberate misapplication of the requirements of POSA by the police, the law itself is an offensive and repressive piece of legislation, which imposes on citizens colonial-era restrictions on expression, movement, association and assembly.

Therefore, we the undersigned civil society leaders, are left with no choice but to collectively take the following positions:

1. That POSA is a draconian, undemocratic and repressive piece of legislation which violates the Constitutional rights of Zimbabweans to freedom of expression, movement and assembly.
2. That Pass Law style requirements of Section 32 of POSA are reminiscent of apartheid and fascist Rhodesian-era restrictions on movement, and therefore pose an insult to the ideals of the struggle against colonial oppression.
3. That POSA is more repressive in its content and effect than the Rhodesian Law and Order Maintenance Act (LOMA), and thus constitutes a negation of the ideals of the war of liberation. POSA subverts any attempt to deliver on the Independence promise of “freedom for all” regardless of political affiliation, religious persuasion, class, age, gender, race and ethnicity.
4. That POSA represents naked aggression against freedom, diversity and broad participation by the Zimbabwean citizenry in governance issues.
5. That the brutality with which POSA is applied flies in the face of the Police Act, the Police Service Charter, the Constitution of Zimbabwe, and international laws and standards on policing. This wanton use of force in instances where there is no threat of a breach of the peace is particularly deplorable and seriously undermines public confidence in law enforcement.
6. That POSA criminalizes public debate and activities designed to address the multi-layered national crisis. In so doing, POSA undemocratically closes off the space for citizen involvement in issues of national governance as well as the policy process.
7. That the intrusiveness of the police in seeking to authorise or ban every conceivable meeting organised by those perceived to be unsympathetic to the establishment is tantamount to the unofficial declaration of a state of emergency where the rights of pro-democracy actors have been suspended. POSA essentially creates a police state which constrains democratic activity through supervision and surveillance.
8. POSA effectively creates a de facto one party state. POSA takes the country back into the political abyss of the colonial era, where Zimbabwe was governed by force as opposed to consensus. This is contrary to the ideals expressed in the African Union's Constitutive Act, the New Partnership for Africa's Development (NEPAD), and the Commonwealth Harare Declaration of 1991.

The constrained environment described above pervades every aspect of Zimbabwean life. The government, through unacceptable harsh restrictions and the unconstitutional use of state machinery has exacerbated the polarisation of our society.

Despite the restrictions of POSA and the polarisation of our society, it is critical that citizens be permitted to discuss the issues of national concern, including:

- famine
- poverty
- fuel shortages
- non-availability of many basic and essential commodities
- water crises
- political violence
- police brutality
- partisan application of the rule of law
- the flawed Constitution
- unemployment
- rampant inflation
- public and private sector corruption
- crumbling health services
- declining education standards

In any democracy, it is the right of citizens to publicly debate their concerns, and to peacefully protest if they so wish. That right is obliterated by the draconian POSA.

In view of the above, we therefore demand:

1. The immediate repeal of POSA;
2. An assurance of the right to organise, assemble, move and freely express as enshrined in both domestic and international law;
3. The repeal of the colonial Lancaster House Constitution.
4. The re-opening of dialogue on appropriate public order legislation in a democracy.
5. The depoliticisation of law enforcement and law enforcement agencies;
6. The application of the rule of “just law” on a non partisan basis;
7. The investigation of all cases of police brutality, torture, unlawful arrest and detention.

**Presented to the Honourable Patrick Chinamasa, Minister of Justice, Legal and Parliamentary Affairs on the 12<sup>th</sup> day of March, 2003.**

<b>Name</b>	<b>Organisation</b>
Brian Kagoro	Crisis in Zimbabwe Coalition
Albert Musarurwa	Legal Resources Foundation
Jacob Mafume	Zimbabwe Lawyers for Human Rights
Wellington Chibebe	Zimbabwe Congress of Trade Unions
Lovemore Madhuku	National Constitutional Assembly

Wilfred Mhanda	Zimbabwe Liberator's Platform
Janah Ncube	Women's Coalition
Rudo Kwaramba	WILDAF
Nancy Kachingwe	Mwelekeo waNGO
Davie Malungisa	Zimbabwe Coalition on Debt and Development
Barnabas Farai Mangodza	Combined Harare Residents Association
Innocent Sibanda	Progressive Teachers' Union of Zimbabwe
Raymond Majongwe	Progressive Teachers' Union of Zimbabwe
Andrew Nongogo	Transparency International—Zimbabwe
David Chinhini	Zimbabwe Civic Education Trust
John Gombiro	Zimbabwe Farmers Union for Development Trust
Josiah Mudzengi	Zimbabwe Farmers Union for Development Trust
John Makumbe	Transparency International—Zimbabwe
Frances Lovemore	Amani Trust
John Stewart	Non-Violent Action for Social Change
Wynn L Hart	Justice for Agriculture
Reginald B F Matchaba Hove	Zimbabwe Election Support Network
Farai Mukuta	NASCOH
Brian Raftopoulos	Crisis in Zimbabwe Coalition
Cyprian Chumbu	Zimbabwe Peace Project
Sarah Chiumbu	Media Institute for Southern Africa—Zimbabwe
Bella Matambanadzo	Zimbabwe Women's Resource Centre and Network
Bishop Daniso Ndlovu	Brethren in Christ
Bishop Amon Ndlovu	United Congregational Church of Southern Africa
Bishop Wilson Sitshebo	Zimbabwe National Pastors Conference
Graham Shaw	Methodist Church Minister
Archbishop Pius A Ncube	Catholic Archdiocese of Bulawayo
Rev Raymond Motsi	Baptist Union
Pastor Patson Netha	Association of Evangelicals in Africa
Mike J Davies	Combined Harare Ratepayers Association
Kumbirai Hodzi	Media Defence Committee
Farai Madzimbamoto	Zimbabwe Association of Doctors for Human Rights

## **Appendix 5**

Press Release

February 15 2003

WOMEN OF ZIMBABWE ARISE (WOZA)

### **All Valentine Day Walkers released**

Women of Zimbabwe Arise wish to advise that all 16 Bulawayo participants who spent the night in Police custody have been released without being charged. Police may proceed by way of summons.

The group of 15 women included Sheba Dube-Phiri, one of the WOZA founders, Father Nigel Johnson and Ricardo Caprez who was accompanying the walk playing a drum. Father Johnson was taking a video of the procession and Police manhandled him to confiscate his camera. They were released at 10:30am Saturday.

In celebration of the release of the group, women who had gathered in solidarity placed red roses on the pavement in front of the Police Station.

The noon walks were organised to spread the following message: "Zimbabweans: learn to love again! Say no to hate and violence in all its forms and yes to love. Love us, respect us and allow us to be women. Love us today and everyday." The walk was conducted in Bulawayo, Harare and Victoria Falls, although many supported the move in spirit, locally, regionally and internationally.

The founding members of WOZA condemn the arrest of 73 Zimbabweans whose business on the day was to send a message of love and peace. Those arrested included two founding members of WOZA, Jenni Williams and prominent human rights activist and Chairperson of the League of Women Voters, Sheba Dube-Phiri.

WOZA founding members offer heartfelt thanks to Zimbabweans who answered their call to stand up for love on Valentines Day. To the hundreds who received flowers from participants, we remind them that in receiving the rose, they were requested to end the hate and violence in Zimbabwe.

"We would also like to recognise those of you who did not manage to connect up with the body of Walkers, due to changes to the route for security reasons. To those who conducted prayer vigils to ensure that the spirit of love prevailed. We thank the almighty that the unnecessary assault on Farther Nigel by Zimbabwe Republic Police Riot Squad was not serious and he has recovered. The struggle for love and peace continues on undeterred. There were also many organisations that sent delegate and we recognise their commitment. " A spokesperson for WOZA said.

WOZA thank the Zimbabwe Lawyers for Human Rights (ZLHR) and their members for their support. In both Bulawayo and Harare several lawyers were quickly on hand to support. In Victoria Falls, a group of 11 were escorted by 8 policewoman and they successfully delivered the message of love to residents of the border town.

The backdrop to their walk was the smoke-that-thunders. The procession went on peacefully with no arrests.

Despite the refusal by the Police to escort the Bulawayo and Harare processions, women decided to gather and deliver their message and all the events were peaceful.

In Harare the group gathered at Takura House in Kwame Nkrumah Avenue, a building that houses the United Nations representative to Zimbabwe. The business there was to deliver a letter to Secretary General Kofi Annan to inform him of his selection as their Valentine for 2003. Fortunately this was done before the group was arrested. Women of Zimbabwe await acceptance of the honour from the Secretary General.

Riot Police ordered the group to disperse but they argued that they were peaceful and withdrew onto the pavement where women sat down to demonstrate their peacefulness. They proceeded to sing the national anthem before attempting to read the letter to Annan. A female officer did not allow the reading of the letter although promises were made that the group would then disperse. She instead told the seated contingent that they were under arrest and radioed for vehicle to uplift the group.

The group, who included two 83 year old women and a Dominican Nun Sister Catherine, were transported to Harare Central Police Station where they remained until released at about 4pm. Williams was released separately after signing a warn and cautioned statement.

Seven journalist print and electronic media were searched for in the Parkade opposite and they were also arrested. Williams's 18-year-old son, Christopher, who was in the Parkade watching proceedings, was arrested with the male journalists. They were all released without charge.

WOZA abhor the outright lies in The Herald that the group walked along Samora Machel chanting political slogans and waving red roses. And request the Police spokesman, Bothwell Mugariri recheck his information sources. Even the Law and Order officers made no mention of this fabricated information when Williams was charged.

In the Bulawayo procession, Dube-Phiri, received several threatening calls from persons identified as police officers warning her not to proceed with the Walk.

She said, "We consulted our constituency and they made the decision to proceed. As a leader, I would not shirk my responsibility to lead the walk for the love of love and peace so we proceeded. I believe that they kept us in overnight as an unfortunate form of discipline but we know our constitutional rights."

The group in Bulawayo was able to get mobile and traversed many city blocks before Dube-Phiri and the others were arrested. As the group proceeded the numbers of participants swelled to almost 300. As they walked they sang and a couple of people who had pots beat them with cooking sticks to show up the food shortages.

Eyewitnesses said that Police moved amongst the group-selecting people to arrest, targeting white women and searching for the Movement for Democratic Change Vice President's wife, Zodwa Sibanda. The women spent the night in a holding cell with 7 other women arrested on other charges.



On the WOZA platform, women are being united around issues and not personalities. Colour, creed, religion, or political loyalties are irrelevant as women join together to say enough is enough and to take their position in lobbying for a return to a democratic dispensation where they can adequately provide for their families.

Williams and Dube-Phiri, acknowledge the role of the 9 men who stood beside the women as they were arrested. "You are true men, we love you! Your names will lead the list of Valentine Men of Men."

ENDS

For more information, please email [wozazimbabwe@yahoo.com](mailto:wozazimbabwe@yahoo.com)

The Valentine Lovebirds - List of those arrested - all now released

Bulawayo - 16 persons

1. Sheba Dube-Phiri
2. Linda Palmieri
3. Margaret Morrison
4. Zodwa Sibanda
5. Joey Arrowsmith
6. Avril Patel
7. Verity Mundy
8. Diana Charsley
9. Sue Bonnet
10. Tracy Lowe
11. Fiona Farmer
12. Debbie York
13. Jeanette Cross
14. Zeytoun Ferrero
15. Ricardo Caprez
16. Father Nigel Johnson

Harare - 54 persons, some names withheld

1. Jenni Williams
2. Gertrude Hambira
3. Rosemary Muriva
4. Benhilda Parewa
5. Mai Sismai
6. Riana
7. Annette
8. Jill Thornhill
9. Lin Sheperd
10. Evelyn Masaiti
11. Mrs L. Nelson
12. Mrs Gibson
13. Sister Catherine Jackson
14. Judith Chinyama
15. Caroline Elliot

16. Jenny Brian
17. Jennifar Muduzu
18. Lillian Muduzu
19. Lillian Chinyerere
20. Dadirai Bikita
21. Enia Dovi
22. Jackie Yasiri
23. Auxillia Shoniwa
24. Elizabeth Masila
25. Apolonia Chiriwa
26. Gean
27. Florence Mapfumo
28. Precious Nyandoro
29. Patience Chinyangwa
30. Shimmer M
31. Maria Nanyiwa
32. Judith Chinyama
33. Ana Goragada
34. Lillian Chinyerere
35. Christopher Williams
36. Lloyd Mudiwa The Daily News
37. Aaron Ufumeli The Daily News
38. Brian Hungwe South African Broadcasting Corporation correspondents
39. Davies Sidube South African Broadcasting Corporation correspondents
40. Maria Nyanyiwa of the Voice of the People
41. Cyrus Nhara freelancers
42. Tsvangirayi Mukwazhi freelancers

### **19 Pastors Detained**

The Crisis in Zimbabwe Coalition condemns the unlawful arrest today, February 28, 2003 of 19 pastors from the Zimbabwe National Pastors Conference (ZNP).

The pastors were protesting the recent detention of pastors attending a public meeting on “The Church—Resolving or Worsening the Zimbabwe Crisis” at Northside Community Church. Their petition, signed by Pastor Joseph Munemo (Secretary, ZNPC) and Reverend Charles Chiriseri (Evangelical Fellowship of Zimbabwe) states that this is “one among many cases of violence against people, Pastors and Clergy in this country.”

The pastors had planned a procession from Central Ave via 7<sup>th</sup> Street, to Police General Headquarters (PGHQ) on 7<sup>th</sup>/Chinamano. From there, they had intended to go to Mkwati Building to deliver a petition to the Minister of Home Affairs. They wanted to demand an assurance that the “present abuse of power stops forthwith.” At the Police Headquarters, Assistant Commissioner Mandeya had agreed to meet him, as the Commissioner was not in the office.

Wearing clerical collars and carrying three crosses, the pastors processed up 7<sup>th</sup> Street. The multi-denominational group of 19 includes Anglican, Catholic, Dutch Reform, Lutheran, Methodist, Pentecostal and Presbyterian pastors. On arrival outside PGHQ, the pastors informed the police that they were to see the Assistant Commissioner. However, police officers in riot gear arrived in a police vehicle. They were banging their baton sticks on the side of the open truck, chanting “wasuwa kurohwa,” (meaning, it’s been a long time since you were beaten.) Inspector Ndou, from Harare Law and Order approached the group, and told them they could not give the petition to the Assistant Commissioner. When the pastors insisted that they wanted to speak to the Assistant Commissioner, they were arrested and taken in police vehicles to Harare Central Police Station, escorted by the riot police truck. All 19 pastors were released 5 hours later. They were charged under Sections 19 and 24 of the Public Order and Security Act (POSA) (Holding a gathering likely to induce riot, disorder or intolerance, and Failing to notify the police of a public gathering)

These arrests are part of a series of harassment of church leaders in recent months. Christians for Justice and Peace in Bulawayo yesterday organised a Prayers for Peace service, whereby victims of political violence gave their testimony in St Mary’s Bulawayo’s Catholic Cathedral. Participants leaving the service were harassed when members of the Central Intelligence Organisation, CIO, arrived to question Archbishop Pius Ncube, of the Catholic Church.

In addition, Pastor Immanuel Hlabangana, has been questioned by the police and CIO in recent weeks for his work in Mutare and in Manicaland Province.

The continued harassment of church leaders signifies a further constraint of Zimbabwe’s civic space, and limits the capacity of Zimbabweans to freely discuss, debate, and propose solutions to the nation’s crises. The Coalition calls for an end to the harassment of church and civic leaders, and demands an immediate return to the rule of law, and respect for the human rights of all Zimbabweans.

## Appendix 7

### COMMENTS ON

#### THE CITIZENSHIP OF ZIMBABWE AMENDMENT BILL [H.B.1, 2003]

1. The Citizenship of Zimbabwe Act [Chapter 4:01] was enacted into law in 1984.
2. The main amendment to that Act was introduced by the Citizenship of Zimbabwe Amendment Act (No 12 of 2001) published in the Government Gazette on 6 July 2001. In terms of that amendment, Section 9(7) of the original Act was repealed and the following was substituted:  
  
**“(7) A citizen of Zimbabwe of full age who -**  
  
**(a) at the date of commencement of the Citizenship of Zimbabwe Amendment Act, 2001, is also a citizen of a foreign country; or**  
  
**(b) at any time before that date, had renounced or purported to renounce his citizenship of a foreign country and has, despite such renunciation, retained his citizenship of that country;**  
  
**shall cease to be a citizen of Zimbabwe six months after that date (i.e. by 6 January 2002, being six months from 6 July 2001) unless, before the expiry of that period, he has effectively renounced his foreign citizenship in accordance with the law of that foreign country and has made a declaration confirming such renunciation in the form and manner prescribed.”.**
3. The proposed new Bill [H.B.1,2003] was published in the Government Gazette dated 14 February 2003. However, as far as is known, it has not been passed by Parliament and it certainly has not been enacted into law.

4. The first point to note in relation to the proposed new Bill is that it does not in any way seek to amend Section 9 of the Citizenship of Zimbabwe Act [Chapter 4:01] as amended by Act No. 12 of 2001, including, and most importantly, Section 9(7).
5. The proposed new Bill does, however, propose to introduce a new section after Section 9, namely Section 9A.
6. In the Memorandum at the beginning of the proposed new Bill as published, it is stated that this new clause 9A seeks “to exempt from compliance with Section 9,” persons born in Zimbabwe of parents born in a SADC country or persons born in a SADC country, whose parents were born in Zimbabwe but migrated to such SADC country for the purposes of employment.”
7. In the Bill itself, the proposed Section 9A, in sub-section (2), states that :  
**“A person shall be exempt from having to renounce his citizenship of a SADC country in order to retain his citizenship of Zimbabwe ....”**
8. By using the words “shall” and “having to renounce”, the exemption is only granted to those persons who in the future would have to renounce their SADC foreign citizenship in order to retain their Zimbabwean citizenship. It does not apply to those persons who have already lost their Zimbabwean citizenship by virtue of having failed to renounce their SADC foreign citizenship within the time period stipulated in Section 9(7), which was up to 6 January 2002.
9. The effect of this is that numerous persons born in Zimbabwe of foreign parents, even foreign parents born in a SADC country, are not assisted by the proposed new Bill. This particularly applies to those persons who are poor and in the rural areas. Most of those people did not renounce their foreign citizenship by 6 January 2002.

10. Consequently, the effect of Section 9(7) of the original Act, as amended, would still apply even after the proposed Bill was enacted into law.
11. Like anyone else in such a situation, such a person who falls into the category in Section 9A would be eligible to apply to restore their Zimbabwean citizenship.
12. However, such an application for restoration of Zimbabwean citizenship in terms of Section 14 of the original Act involves an application to the Minister of Home Affairs who has a discretion as to whether or not to grant it. Furthermore, such an application is time-consuming and expensive.
13. Another deficiency in the proposed new Bill is that in terms of the proposed Section 9A (2)(a)(iii), for a person to qualify for an exemption in terms of the proposed Bill, the following requirement has to be satisfied:  
  
**“He has not any time after the date of his birth acquired any foreign citizenship or foreign Passport, whether voluntarily or otherwise, or enjoyed the protection of any foreign country.”**
14. It depends therefore still on the law of the foreign country concerned as to whether a person was a citizen of that foreign country. If, in terms of the law of a particular SADC foreign country, a person is a citizen of that foreign country by descent, for instance if his father was born in that country, then he is deemed to be a citizen of that foreign country by descent even if he was born in Zimbabwe and has lived all his life in Zimbabwe.
15. That was what was held recently by the Supreme Court in the appeal of *The Registrar-General of Citizenship vs Judith Garfield Todd* (Judgment No. SC 4/03). Miss Todd was born in Zimbabwe and has lived all her sixty (60) years of life in Zimbabwe. However, although her father came to Zimbabwe in 1934, he was born in New Zealand and the Supreme Court found that in terms of the law

of New Zealand Miss Todd was deemed to be a citizen of New Zealand even though she had never taken any steps to claim that citizenship and has never held a New Zealand Passport. The Supreme Court found despite this that she was a New Zealand citizenship by descent and was obliged to renounce that foreign citizenship by 6 January 2002.

16. To summarize, therefore, and subject to what is stated below, the Bill will have no effect on those persons who were born in Zimbabwe and whose parents were born in a SADC country, or persons born in a SADC country, whose parents were born in Zimbabwe but migrated to such SADC country for the purposes of employment, unless such persons renounced their “foreign citizenship” of that SADC country by 6 January 2002.
17. Section 9A(3) of the proposed Bill does allow persons referred to in Section 9A(2) to apply to the Registrar-General of Citizenship “for confirmation of his status as a citizen of Zimbabwe.” If the Registrar-General is satisfied that the Applicant is a person falling within the provisions of Section 9A(2), he “shall ... issue a certificate confirming his status as a citizen of Zimbabwe.”
18. The first point to emphasize in relation to this is that although in the Memorandum at the beginning of the Bill, reference is made to granting exemptions to these people, Section 9A(3) only refers to issuing a certificate of confirmation that a person is a citizen of Zimbabwe. It does not refer to exemptions.
19. As stated previously, I consider that persons falling within the provisions of Section 9(7) have already lost their citizenship of Zimbabwe unless they renounced their foreign citizenship by 6 January 2002. In applying for a certificate in terms of Section 9A(3), there is a clear implication that you are still a citizen of Zimbabwe. However, if you have already lost your Zimbabwean citizenship, then

there is nothing to apply for a certificate for. Consequently, Section 9A(3) is irrelevant and does not assist those people.

20. The only people who maybe be assisted by the provisions of Section 9A are those persons who after the Bill is enacted into law, that is in the future, marry citizens of SADC foreign countries (Section 9 (3)), voluntarily acquire the citizenship of a SADC foreign country (Section 9(4)), or attain majority (Section 9(5)), or become a citizen of Zimbabwe by registration while he is a citizen of a SADC foreign country (Section 9(6)).
21. Even when it is relevant to apply for a certificate of confirmation, there will probably be difficulties. The Registrar-General will have some discretion as to whether or not to issue such a certificate. Furthermore, it will no doubt be a time-consuming exercise to apply for a certificate of confirmation from the Registrar-General and presumably a fee will have to be paid for the certificate.
22. Another critical aspect of the Bill is that in terms of Section 3, which adds a new sub-section to Section 20 of the original Act, the Registrar-General is empowered to produce “a document purporting to be a copy of any written law of a foreign country which shows that any person is, by virtue of that law, a citizen of that country ....” If the Registrar-General does that, then in terms of the new proposed Section 3: “... it shall be presumed, unless it is shown to the contrary, that that person is a citizen of that country.”
23. The above provision in effect seeks to amend Section 25 of the Civil Evidence Act [Chapter 8:01] which states that if any foreign law is to be proved in a Court in Zimbabwe, an expert of that foreign law has to give evidence as to the provisions of that foreign law. The effect of the proposed new Section 3 of the Bill is that the Registrar-General can produce “a document” which he considers is the relevant



law of the specific foreign country concerned and the Court can then decide on the basis of that document whether or not the person concerned is a citizen of the foreign country concerned.

24. It is submitted that the above provision can lead to injustice as neither the Registrar-General of Citizenship nor any Court in this country authoritatively knows the laws of any foreign country. That was the basis on which Section 25 of the Civil Evidence Act was introduced and, it is respectfully submitted that there is no good reason why that provision should not apply to laws relating to citizenship.
25. Yet another defect in the proposed new Bill is that it only is concerned with citizens by descent of SADC countries. It is not concerned with citizens of any other country outside the SADC region. For instance, it does not include persons like Miss Todd, referred to above, who the Supreme Court decided was a citizen of New Zealand by descent.
26. In the Memorandum of the Bill, it is stated that: “Many of these persons may be rendered stateless if they were to be denied their Zimbabwean citizenship status”. The persons to whom the Memorandum refers are those persons who have links with SADC countries. However, equally, there is a distinct danger that a person who has links with any foreign country, not only a SADC country, can be rendered stateless by the new Section 9(7) introduced by the Citizenship of Zimbabwe Amendment Act (No 12 of 2001). Such a state of affairs would be contrary Public International Law.
27. Another criticism of the Bill would be that the effect of it amounts to discrimination and it can be argued that this is in contravention of Section 23 of

the Bill of Rights in the Constitution of Zimbabwe which outlaws discrimination on the grounds of race etc.

***B. ELLIOT***  
**Legal Practitioner**

15 April 2003

## Appendix 8

### Mliswa arrested

*From The Daily News, April 10, 2003*

By Precious Shumba

Themba Mliswa, the controversial fitness trainer, was arrested in Karoi on Tuesday after he allegedly assaulted two commercial farmers, with whom he is locked in a legal battle over the ownership of their property, and a policeman. Mliswa, reportedly in the company of the "Top Six" Zanu PF gang, allegedly attacked the two farmers, the policeman and the messenger of court at Springs Farm in Karoi. A police officer in Karoi confirmed the arrest of Mliswa and nine other suspects, but declined to give details. He referred further questions to Superintendent Freedom Gumbo, the officer commanding Karoi District, who refused to discuss the matter over the telephone. The incident occurred after John Coast and Allen Parsons went to the farm, equipped with a High Court order allowing them to remove their personal belongings from properties they own in the area. Both farmers are directors with Hesketh Park Estates (Pvt) Ltd. Parsons runs Meadville Investments (Pvt) Ltd which owns Springs Farm, occupied by Mliswa. In January, the two farmers filed an urgent application in the High Court in a bid to recover property worth about \$200 million from their farms. The order was granted on 28 January. The farmers, accompanied by Brighton Chiimba, the assistant deputy sheriff, were on Tuesday escorted to Springs Farm by an Inspector Khumalo and three other officers, all from Karoi Police Station. They were confronted by Mliswa and about 15 Zanu PF activists, among them members of the notorious "Top Six Gang", upon their arrival at the farm. Mliswa allegedly ordered the youths to attack the entourage.

A Constable Mwachenuka at Karoi Police Station confirmed the incident. He said Khumalo was in a stable condition after being treated at Karoi Hospital and discharged. Kelvin Weir, a Karoi resident, said he drove the farmers to Chinhoyi General Hospital where they were treated before being transferred to the Avenues Clinic in Harare. They were discharged after receiving further treatment. Weir said: "The other policemen escaped during the attack, but Inspector Khumalo was hit on the head with a rifle butt. Chiimba escaped over the top of a razor wire fence but sustained serious leg injuries in the process. "Parsons' gun was taken from him and held to his head by one of the militants. The man cocked the gun and pulled the trigger, unaware that there were no bullets. All the time Mliswa and his colleagues said they would kill the 'white pigs' referring to the farmers." Coast was severely assaulted, resulting in him receiving six stitches on the head and eight others on the arm. Parsons, now in Harare, said they went to Karoi at Gumbo's invitation. "Superintendent Gumbo summoned myself and Coast to Karoi where we were supposed to identify our equipment which Mliswa was reportedly selling," he said. "Inspector Khumalo was accompanied by members of the Police Internal Security Intelligence and two officials from the Deputy Sheriff's Office. Mliswa arrived as we were about to leave the farmhouse and immediately ordered the youths to attack and kill us." On 10 January, Mliswa allegedly assaulted Parsons' wife, Jenny, after she visited the farm. Hart Wynand, the director of Justice for Agriculture, the radical farmers' lobby group, said Mliswa kicked Parsons all over the body and pounded Coast's four-wheel-drive vehicle with iron fencing poles.

## Appendix 8

This is an appendix to the Interim Report of the national audit of Zimbabwe's Land Resettlement Programme, prepared by the Parliamentary Portfolio Committee on Lands and Agriculture.

### **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. Mlilo 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 Steokwill (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. Mpofo – Auchenburg in Nyamndlovu, Umguza Block in Umguza 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 Mkwazine 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 9

### Assessment of the Food Situation in Zimbabwe - Dec 2002-Jan 2003: SUMMARY

National NGO Food Security Network (FOSENET)

February 13, 2003

The National NGO Food Security (FOSENET) involves 24 non government organisations that collectively cover ALL districts of Zimbabwe, and all types of communities. FOSENET members subscribe that food distribution in Zimbabwe must be based on a platform of ethical principles derived from international humanitarian law:

- The right to life with dignity and the duty not to withhold or frustrate the provision of life saving assistance;
- The obligation of states and other parties to agree to provide humanitarian and impartial assistance when the civilian population lacks essential supplies;
- Relief not to bring unintended advantage to one or more parties nor to further any partisan position;
- The management and distribution of food and other relief with based purely on criteria of need and not on partisan grounds;
- Respect for community culture and values of solidarity, dignity and peace

As one of its functions FOSENET is monitoring food needs, availability and access.

Information from 103 monitoring sites from 43 districts of Zimbabwe for December 2002 / January 2003 indicate that:

- Reduced food security across districts in all provinces in December 02/ January 03 is reported to come mainly from **marked reductions in volumes of GMB deliveries and in commercial maize meal supplies.**
- **Absolute scarcity of food supplies** has taken over from cost factors as the most common cause of vulnerability
- The share of districts reporting that ‘everyone’ was in need has risen monthly from 0% in September 2002 to the current level of around half of districts (47%). For the third month in a row **household food stocks were reported at less than one month in all provinces.**
- Scarcity has been associated with price escalation in both GMB and commercial market supplies. **Reported upper prices of GMB grain of Z\$200 / 10kg and above are 75% above the controlled price, and more districts have reported inflated GMB prices in this round. GMB price controls are reported to have been better maintained in Mashonaland Central and West and Matabeleland North provinces since August 2002.**
- Informal and black market maize meal prices reported in December / January ranged from Z\$1000 -Z\$3000 / 10kg, highest in urban areas. This is a marked increase on prices reported in November 2002. Differences between reported GMB grain prices and informal market maize meal prices have widened from \$490 /10 kg in July 02 to \$2 800 / 10kg in January 03. This is likely to drive black market activity and leakages

of control price grain unless these markets are controlled or unless formal commercial supplies are increased. Leakages from controlled price foods into black markets represent a flow of public funds to private profits at the cost of poor households' access to food.

- **In the absence of household stocks and other supplies, the demand for relief food has grown.** New relief supplies were reported in six districts and a fall in supply in two districts. The state cash for work programme coverage appears to have remained constant. **This round reports improvements in the inclusion of the elderly, child headed households and ill people in relief.**
- Absolute scarcities are the primary overall obstacle to accessing food. Barriers are more frequently reported to GMB food, less for commercial market food and lowest in relief food. **Political barriers are the most commonly reported bias in access to GMB and commercial food, increasing over previous months, while procedural barriers are reported in relief supplies.**
- The decline in overall national food supplies reported in this round has produced burdens on vulnerable households, indicated through school dropout, increased costs to households of black market food costs, increased time sourcing food reported, and through increased reported dependency on relief.
- **In nearly half of districts households are reported to be using 'coping' strategies that may have negative effects.** These include consuming 'famine' foods that could be potentially toxic, leaving the area they live in, or not coping at all.
- In one district (Mutare Rural) people are reported to be moving away from their homes because of hunger. This would need to be followed up as it is the first time an outflow of this nature has been reported and could signal a transition from food insecurity to more extreme famine type responses.

The falling supply from GMB and commercial food sources, increased barriers to food access and increased dependency on relief observed in this round has raised the profile of equity and ethical issues. The trends reported draw attention to the need for stronger implementation and public reporting on measures to ensuring equitable use of available publicly funded (GMB) food supplies, including eliminating the barriers and unfair preferential access reported with increased frequency in this round, and improving availability of commercial supplies for those with purchasing power. Reports of political barriers to GMB and commercial food supplies at a time when households are very vulnerable due to absolute shortfalls contradicts ethical principles of rights to life with dignity and of non partisan access to food.

Relief supplies are reported to have increased, but relief dependency has also reportedly grown. Many households are reported to be using 'coping' strategies, including asset sales, school dropout, leaving home areas, and consumption of potentially toxic 'famine foods' that may have long term negative effects on households already impoverished by economic decline, unemployment, land hunger and HIV/AIDS.

FOSENET welcomes feedback on these reports.

For a full report, follow up queries and feedback to: FOSENET, Box CY2720, Causeway, Harare - [fosenet@mweb.co.zw](mailto:fosenet@mweb.co.zw)