

# Zimbabwe Human Rights NGO Forum

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## **Complying with the Abuja Agreement: Two Months Report.**

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A report prepared by the  
Zimbabwe Human Rights NGO Forum

17 December 2001

The Zimbabwe Human Rights NGO Forum (also known as the “Human Rights Forum”) has been in existence since January 1998. Nine non-governmental organisations working in the field of human rights came together to provide legal and psycho-social assistance to the victims of the Food Riots of January 1998.

Core member organisations of the Human Forum are:

Amani Trust  
Amnesty International (Zimbabwe)  
Catholic Commission for Justice and Peace  
Legal Resources Foundation  
Transparency International (Zimbabwe)  
The University of Zimbabwe Legal Aid and Advice Scheme  
Zimbabwe Association for Crime Prevention and the Rehabilitation of the Offender  
Zimbabwe Human Rights Association  
Zimbabwe Lawyers for Human Rights  
Zimbabwe Women Lawyers Association

Associate members are: GALZ and ZIMCET

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## Summary

When the Zimbabwean crisis is considered in the light of the Abuja Agreement, the starting place must surely be with the facts. Many aspects of the crisis are common cause, not denied by the Government, although the Government does offer reasons for some of the causes.

A short list of the commonly-agreed facts goes as follows:

- Massive economic decline, which predates the land invasions by more than 2 years;
- Removal of all economic support by the World Bank and IMF prior to the land invasions, which was predicated on financial mismanagement by the Government;
- Open acceptance by the Government of severe levels of corruption in the public sector;
- Deterioration of all support services for the poorer members of the society – health, education and social services;
- Exceptionally high levels of HIV infection in the general population;
- Lengthy involvement in a foreign war, with most costs being incurred by the national fiscus;
- Sustained attacks upon the judiciary;
- Sustained attacks upon the independent press.

Added to these facts, are some others, which are disputed by the Government, but are common cause to most other Zimbabwean players, and virtually all of the international community:

- Very high levels of political violence, with all available evidence indicating the major perpetrators are Government supporters, with tacit and overt Government support;
- A seriously flawed General Election in 2000, with legal challenges to 39 constituencies;
- Adverse international observer reports on the General Election;
- A number of flawed bye-elections subsequent to the General Election;
- The large scale occupation of white-owned commercial farms, and compulsory land acquisition on a dubious legal support;
- The declaration of a partisan position by leadership of the Zimbabwe Republic Police, and consequent tolerance of criminal acts perpetrated by Government supporters.

The Government response to these allegations has been several-fold:

- The passing of a general amnesty for virtually all political crimes committed in the pre-election period in 2000 – this a frank admission of guilt;
- The attempt to block the challenges to the General Election results, which was overturned by the Supreme Court;

- The proposed passing of draconian legislation in respect of the trade unions, the press, election monitoring, and terrorism. Here should be mentioned:
  - The “harmonized “ Labour Act, with its restrictions on free trade union activity and severe controls on strikes and stayaways;
  - The Access to Information and Protection of Privacy Bill, with its extreme controls on the press and media;
  - The amendments to the Electoral Act, with its elimination of civil society monitors and voter education;
  - The Public Order and Security Bill, with its sweeping powers and criminalization of some democratic rights.
- The continuous harassing and some spurious prosecution of members of opposition political parties;
- The perpetration of gross human rights by Government supporters against members of opposition political parties and ordinary citizens;
- The continuous and public assertions by the President, Government Ministers, ZanuPF supporters and militia leaders that they will not abide by decisions of the courts or unfavourable election results.

Overall, the Government asserts that all problems, both economic and political, are the result of an unfavourable land distribution. All persons who oppose this interpretation are deemed to be supporters of white colonial domination and a general imperialist conspiracy.

Virtually all of these facts, both agreed and disputed, were in evidence prior to the Abuja Agreement. Whilst the Abuja Agreement took seriously the Government’s thesis that land was the significant problem, it also made reference to all the other facts given above, and required the Government to take positive steps to address the crisis in its totality.

The Zimbabwe Human Rights NGO Forum previously published a report on the Government’s compliance with the Abuja Agreement in October 2001. This report was made widely available, and was given to the Abuja Foreign Ministers Group during their visit to Zimbabwe in October.

The current Human Rights Forum report – “*Complying with the Abuja Agreement: Two Months Report*” - examines compliance with the Abuja Agreement two months on.

As will be seen, there is no credible evidence that the violence has ceased, either on the commercial farms or in the country generally. The evidence before the Forum indicates that commercial farmers and commercial farm workers are still the victims of gross human rights violations. Furthermore, the evidence indicates, contrary to the assertions of the ZRP, that the ZRP still holds a partisan position, and is frequently either inactive in preventing crimes being committed, in offering protection to the citizens who are the victims of these crimes, and rarely take credible steps to investigate or to hand over for prosecution offenders implicated in the commission of these crimes. Additionally, there is evidence that the state law officers have been dilatory in prosecuting perpetrators of gross human violations.

Again, the evidence indicates that there is no significant reduction in the perpetration of gross human rights generally. There is no change in the number of gross human rights recorded post-Abuja, with the victims being overwhelmingly the supporters of the MDC or other persons deemed to be sympathetic to this party. The perpetrators are overwhelmingly government agents (CIO or police), ZanuPF supporters, or militia. Again there is little evidence to suggest that the ZRP have acted in defense of citizens, or made credible investigations. There is also evidence that perpetrators previously identified as committing human rights violations in the 2000 General Election are again identified in the current period as committing further human rights violations. Given the explicitly partisan position expressed by the senior management of the ZRP, the Forum demands an independent and impartial commission of inquiry on both the violence and the conduct of the ZRP.

As regards credible attempts by the Government to adhere to principles of democracy, transparency and human rights, the evidence suggests rather that the Government is taking steps inimical to such principles agreed at Abuja. The intended passing of a number of new laws, that will all interfere very dramatically with basic human freedoms are clearly not within the spirit of the Abuja Agreement. In particular, the amendments to the Electoral Act clearly violate the intention to hold free and fair elections, and are wholly against the spirit and the content of the SADC Parliamentary Forum's Minimum Standards for Elections.

Thus, the only conclusion that can be drawn is that the Zimbabwe Government has no serious intention to adhere to the Abuja Agreement in any of its aspects. The actions of the Government suggest that it intends to hold elections against a background of organized violence and torture and, furthermore, to hold elections within a framework that is inimical to common standards for free and fair elections. Finally, the Government appears to be taking steps to apply repressive and draconian legislation to many branches of civil society. In the view of the Forum, there are no grounds for accepting that the Abuja Agreement can have any further validity.

The Human Rights Forum condemns the continued violence, the attempts to erode the basic freedoms of citizens and civil society organizations, and the failure to set in place generally-accepted conditions for free and fair elections. There is need for urgent action by both Zimbabweans and the international community if a major catastrophe is to be avoided in Zimbabwe. The Forum calls upon the Commonwealth and SADC to review their positions vis-à-vis the Zimbabwe Government, and to require it to ensure a return to the rule of law, an end to the violence, and the ensuring of free and fair elections within the standards of the Harare Declaration and the various SADC protocols regarding human rights observance and election standards.

## **Purpose of the report**

The Abuja Agreement provided a standard for both the Commonwealth and SADC to measure progress in resolving the Zimbabwe Crisis. In terms of the Abuja Agreement, the Zimbabwean Government committed itself, amongst other things, to "take firm action against violence and intimidation". This report, which is a follow-up to a report issued in October by the Zimbabwe

Human Rights NGO Forum, examines whether there has been compliance with this term of the Agreement. Although the major focus is upon human rights observance, this report also describes the government's response to various other aspects of the Abuja Agreement.

## **Background**

The Abuja Agreement was reached in Nigeria on 8 September 2001. This Agreement seemed to mark a significant development towards addressing the current Zimbabwe crisis.

The primary focus of the Abuja Agreement is the land issue. This has allowed the Zimbabwe Government to treat the Agreement as if it dealt only with the land issue. The vagueness of the terms of the Agreement has also allowed the Zimbabwe Government to construe the Agreement as an unequivocal endorsement of its violent fast track land programme. Additionally, the vagueness of the Agreement has led to an equivocal appraisal of the Government's compliance with the Agreement by the Abuja Group of Foreign Ministers in their recent visit to Harare.

Although land is an important issue, the main reason for the crisis in Zimbabwe is not due to the land problem, but has been induced by bad governance and serious misuse of power. There has been systematic, violent intimidation of opponents of the Government, gross mismanagement of the economy and endemic corruption by Government officials. All of these things have led to instability and catastrophic economic decline. Evidence relating to all of these issues was provided to the Abuja Foreign Ministers.

Nonetheless, the Abuja Agreement does cover most aspects of the Zimbabwe crisis. It commits the Zimbabwe Government -

- to "take firm action against violence and intimidation."
- to comply with the standards contained in the Harare Declaration and the Millbrook Commonwealth Action Programme
- to observe human rights, the rule of law, transparency and democratic principles
- to take a series of confidence-building measures that will lead to immediate and observable changes in the domestic situation.

The dimensions of the Zimbabwe crisis have been most broadly given by Zimbabwean civil society, and these are articulated in the resolutions of the 4 August Conference [See Appendix 1]. This detailed statement stands in sharp contradistinction to most descriptions of the Zimbabwe crisis, and very clearly places the land problem in proper perspective. The Crisis Conference Co-ordinating Committee has sought audience with the Government since August, but has received no response of any credible kind.

Soon after the signing of the Abuja Agreement, doubt was cast upon whether the Zimbabwe Government was sincere in its commitment to take various measures to build confidence amongst all sectors of Zimbabwean society. When a delegation of SADC Presidents arrived on a follow up mission, the Government of Zimbabwe prevented several important civil society

groupings from meeting with and giving testimony to the SADC Presidents. The SADC Presidents made some strong statements in respect of the rule of law and the continuing violence, and required the Zimbabwe Government to take positive steps to redress the situation. It is thus appropriate to take stock of the developments since Abuja, the visit of the SADC Presidents, and the Abuja Foreign Ministers Group.

## **Commonwealth human rights standards**

The Harare Declaration was issued in 1991 by the Commonwealth Heads of Government Meeting in Harare. This Declaration, and the subsequent amplification in the Millbrook Commonwealth Action Programme in New Zealand, states the Commonwealth's standards on human rights and good governance. The Harare Declaration was based upon the Declaration of Commonwealth Principles formulated in Singapore in 1971. These Principles were drawn up in the era of Rhodesian rebellion, and apartheid in South Africa, and, to some extent reflected the concerns of that historical period. They were relatively straightforward nonetheless, and are still applicable today. Starting with an assertion that material well-being is dependent upon peace, order, economic development and the rule of law, the Principles have this to say about human rights:

“...we believe in the liberty of the individual under the law, in equal rights for all citizens regardless of gender, race, colour, creed or political belief, and in the individual's inalienable right to participate by means of free and democratic political processes in framing the society in which he or she lives; we recognise racial prejudice and intolerance as a dangerous sickness and a threat to healthy development, and racial discrimination as an unmitigated evil; we oppose all forms of racial oppression, and we are committed to the principles of human dignity and equality...”

These are very strong principles, but were nonetheless deemed to be in need of revision and extension. The CHOGM in Harare decided to revisit the Principles and make them applicable to the challenges of the new, post-Cold War world. In 1991, the Commonwealth decided to take a more active position regarding the adherence to these Principles. It decided upon indicators of adherence. As regards human rights and good governance, these included:

- the protection and promotion of the fundamental political values of the Commonwealth;
- democracy, democratic processes and institutions which reflect national circumstances, the rule of law and the independence of the judiciary, just and honest government;
- fundamental human rights, including equal rights and opportunities for all citizens regardless of race, colour, creed or political belief;
- extending the benefits of development within a framework of respect for human rights;
- support of the United Nations and other international institutions in the world's search for peace, disarmament and effective arms control; and in the promotion of international consensus on major global political, economic and social issues.

Thus, the Commonwealth has laid out both principles and standards for good national and international behaviour, and all Commonwealth countries voluntarily agreed to be bound by these. It is pertinent to point out that virtually all SADC countries are also members of the Commonwealth, and that these Commonwealth standards must have some application in the thinking of SADC.

The final stage of the Commonwealth human rights process has been the establishment at Millbrook in New Zealand of a mechanism to enforce these principles and standards: the Commonwealth Ministerial Action Group.

At the 15th meeting of the Commonwealth Ministerial Action Group (CMAG) in March 2001, the Ministers from Botswana, Australia, Bangladesh, Barbados, Canada, Malaysia, Nigeria and the United Kingdom took the step of making a statement on the current Zimbabwe crisis. In the usual mild language of the diplomat, they stated some very serious concerns:

“They recalled that at their thirteenth meeting in May 2000, Ministers had expressed concerns over a number of issues in the run-up to Zimbabwe's parliamentary elections. The Ministers were concerned that problems continue, and noted especially recent reports of intimidation of the judiciary and the media. They recalled and affirmed the principles embodied in the Commonwealth Harare Declaration to which all Commonwealth members have pledged their commitment.”

It is to this human rights background that the Abuja Agreement makes explicit reference, and to these standards that we must refer in deciding upon the Zimbabwe Government's adherence to the Agreement. We assert that that these standards are relevant in assessing the compliance of SADC states to regional standards of human rights observance. Additionally, we would point out the development of regional standards for free and fair elections, and the quality of elections is clearly an issue for determining adherence to the Harare Declaration.

### **Adherence to the Abuja Agreement (and the Harare Declaration)**

The Harare Declaration and the Millbrook Commonwealth Action Programme provide some clear parameters for assessing the human rights observance of any Commonwealth country. The Abuja Agreement made explicit reference to these standards. Violations of gross human rights, especially in pursuit of electoral dominance, strike at the heart of the Commonwealth standards.

The Human Rights Forum has repeatedly condemned serious violations of human rights over the past eighteen months. The Government has not addressed these concerns in any credible fashion. The only responses from the President and the Government have been:

- to pass an amnesty for those guilty of political violence;
- to attempt to prevent the courts from setting aside election results even if alleged use of violence and other electoral violations were to be proven; and
- continuously to assert, ever more vociferously, that there are no such violations and that Zimbabwe is a law-abiding country.

The question is whether the Zimbabwe Government has taken firm measures to prevent political violence since the signing of the Abuja Agreement. This requires not merely an examination of human rights observance, but also an examination of the Government's conduct as a whole. The intention of the Government to enact further anti-democratic and draconian legislation does not suggest adherence to the spirit of Abuja, nor a commitment to the spirit of the SADC Presidents' initiative. Here we would point to the following:



- the tabled amendments to the electoral regulations;
- the Access to Information and Protection of Privacy Bill;
- the proposed Public Order and Security Bill;
- the rejection of international monitors.

However, the public face of the crisis has been the so-called “land crisis”, and this has been at the heart of both the Abuja Agreement and the SADC initiatives. The Zimbabwe Government has made many undertakings in respect of these two initiatives, and it is relevant to examine the Government’s compliance with its undertakings.

### **The land crisis and farm invasions**

All reasonable people fully accept that the present pattern of land distribution is inequitable and that there is a for large-scale land reform in Zimbabwe. The only dispute relates to the way in which land redistribution should take place. In the various court judgments referred to below all the judges recognise that land reform has to take place to redress inequitable land distribution.

Occupations of white owned farms commenced at the end of February. Government pretended that it did not order, organise or take part in these farm invasions. It claimed that the invasions were a spontaneous manifestation by the people of desperate land hunger and a peaceful protest against the rejection of a constitution that contained a provision allowing Government to acquire white farmland without compensation. It is clear that these farm invasions were planned and orchestrated by the leadership of Zanu (PF). A few days after the referendum results there were large-scale, synchronised invasions of farms countrywide. Government Ministers and other high-ranking Zanu (PF) politicians and local party officials linked up with war veterans during this process. There was also active involvement of intelligence and army personnel.

The farm invasions formed an essential part of a political strategy to combat the growing influence of the MDC and to win back rural support by using the promise of land resettlement. The Government also used the land issue to try to deflect attention away from other pressing problems such as the dire state of the economy and widespread, large-scale corruption within Government. After the initial invasions there was a massive and rapid expansion of the process. This process required considerable pre-planning and logistical support. There was substantial Government involvement in carrying out the farm invasions. The farm occupiers were transported in an assortment of Government vehicles to the farms they were going to occupy. Once in place the occupiers received monthly payments and regular food supplies which were delivered in Government vehicles.

The farm occupiers waged a violent campaign against the commercial farmers to drive them off the land. Some farmers were killed and many were assaulted. The occupiers also attacked farm workers and destroyed many of their houses. They drove large numbers of farm workers off the farms leaving them destitute.

The commercial farmers brought a series of court cases to try to protect their rights. A full summary of these cases is contained in Appendix 2 of this report. What follows here is a short overview of these court decisions. To start off with the commercial farmers were able to obtain High Court orders declaring the farm invasions to be unlawful and ordering the police to evict the invaders. The police refused to comply with these orders and the government maintained that it would be ill advised for the police that to intervene in a situation that was so charged with political and racial overtones. The land distribution and ownership pattern in Zimbabwe was iniquitous and it needed to be remedied in the shortest possible time. It would not promote the rule of law to enforce an inequitable ownership structure, through the application of brutal state power.

Eventually the matter came before the Supreme Court in late 2000. The Supreme Court was still headed by Chief Justice Gubbay, who was later forced to resign prematurely after government had waged a vitriolic campaign against him. The Supreme Court pointed out that land reform was required in Zimbabwe. What it took issue with was the way in which land redistribution was being effected. It found that fast track land reform had been carried out in a violent and haphazard manner in violation of the Constitution and the laws of Zimbabwe. It ordered that land acquisitions must stop until the government had devised a workable programme of land reform in accordance with the constitutional requirements and until government had restored the rule of law on the farms. However, it suspended this order for six months to allow government to come up with such a programme and to restore the rule of law on the commercial farms.

After this judgment Government passed new legislation that was fast-tracked through Parliament. This was the Rural Land Occupiers (Protection from Eviction) Act [Chapter 20:26]. The effect of this piece of legislation was to protect from eviction for a period of six months all farm occupiers who had occupied farms in anticipation of re-settlement. It suspended the operation of court orders ordering the eviction of settlers and it precluded the courts from ordering the eviction of these occupiers. It also protected the settlers against criminal and civil liability for unlawful occupation of properties and damage caused on the properties.

By the time the matter came back to the Supreme Court Chief Justice Chidyausiku in place of Gubbay and had appointed three additional Supreme Court judges. All these new appointees were widely viewed as being less independent. All four of these judges sat when the land case can back to the Supreme Court for adjudication. The only judge in this case who had sat in the previous case was Judge Ebrahim. The judges for this case were thus selected in a way that would ensure that the court would be likely to favour the Government case.

All the judges other than Ebrahim, ruled that the Government had shown that it had satisfied the conditions laid down previously by the Supreme Court. It now had in place a lawful programme of land reform that was constitutional. The actual way in which the programme was being implemented was outside the purview of the court. They also found that the Government had also restored the rule of law on the commercial farms as it had shown that the police had taken adequate steps to enforce law and order. The rule of law did not require absence of criminal violations; all it required that proper steps to taken to enforce the law. They also ruled that the Rural Land Occupiers (Protection from Eviction) Act was constitutional.

Judge Ebrahim strongly disagreed with the majority. He found that the rule of law had not been restored and that a lawful programme of land reform had not been put in place. The real question regarding legality was whether the programme was being implemented lawfully and in accordance with legally stipulated processes. Haphazard squatting could not constitute a lawful programme of land reform. He decided that Rural Land Occupiers (Protection from Eviction) Act was unconstitutional. In violation of constitutional rights, it deprived the landowner of his rights or interests in his land without compensation; it allowed arbitrary entry into property and occupation of that property, it deprived landowners of their right to protection of the law and the right to freedom of association.

The Government has passed further laws that restrict further the rights of commercial farmers. These include a law that says that when a farmer received notice of acquisition, he must discontinue farming his land and it is a criminal offence for him to interfere with land occupiers. He may continue to occupy his farmhouse but for a maximum period of three months. Another law has been passed that limits farm sizes of farmland to a maximum of 250 hectares in cropping areas and 2000 hectares in ranching areas. This will drastically curtail large scale commercial agriculture.

### ***Violence on the commercial farms***

The Human Rights Forum will not give detailed information on the violence on the commercial farms as this has been extensively documented elsewhere. What is clear is that the invasions of farms have not ceased since the Abuja Agreement, and the available evidence indicates that in some areas the violence may even have worsened. The Zimbabwe Republic Police submitted a report to the Abuja Foreign Ministers contradicting this view, claiming that the situation on the commercial farms had improved dramatically since Abuja. However, this highly partisan and misleading report is at variance with the evidence before the Forum.

The Commercial Farmers Union reports further farm invasions, with some farmers being driven off their farms and some farmers being violently attacked. It provides details of considerable disruption of farming activities, destruction of crops and deliberate burning of pastureland. Finally it documents the continuing violent attacks upon farm workers and the driving off farms of large numbers of farm workers and their families. The large-scale displacement of farm workers from commercial farms is of particular concern. The CFU estimated that 70,000 commercial farm workers and their families had been displaced by the end of August 2001, but this figure has greatly increased in the past few months. It is of extreme concern that no up-to-date figure is available and this masks a humanitarian crisis.

For its part the Zimbabwe Government accuses the Commercial Farmers Union of putting out false information about the situation on the farms. In the light of the claims and counter-claims, the Forum would merely re-assert its earlier statement there is a need for an independent of what has happened on commercial farms since the signing of the Abuja Agreement.

The cases reported to the Forum of violence on farms are summarized below.

### **Chegutu**

- On 30 November, farm invaders and war veterans burnt down 42 houses belonging to Asaf Jazire, Selina Mafuta, Mariyani Tenesi and other unnamed farm workers at Blackmorevale Farm. Some of the workers were beaten with chains and knobkerries while others sustained burns and were treated at Kadoma Hospital. The workers were then ordered to vacate the farm. The owner of the farm was accused of supporting the MDC and aiding gold panners in the area.

### **Chinhoyi**

- On October 9, 20 farm occupiers and war veterans slashed 1.5 ha of new tobacco crop and damaged \$135 000 worth of property on Njiri Farm in Chinhoyi, an undesignated farm. The police arrived two hours after the incident and told the occupiers to stop.

### **Guruve South**

- On 16 November, a pastor, his wife, and the senior foreman at Marira Mbada Farm in Horseshoe were assaulted after they failed to produce ZANU (PF) cards and were therefore accused of being MDC supporters.

### **Hwedza**

- According to The Herald, on 15 September 2001, farm workers at Bita Farm allegedly attacked resettled farmers and ZANU (PF) supporters Fanuel Madzvimba and Alexio Nyamadzawo. Both men were assaulted and subsequently killed with axes, steel chains, spears, sticks, knobkerries and stones. They were killed when they arrived to occupy plots that had been allocated to them at the farm.
- On 15 September 2001, again at Bita Farm, resettled farmers and war veteran militias burnt the huts of 60 unnamed farm workers. The arson attack was in retaliation to the killing of two resettled farmers by farm workers.
- On 18 September 2001 a Daily News crew had gone to cover an incident in which two farm invaders had died in clashes with farm workers at Bita Farm. Farm invaders thought to be ZANU (PF) supporters accused the Daily News journalists, Colin Chiwanza, Mduduzi Mathuthu, Virginia Mauluka and Trust Maswela Mpofu, of being spies for the MDC and the UK Government. They were assaulted for 30 minutes by an "illegal gang camping at the [farm] entrance" permitted by ZRP and ZNA to vet visitors. A ZNA soldier firing into the air and threatening to shoot occupiers saved them.
- On 15 September 2001 at Bita Farm, three lorries arrived carrying about 400 people. C.M. was in the house and heard noise outside. When he went outside to investigate, he saw people being beaten in the compound, including children. He tried to run away but a group of about 12 people cornered him and assaulted him with planks and poles. He received a blow to the head and they assaulted him all over the body. He pretended that he had passed out and the group left him for dead. As a result of the attack, he experiences dizziness, numbness and pins and needles in his arms and legs, has backache, chest pain, bruises on his back, leg, and hands.

### **Kwekwe**

- Occupiers on a farm belonging to S. Smith in Kwekwe have continued to set fires (60% of grazing burned), fell trees, poach, snare wildlife, and have been hostile in threatening to remove the owners. Farm workers are intimidated daily. A local businessman who reportedly

paid the District Administrator for the use of the land occupied one farm homestead. The ZRP have rendered no assistance.

### **Marondera East / West**

- On October 8, unnamed farm occupiers assaulted Hamish Charters of Eirene Farm with whips and sjamboks on his back and shoulders.
- At Chipesa Farm, on October 11, David Kay was arrested on a charge of attempted murder when he went to report that invaders were prohibiting his farming activities. A court order from Justice Chinhengo bars such activity.
- On October 13 farm occupiers from Svosve and ZANU (PF) supporters, including Edward Jera, accused five unnamed farm workers at Uitkyk farm of supporting white farmers and the MDC. The workers were assaulted with axes, knobkerries, chains and sticks. Police took all five to Marondera for hospital treatment.
- The incident follows the issuing of a High Court order dated 4 October 2001 from Justice Chinhengo served on Marondera police on 9 October instructing them to curb lawlessness and enable normal farming operations on Uitkyk, Eirene, Safari, Munemo and Chance farms. Despite intervention and ferrying of the injured to the hospital, the farm owner Angus Campbell believes that ZRP Sgt. Matambanadzo failed to take action contain the situation as the violence developed.
- Between October 13 and 14 Unnamed farm occupiers and ZANU (PF) supporters beat three unnamed farm workers including one pregnant worker at Uitkyk farm. The pregnant woman was repeatedly kicked in stomach until she vomited.

On November 7:

- Tendai Peturo, Takudzwa Chikasha who is Peturo's son (aged 5) and more than twenty-five unnamed farm workers from Mushangwe, Eirene, Angus and Safari Farms were severely assaulted for 'siding with their masters'. Chikasha sustained bruises on his face plus a swollen mouth. The assailants were wielding sticks, knobkerries, chains and stones.
- War veterans and ZANU (PF) supporters beat Nyarugumi Kamburuwa, a farm worker at Mushangwe Farm, all over his back with chains.
- War veterans and ZANU (PF) supporters beat Moses Nyandoro, a farm worker at Munemo Farm, with a hoe handle. \$2 300 stolen was stolen from him during the same incident.
- Farm invaders in the Ruzawi River Valley severely assaulted a three-year-old child. The child sustained bruises and cuts on face. The invaders also assaulted farm workers in the Ruzawi River Valley and destroyed the workers houses in an attempt to get them to vacate their farm.

The following events, affecting farm workers, took place at Munemo Farm on November 7.

- Farm invaders came to N.K's home, kicked the door in and assaulted him with sticks.
- Four farm invaders came to A.W's house, kicked the door in and assaulted him with sticks. They also stole \$1 600, a handbag and pens.
- Seven farm invaders came to E.N's house and kicked the door in. They went to her bed and assaulted her with wire and sticks.
- Nine farm invaders came to M.N's house and beat him with sticks. Six of them took his wife and went off with her.

- Farm invaders came to P.G's house and broke his door down. He went out of his house to see what was happening and beating him with a stick.
- Four farm invaders came to E.T's house and broke the door down. They went to her bed and beat her. They also stole \$8 000 and 2 blankets.
- Five farm invaders broke the door down at P.N.'s house, then beat her with a chain.
- Farm invaders broke into C.M's house after by kicking the door in. They beat him with sticks and a chain.
- Farm invaders kicked the door of E. B's house open and beat her with sticks.
- Two farm invaders came to B. Y's house, kicked the door open and beat him with thick sticks.
- Farm invaders broke the door to S.I's house down and beat him while he still lay on his bed.
- Farm invaders broke the down the door and window of A. C's house and then beat her with logs.
- Farm invaders broke into A.Y's house through the window and entered the bedroom. They beat her before she escaped through the window. The invaders also stole \$5 000 from her.

### **Masvingo North**

- Albert Chamwadoro, an ex-ZANU (PF) MP for Chivi North and the owner of Allandale Farm in Mashava, had the entrance to his farmhouse locked by a group directed by the supporters of Josaya Hungwe, the provincial governor. The group also threatened to kill Chamwadoro. The farm workers were chased away.  
Chamwadoro is allied to Eddison Zvogbo's faction of ZANU (PF) which is sometimes at variants with others in the party. He bought Allandale Farm from Mashaba-Shabani Mines in 2000. Black-owned farms are not supposed to be designated, but Hungwe insisted on the designation and occupation, stating that the certificate of no interest under which Chamwadoro had purchased the farm had been cancelled.

### **Murehwa South**

- On 18 September 2001, at Jibandhi Farm in Macheke, six unnamed ZANU (PF) supporters assaulted the farm owner after having assaulted the farm workers and ordered them to cease work. They returned with reinforcements from Nyazema Township and assaulted the farm workers again and torched their houses. Information about this incident came from Peter Nyadempera, MDC secretary for info and publicity in area.
- On 11 November, Alan Bradley, a commercial farmer, was shot at close range through the shoulder and into the chest at Royal Visit Farm and seriously injured. The farmer, his wife and their two children were returning home when they came across a log barricade on the farm road. The farmer, who was the passenger, got out of the car to ask for the barricade to be removed. When he was met with a hostile response, he got back into the vehicle, but was shot through the shoulder into the chest. It is not clear what type of weapons were used. The motive for the shooting is also not clear, but the farm is occupied and it is known that there is friction between the settlers, senior war vets and the farmer as the former insist that the farmer should not be permitted to continue production. The police arrested one suspect, William Nyawire.

- On 14 November, Unnamed farm workers from Springdale, Craiglea and Mug Farms in Macheke were all evicted from their homes by farm invaders. The ZRP was called in but failed to resolve the matter.
- Unnamed farm workers at Nyagadzi Farm in Macheke had their huts burnt down by farm invaders.

### **Mutare West**

- On October 19 at Guy Coke-Norris' Nyatso Farm in Odzi, war veterans used a District Development Fund tractor to plough 2 hectares of high-value export flowers 48 hours before picking was due. The value of the flowers was at least \$1,2 million in inputs alone. The war veterans threatened to return and destroy the remaining flower crop if he did not leave the farm immediately. They had earlier looted the garden of \$1,4 million in vegetables and gum plantation for temporary housing materials, destroyed a brick-making plant and looted two farmhouses belonging to his sons. Among the illegal settlers is a top-ranking local police officer that visits the farm regularly from the ZRP base in Santana.

### **Zvimba South**

- Farm invaders abducted the farm manager of Mede Farm in Nyabira. It has been ascertained that the manager is still alive. The Nyabira police initially would not react and then did not answer their phone. Eventually a vehicle was then sent to Nyabira to collect the ZRP. It is unclear whether the farm manager has since been released.
- Armed invaders from Lilfordia farm base assaulted Maggie Christian and six unnamed farmworkers of Umzuzuru farm in Nyazura. They stoned all farmhouse windows and stole two tractors. Alistair Smith (the farm owner) was not at home when the attack occurred. Umzuzuru is a large dairy farm that has recently been delisted.
- As can be seen from these cases, there continues to be violence on the commercial farms. The Forum is unable to determine the complete extent of the violence, but the cases indicated above cast serious doubts upon the validity of the Supreme Court's judgment as well as upon the assertions of the ZRP that the rule of law has been re-established on the commercial farms. It thus remains a priority that there is an independent commission of inquiry into the many aspects of the Government's land reform and its application.

### **Cases of political violence**

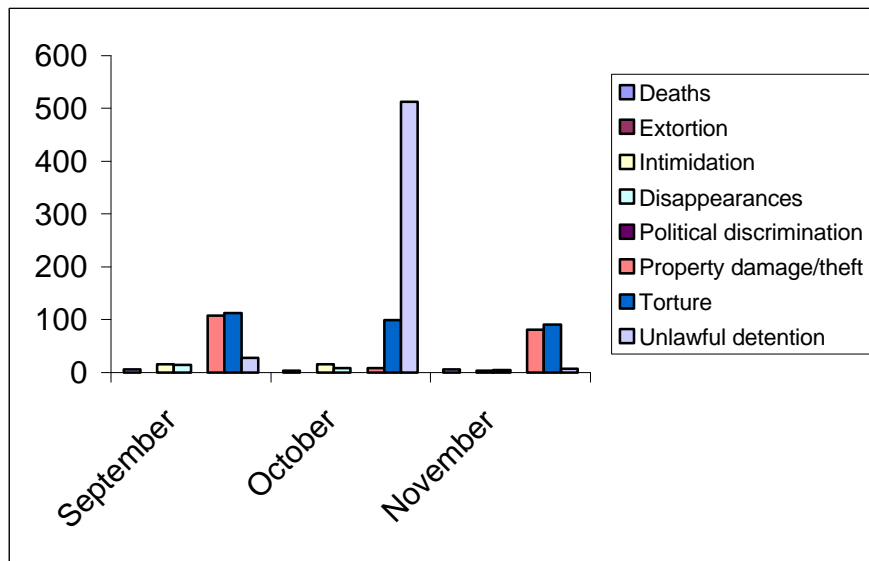
Political violence, particularly in respect of elections, was clearly a concern of both the Abuja Agreement and the SADC President's initiative. A previous report from the Human Rights Forum indicated that there was little change post-Abuja. The cases reported below are summarised from the monthly reports of the Human Rights Forum. The case reports are derived from first-hand testimonies of victims, but, where names are given, these are taken from public reports.

As will be seen from the cases summarised below, gross human rights violations have not declined post-Abuja. Torture continues to be practised by both State agents and other agents acting with the acquiescence of the State. The cases are summarised according to constituency,

and, as will be seen, the purpose seems strongly related to elections, especially the Presidential election.

As will be seen from the overall statistics, there can be no claim that political violence has diminished in Zimbabwe. It is also relevant to point out that the ZRP report to the Abuja Foreign Ministers makes no reference to the general political violence obtaining in the country, and seeks rather to portray a view that all violence is confined to the problems around land. This is clearly misleading and false as the evidence below demonstrates.

### Monthly Totals September-November 2001



**Sources:** Amani Trust medical assessments, HR Forum legal statements, CFU reports and newspaper reports.

**Unlawful Arrest/Detention:** Unlawful arrests perpetrated by members of the police force and unlawful detentions by state agents, members of political parties and private individuals

**Kidnapping/Disappearances:** Victims who have been released and those who are still missing.

**Torture:** Crimes of torture include rape. Rape is a highly underreported crime in Zimbabwe. To date, the HR Forum has only been able to document three cases, all in the month of June. Rape has not been allotted its own category as the low number would minimize the actual occurrences of rape and not effectively illustrate the volume of this crime. All cases under torture also fall under the definition of torture according to the general definition of torture given in the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment and Punishment.

**Displacement/Eviction:** At least 70 000 persons have been internally displaced since January 2001.

As will be seen from the statistics given above, there is a relatively consistent pattern of human rights violations taking place. The rates are relatively similar over the months, and do not suggest that there is any concerted effort by the Government to ensure that violence is stopped or



adherence to the rule of law is ensured. As will be seen from the cases below, it is rather the case that government agents and government supporters continue to perpetrate human rights violations with impunity.

### **Bindura**

- On 17 September 2001, members of the ZRP arrested MDC candidate for Bindura, Elliot Pfebve, on an attempted murder charge. Pfebve was held in cells overnight and was released without explanation after a ZRP meeting with the Attorney General's Office. Pfebve was again arrested when he went to report a second break-in and theft of files and equipment from his computer firm. The arrest related to an attack on an MDC convoy containing Morgan Tsvangirai during July 2001 campaigning in Bindura.
- Three people attacked OM at Chirwaridzo in Bindura on 30 September 2001 around 8.00 p.m. He was hit by stones on his right foot. He is unable to walk flat on his right foot, which is swollen.
- On 13 October EM was coming from Nzvimbo and arrived home at 7 p.m. At 3 a.m. a group of six police support unit officers arrived and beat him for over an hour using boots, batons, and slaps. He and his family were threatened. He tried to escape through the window but was caught and beaten. EM was taken to Matepatepa Police Station until his lawyer arrived in the morning. As a result of the attack, he experiences pain along the spine, on the buttocks, in the shoulders, arms, legs, feet and back, and has palpitations.
- On 12 October at around 3 a.m. RC was awakened at his home in Chiwaridzo, when his colleague opened the door for six policemen. As the policemen entered the house they rounded everyone up and ordered them to lie in a prone position. The officers then began assaulting them with baton sticks. RC was assaulted on the buttocks, hand and right side. After they were beaten the occupants were ordered to get into a ZRP vehicle and were taken to the police station where their names were written down. They were released at 3 p.m. the following day.
- On 13 October at 3 a.m. six policemen burst into a house and started to beat the occupants. TT, an 11-month-old baby, was there with his parents. All of those who were staying in the house were taken to the Bindura police camp. When they arrived, TT, who had been asleep, woke and stretched with his palm outward in the MDC fashion. One of the policemen then beat the infant on the head, forehead, mouth, and left hand with a baton and threatened to kill the child. TT began to cry and the police took him to the cells for an hour before they released him with his mother. At that time one of his teeth was loose. As a result of the beating, the child has healed scars on his upper and lower lip, exhibits swelling and tenderness in his forehead, and cries when he lies on his left side. (*The parents gave this evidence*).
- On 27 October, MDC supporters who came to campaign in Bindura were involved in an altercation with ZANU (PF) supporters. When they left, EN was assaulted by three ZANU (PF) youths. He managed to fight back and escaped. As a result of the attack, he experiences headaches and pains in his legs and feet. He also has a painful jaw and a scar and swelling on his right arm.
- On 27 October DM was travelling to Muzarabani to campaign for the MDC and was involved in an altercation with ZANU (PF) youths. His driver mistook him for the opposition and sprayed DM's eyes with a spray gun while trying to defend himself. Residue remained in his eyes, causing headaches and impaired vision.

- After political violence in Manhenga, BJ, who is 15 years old, and his family moved to Bindura. On 22 October he returned to Waerera School for exams. On that day two ZANU (PF) youths came and assaulted him, demanding to know where his father was. They removed him and his sister from school and threatened to make her their 'wife'. They both escaped later. As a result of the assault, he has a perforated left eardrum and impaired hearing which could lead to permanent damage.
- On 5 November, two unnamed male MDC supporters were reportedly killed at Kitsiyatota Squatter Camp following their refusal to attend the funeral of the ZANU (PF) youth chairman for Bindura, Voster Rupiya.
- MT's wife secured employment with Man-Made Security, which turned out to be owned by Saviour Kasukuwere, ZANU (PF) MP for Mt. Darwin, and Dick Mafiosi, ZANU (PF) District Chair for youth. She was tasked with spying on the MDC for ZANU (PF) but because her husband is an MDC member she refused. However she is now being hunted down for allegedly passing on sensitive information to the MDC regarding the security company.
- On 8 November, Gift Kapfunde and seven other MDC supporters were severely assaulted at Kuyedza Cocktail Bar in Chiwaridzo. Kapfunde received 11 stitches on his face and lost two teeth. He was initially taken to Chiwaridzo Clinic and then transferred to Bindura Hospital. War veterans and ZANU (PF) supporters carried out the attack. They had returned to Bindura after the burial of Cain Nkala and beat up MDC supporters in apparent retaliation for the murder of Nkala.

## Chegutu

- - On 26 September 2001, in Norton, unnamed local ZANU (PF) councillor and ZANU (PF) youths firebombed the homes of Peggy Hwingwiri, MDC organizing secretary for Mhondoro, and MDC Norton Ward 7 organizing secretary Charles Mutunhire. This followed an incident on Sunday 23 September in which an MDC rally at Ngoni stadium was disrupted by ZANU (PF) youths who allegedly wished to play soccer. Mhondoro MP Hilda Mafudze had to abort her address before a ZRP riot squad dispersed everyone with tear gas. In the following days, inter-party clashes continued until the ZNA was drafted to restore order in the area.
  - On 24 September 2001, in Ngoni, ZANU (PF) supporters assaulted MDC Mhondoro district treasurer Florence Chikiri and MDC committee member Prisca Sibanda. Chikiri received head wounds requiring 10 stitches. Sibanda was whipped on the forehead when she opened her door at night. Sibanda's home was splashed with petrol then torched. This followed the incident described above on Sunday 23 September in which an MDC rally at Ngoni stadium was disrupted by ZANU (PF) youths. Sibanda's son, Oliver, was told by Murenje, the ZANU (PF) youth secretary for Mhondoro, to warn his mother not to attend MDC rallies. There were raids on other MDC officials' homes too, including those of Edward Musumbu and Mishek Gava, which sparked MDC retaliation on 26 September.
  - On 23 October JZ was on his way to the police station when he met soldiers and police in an army truck. They took him to a beer hall. They accused him of attending a meeting where arrangements were made to burn settlers' houses. They ordered him to lie down and beat him on the buttocks. They then ordered him to burn some clothes and forced him to do military exercises. He and his family were threatened. An army lieutenant and

the sergeant performed the torture. As a result of the assault, JZ experiences pain in his legs, feet, shoulders and arms. He has abrasions on his back, and a haematoma on his back and on his buttocks.

### **Chikomba**

The Human Rights Forum has previously issued a report on the Chikomba by-election. This report detailed human rights violations in the constituency since February last year, and included cases that occurred after the Abuja Agreement. The cases below occurred after the report was issued.

- On 20 September 2001, in Sadza, members of the ZRP arrested MDC constituency coordinator for Chikomba, Virginia Gwena, MDC MP for Mbare East, Tichaona Munyanyi and 19 electoral agents and electioneers for allegedly moving around at night. They were held in cells overnight and released without explanation on the morning before polling started.

### **Chiredzi South / North**

- On 11 November, Johannes (a.k.a. Felix) Sikele, a resettled farmer, was shot and killed at Fair Range Estate by farm guard, Robert Nganduni. Nganduni was patrolling the area of the farm occupied by the resettled farmers when they challenged him. Sikele and Nganduni were involved in a struggle for the latter's gun during which he was shot at close range in the chest.

### **Chimanimani**

- On 6 October Shepherd Kajai, Tobias Machocho, Edmore Mafuse, Brian Manoma (aged 9), Never Ruwo and at least five unnamed individuals were assaulted by soldiers in Machongwe Village in Chimanimani. Ruwo was hospitalised with a fractured skull. Some of the other victims were threatened if they sought medical assistance. The perpetrators were identified as Asst Insp. Mujuru (ZRP), Joseph Mwale (CIO)\*, Capt. Charamba (ZNA 3 Brigade Mutare) and 25 unnamed persons.

The matter was reported to Constable Matubu (PISI) at Chimanimani Police Station who is said to be investigating the matter. There have also been disturbances reported on Charleswood Estate, owned by MDC MP Roy Bennett, where ZANU (PF) members were urged to seize property. Two ZNA soldiers also entered the farm and 'scuffles ensued' according to reports.

\*Joseph Mwale was named as one of the killers of Tichaona Chiminya and Talent Mabika who were murdered with a petrol bomb in April 2000. A docket, in which Mwale and Kainos 'Kitsiyatota' Zimunya are cited as prime suspects in the murders, was opened and sent by Mutare Police to Police General Headquarters in Harare for them to forward to the Attorney General's Office. Mwale was summoned to testify in the Buhera North electoral petition but disappeared and failed to appear in court. High Court Judge James Devittie gave a directive to Attorney General Andrew Chigovera to prosecute the two for murder but no arrests have been made so far.

### **Gokwe North**

- Gokwe Mukandakanda and Kufa Rukara of the MDC were abducted on October 4 at Mtora Growth Point and severely tortured for over 24 hours by unnamed ZANU (PF) supporters. They were released by the ZRP and taken to Mtora Hospital. Later, they were

transferred to an unspecified hospital in Harare for treatment by a specialist. Their condition was described as 'critical'. It is unclear whether the police arrested the perpetrators.

- On October 12, 20 teachers at Mashumba Primary School were besieged by a group of 500 ZANU (PF) supporters and war veterans. The mob attacked the teachers who then fled 40 kms on foot to Zomba Business Centre. The Midlands regional director of education, Isaac Tanyanyiwa, reportedly was 'unaware' of this and other disturbances in his precinct.
- In a separate incident on October 12, three unnamed teachers were assaulted when the same mob disrupted an awards ceremony at Chomuwayu High School. The headmaster was threatened with death and has subsequently fled. The teachers now want their security guaranteed before they return to school.
- All the cases reported below relate to an incident in Gokwe North, where a group of ZANU (PF) supporters have established a base at Tenda Growth Point. The group is using the base for raids into the community and taking people back for systematic torture. There is clear medical evidence supporting the claims of all these victims, and, in particular, the widespread use of *falanga* (beating on the soles of the feet) is documented. *Falanga* is a form of impact torture that, apart from being excessively painful, can result in permanent disability.
- On Thursday 4 October 2001, at around 3.00 p.m., a group of about 150 ZANU (PF) supporters came for Mr KM, a 42-year-old male, at his father's homestead, and surrounded the house. He ran into the house and they began to stone the house. He offered to come out so that they would not destroy his father's house. When he came out they tied him using tree bark rope and force-marched him to Tenda growth point to their base, beating him all the way. They beat him up all night and into the following morning. At one time they severely beat on the soles of his feet and threw him onto a fire, and he got burnt. The police later rescued him and took him to hospital.  
On examination, Mr KM was found to have a perforated right eardrum, a fractured finger and multiple superficial burns over his back. There were also large bruises on both buttocks, with a large bruise on the left leg. Both feet showed bruising and swelling characteristic of *falanga*. Mr KM was also found to be suffering from a clinically significant psychological disorder.
- On 4 October 2001, at around 4.00 p.m., Mr MM, a 28-year-old male, had arrived home at M village after hiding from harassment by ZANU (PF) supporters. ZANU (PF) supporters suddenly surrounded his village. He hid in the house, but they destroyed the roof and windows. He ran out and they caught him and beat him. Two rocks from a catapult hit him in the face. They tied him up and took him to their base at Tenda growth point. They beat him up until about 9.00 p.m. The police rescued him and took him to hospital.  
Mr MM showed two abrasions on his face corresponding to being struck by catapult missiles. He also showed a soft tissue injury on his left leg, painful ears, and healing abrasions on his chest corresponding to beating with a blunt instrument. He also showed bilateral bruising on his feet, with swelling, which is characteristic of *falanga*. Mr MM was also found to be suffering from a clinically significant psychological disorder.
- On Thursday 4 October 2001, at around 11.00 a.m., Mr MN, a 37-year-old male, was on his way to his brother's house when he was ambushed by ZANU (PF) supporters at a

field in M village. They accused him of not attending ZANU (PF). They started beating him up and made him bite a shoe. They force-marched him to Tenda growth point. They beat him up severely until the following day when the police came and took him to hospital.

On examination, Mr MN was found to have a perforated left eardrum, and haemorrhagic conjunctivitis. He showed multiple facial abrasions and multiple superficial and deep burns secondary to being thrown in a fire. There were several abrasions on his torso, and he showed bruising and swelling of both feet characteristic of falanga. Mr MN was also found to be suffering from a clinically significant psychological disorder

- On Tuesday 2 October 2001, a group of ZANU (PF) youths came to Mrs KMU's house early in the morning. Mrs KMU is a 65-year-old woman. They started stoning her house and shouting for her to come out. They were saying that they were going to finish them off because her sons are not ZANU (PF) supporters. Something hit her on her right hand. They were all screaming and eventually they ran off.

On examination, Mrs KMU was found to have a fractured metacarpal of the right hand. He complained of severe chest pain, but no fractures of the ribs were found. He also had back pain secondary to beating, but no bruises were observed. Mrs KMU was also found to be suffering from a clinically significant psychological disorder.

- On 5 October 2001, there was a ZANU (PF) youth rally. They came to Mr EC's homestead, who is a 66-year-old male, and ordered him to attend the rally. He went to the meeting at Tenda growth point. He was surrounded by ZANU (PF) youths who showed him a group of people whom they said they were going to kill. They accused Mr EC's sons of being MDC supporters. They took his feet and put them over a rock and they beat him under the feet for more than an hour using sticks. After that they were put in the hot sun. The police eventually came and took him to hospital.

Mr EC was found to have extensive bruising and swelling of both feet, characteristic of falanga and a fractured toe. He also had some evidence of deafness due to being slapped about the ears. Mr EC was also found to be suffering from a clinically significant psychological disorder.

- On 4 October 2001, at around 4.00 p.m., a crowd of ZANU (PF) supporters surrounded Mr MMA's homestead and they ran into the house. They stoned the house until he came out. They tied him up and took him to their Tenda growth point base. There they severely beat him until about 4.00 a.m the following day when the police came and took him to hospital.
- On 19 November, Ellifanos Chamunorwa was tortured by being beaten under his feet (falanga) at a ZANU (PF) base in Gokwe.
- On 19 November, Kufa Rukara was abducted at Mrora Growth Point in Gokwe and tortured on 14 October 2001. He was admitted to Gweru Hospital for treatment. Rukara had sustained a severe head injury that could not be treated and a broken right tibia. His condition deteriorated until he was unable to sit or talk. Rukara died on November 19 2001 of his injuries.

### **Goromonzi**

- On 11 September 2001, at Solanio Farm, MDC supporters kidnapped two ZANU (PF) supporters. The two were taken from Solanio Farm to the house of a well-known MDC supporter in Epworth where they were beaten and dumped in nearby bushes. They were

found later by members of their community but died shortly afterwards. Five suspects have been since arrested in conjunction with these killings.

### **Guruve North**

- Mrs RCH was waiting for a bus at Mashumbe Pools township at around 1600 hours on 29 September 2001. ZANU (PF) supporters suddenly surrounded her. One of them got hold of her by the arm and started assaulting her. The others then joined in. She was beaten all over the body with sticks, clenched fists and iron bars. She was assaulted on the head, the right shoulder, and both wrists. She now complains of headaches, backache, and a painful right shoulder. Her house had been previously destroyed on 8 September, and she is now homeless.

On examination, she was found to have bruising on the left arm, the right shoulder blade, and the buttocks. She also had a healing scar on the right forehead, and was suffering from a clinically significant psychological disorder.

- The homes of Roger Mwinga and Ian Musanduka, both members of the MDC, were burnt down in Mushumbi Pools. Joseph Zambezi led the attack together with other unnamed ZANU (PF) supporters.
- ZANU (PF) supporters, on allegations that the villagers sympathised with the MDC, displaced Peter Chafesuka, Cliff Chirowapasi, Robson Mwarawara and other unnamed villagers in Ward 22 from their homes.
- There were numerous cases of torture recorded in Guruve in November, particularly in Mushumbi Pools where war veterans and ZANU (PF) members in Dande tortured Wilson Karikoga, Manikidzo Kopakopa and Nyambari Mahamba and other MDC supporters. The following is a first hand statement given by one of the victims:

### **MM**

I live near Mushumbi Pools in the Dande Communal Land of Guruve North. On 11th November 2001 I was called to a ZANU (PF) Youth Training centre at the old Neshangwe Primary School. Koshiwe Jonasi the ZANU (PF) Youth Chairman was conducting the meeting. Whilst there I was surprised when my name was called out and I had to stand out in front of the other youth with MK, WK, EK, PN and HC. Koshiwe Jonasi told us that the war veterans at Chitepo village in Ward 9 wanted us. We walked all the way to the village. To my astonishment we were called to a place in the bush near the Dande River. Joseph Musauki, a war vet leader and ZANU PF commissariat secretary, called me to come closer to him. He clapped me and then started to strongly assault me with a wooden log. I was forced to lie flat on the riverbed on the hot sand. He assaulted me with that log countless times. He then handed me over to Emmanuel Kirmukiyani (Dombo), Desmond Gomo, Nyande Musauki and Pius Musauki, who tied me up hand and foot and carried on assaulting me for six hours. The assault was by beating, making me roll in the hot sand for more than 150 metres, lying on the hot sand without moving, putting my head in a hole and barking like a dog and doing military drills.

During this time Dombo brought huriri, a very hot plant powder, (buffalo bean) and spread it around my body from time to time. During this time they left me in the hot sun for almost three hours without drinking water. I felt that I was dying. Finally I was offered a cup of water which I could not finish as they hit it down after I took two sips. They left me and told me to go and rest under a tree after they notice that I was momentarily loosing my breath.

Lastly Dombo opened the foreskin of my penis and brushed the huriri against my penis. With the help of Desmond Gomo, Nyande Musauki and Pius Musauki, he opened my buttocks and dropped this hot stuff inside. While I was in agony with this huriri they then beat me with eighteen cuts. I was then told to go home after they had mixed the huriri into my clothes. I was forced to wear those clothes. As I am speaking my penis has some paining cracks and my anus is developing a wound. I am definitely

desperate. They have said they want to set an example on me to show that ZANU can kill. This victimization is a plot by ZANU PF to silence opposition members. And mainly their agenda on me is to make sure that I feel intimidated to the bone. I am the shadow councillor for MDC in Ward 9. They definitely know that if I am allowed to campaign ZANU PF would never stand a chance. I could not report to the police in Mushumbi Pools. The Member in Charge, Inspector Musukwa, has vowed not to help MDC supporters as he is a war veteran.

### **Guruve South**

- Hilary Matema of the MDC was killed on 15 October 2001. Matema was being interrogated by the ZRP on suspicion of unlawfully possessing a firearm after he was accused by soldiers of being an MDC supporter. He was assaulted with booted feet and batons and subsequently tortured to death in the Police Internal Security Intelligence (PISI) office at Guruve Police Station. The perpetrators were named as Herbert Manjengwa and Joe Ndomene. The two were charged with murder and remanded in custody by magistrate Feyi Tito of Bindura to October 30.

### **Harare**

- On 9 September 2001, DM was attending an MDC meeting when a disagreement ensued. During the argument, some other party members from another faction began to assault him. He was assaulted with booted feet on the back, abdomen, right eye, forehead, and left arm. As a result of the attack, he now experiences abdominal pains and pains in the shoulders and arms.
- On 16 September 2001, in Dzivarasekwa, unnamed MDC supporters assaulted Edwin Mushoriwa, MDC MP for Dzivarasekwa, and MDC supporter Janah Ncube. The MDC youths attacked their leaders at a congress when they were denied entry into the hall. Ncube was seriously injured.
- A gang of MDC youths assaulted PC in St. Mary's-Chitungwiza on 23 September 2001 around 7.00 p.m. He was kicked in the head and fell down.
- On 26 September 2001, in Chitungwiza, 150 unnamed youths, including seven ex-MDC supporters, stoned the homes of MDC Chitungwiza District Chair, Stephen Chasara, MDC district secretary, Unganai Tarusenga and MDC Ward 6 Chair, Lucky Parehwa at night. This incident was part of a series of stonings of MDC leaders' property.
- In a related incident on 27 September 2001, in Chitungwiza, 150 unnamed youths including 7 ex-MDC supporters stoned MDC MP for St. Mary's, Job Sikhala's home while he was visiting Stephen Chasara (MDC district chair, St Mary's). All the windows of the home were smashed. Sikhala's baby daughter, Theodora, was cut on the face by flying glass, but his wife, Helen, was not injured. The perpetrators were allegedly under the direction of Tapiwa Mashakada (MDC Hatfield) and Alexander Musundire (MDC Harare province chair).
- On 29 September 2001 SH woke up and found that people had surrounded his house and were stoning it. They were shouting for him to come out. They used a large rock to break his door and three men entered his bedroom. He recognized two of them as ZANU (PF) supporters. They dragged him out into the mud and began to kick him with booted feet. One of them lifted a rock and hit it against his left side and he felt a sharp pain and heard a loud crack. One person in the group told them to stop beating him. They then ransacked his house and stole money and property. He reported the matter to the police. One of the assailants that he named was arrested. He was taken to the hospital. During

the assault he was verbally abused, and threats were made against him and his family. As a result of the assault, he experiences sharp pain on the left side of his body and has disturbed sleep.

- On 28 September 2001 someone repeatedly knocked at FC's door at around 10 p.m. She asked them what they wanted. They said they wanted her but she shouted that she was not in. They went to her landlord's house and asked for her there. They returned to her house and broke her door with an axe and an iron bar. They came in the house so she hid behind a door, naked, but they found her. She saw that they were ZANU (PF) youths. She tried to run but they continued to beat her with sticks, broken bricks, fists, and electric cable with nuts tied to the ends. She received a blow to the head. They left her bleeding. She went to her landlord for help but he wouldn't help her because of fear. She eventually struggled into some clothes and went to the police. The police were hostile to her. They took her to home and then to the hospital. From that day she could not stay at her home, because the ZANU (PF) supporters threatened her landlord until she was evicted. She received verbal abuse, threats against herself and her family. As a result of the attack, she experiences extreme headache, backache, and pains in shoulders and arms. She experiences disturbed sleep, chest pains and palpitations. She has cuts on her face wounds on her chest, lesions all over her back in train track pattern. Her daily work suffers as a result of the attack.
- On 29 September 2001 at around 8.00 p.m. eight people knocked on RM's door, identifying themselves as policemen. They told him he was under arrest for what he had done the previous day. They handcuffed him and marched him away. He was taken to a place known in the area as a ZANU (PF) office. They accused him of being an MDC member and they beat him with sticks, hoe handles, batons and sjamboks. He received a blow to the head. They beat him all over until he was bleeding from the nose. He was able to fight back and escape when the handcuffs slipped. During the assault, he received verbal abuse, and threats were made against himself and his family. As a result of the attack, he experiences extreme eye pain, pain in the shoulders and arms, pins and needles in the arms and legs, and has nightmares. He has bleeding in his left eye, swelling in his arm, a swollen right hand and swollen right leg. He has difficulty sleeping, his daily work is suffering, he feels like he plays no useful part in life, and he is tired all the time.
- On 7 October, ZANU (PF) supporters came in the afternoon to F.M.'s house but they did not find him at home. They broke the doors and left. They returned at about 9 p.m. and took him to their base in Epworth. When they arrived they started assaulting F.M. with sjamboks all over the body. After beating him, they took him into the base and ordered him to identify homes owned by MDC supporters. He was forced to spend the night moving around with them to identify where MDC supporters lived. At around 3 p.m. on the 10<sup>th</sup> he was released. He was told to report to their base every Saturday in the morning for 24 weeks or else they would beat him. They also told him to buy a ZANU (PF) card. They made threats against his family. As a result of the attack, he experiences headache, dizziness, pains the shoulders, arms, feet, legs, and back.
- On 14 October 2001, at about 1.30 p.m., Mr GM was preparing to hold a rally with several others in Kambazuma sector 5. As the rally was about to begin, about twenty-five ZANU (PF) supporters attacked them. The attackers were throwing stones. As Mr GM



was about to run, a stone caught him on the left side of his face. He sustained a deep wound that bled a lot. On examination, Mr GM was found to have two lacerations on the left forehead, that both required suturing.

- Tapiwa Mashakada, the MDC MP for Hatfield, was arrested on October 15 on a charge of possessing an unlicensed firearm (.303 rifle). The firearm had allegedly been left by a security guard at Mashakada's home when the guard was not collected by his employer on time. Mashakada locked it in a wardrobe and was in the bathroom when police arrived to search his home and arrest him. Mashakada turned the gun in to the police.
- On 22 October at about 8 p.m. someone approached TB at his home in Hatfield and told him that a woman was hurt and needed him at his gate. Since he is an MDC secretary, he was used to receiving these requests and complied. When he got to the gate he saw a group of about 50 ZANU (PF) youths. They shouted that he was the problem and began to beat him with an iron bar. They threatened him and his family. They continued to hit him and he lost consciousness. He woke up over an hour later to find his body covered in bruises. As a result of the attack, he experiences headache, dizziness, pains in his shoulders, arms, legs and feet. He experiences palpitations. The area between his ankle and knee is painful, and he has swelling on his knee. He has a lesion on his right shoulder and bruising on the left shoulder. He has a cut on his lower lip and a cut on the right side of his forehead. He suffers from pain on the left side of the neck, and train track marks on his right shoulder. He has a long cut on his right arm and suffers from backaches along his spinal cord.
- On 14 October at about 7 p.m. the local ZANU (PF) chairman in Epworth summoned LH, 62, to the war veteran base. They interrogated her about her alleged MDC activities, and made accusations against her. They then took her outside, forced her to lay prone and used a stick to hit her on the back. As a result of the attack, she experiences pains in her legs and feet, and suffers from backache, chest pain, and palpitations. Threats were made against her and her family. She received a letter from war veteran militias threatening her if she pressed charges.
- On 9 October EP was departing from the MDC provincial offices in Dzivarasekwa in Warren Park and encountered a group of people. They demanded to know where he was coming from but he didn't respond. Two assailants in the group attacked him with a log on the left side of his body.
- Prince Bisenti, Charles Chitida, Fanuel Tsvangirai and Victor Zulu of the MDC were detained for three days from 12 to 15 October (Friday –Monday) on charges of political violence. The group was accused of having beaten people during a door-to-door political campaign in Kuwadzana. The AG's office declined to prosecute the group citing lack of evidence.
- On 14 October PM was at an MDC rally in Kambuzuma when ZANU (PF) youths arrived and began throwing stones. He fled as the police began throwing tear gas canisters at them. One of the canisters burst at his right foot and he sustained an injury. As a result of the attack, he has a large blister 15 cm long and 7 cm wide on his foot with two smaller blisters. He has pains in his legs and feet. He was also subjected to verbal abuse and threats.
- Stephen Gonyora, Tawanda Hwanya, Maria Muzenhama and Rutherford Kwande of ZANU (PF) were assaulted with fists, stones and sticks by MDC supporters while mourners were gathered at a house in Kambuzuma. Kwande's roof and windows were

damaged. The perpetrators were identified as Lovemore Chamunorwa, Kennedy Chinamaringa, Propser Chipungu, Peter Maphosa, Aleck Murayi, Brain/Brian Murayi, Jetro Mutero, Mary Sagonda, Morgan Zvinorova, and fifty unnamed persons. The group was arrested on site and bailed for Z\$1 000 each and remanded to 30 October 2001. It is unclear whether any time was spent in custody prior to their appearance before magistrate Dominic Muzavazi.

- On 13 November, CC was on his way to church in Hatcliffe Extension on a commuter omnibus and was carrying an MDC leaflet. Because of this he was abducted by the war vets and taken to their office in Hatcliffe extension. He was accused of being the main operator in the area for the MDC. He was assaulted with fists as they tried to extract information from him about the district. CC was also assaulted in the abdomen, back and testicles.
- On 11 November, Learnmore Jongwe (MP Kuwadzana, MDC), Hilda Mufudze, Tendai Nyamushana together with unnamed MDC members were held hostage for four hours at the MDC offices at Harvest House by war veterans led by Joseph Chinotimba. The war veterans barricaded the entrance to Harvest House and detained the victims from 9:30am until 1:30pm. They said they were searching for Cain Nkala, abducted in Bulawayo the previous week. The group also assaulted security guards at the building's entrance.
- On 29 November, GC was attacked by a group of about 20 ZANU (PF) supporters. He was accused of having committed an offence by being an MDC supporter. He is a well known MDC activist. GC was struck on the head with a brick and an iron bar. He sustained multiple injuries including head injuries. \$8 000 was stolen in the attack.
- On 14 November, Davis Mtetwa, Steven Chasara and other MDC supporters were assaulted and abducted by police officers in plain clothes. They were taken to Highlands police station and then transferred later to Harare Central Police Station. They were severely beaten with batons and tortured at both police stations. Chasara received seven stitches for a gaping wound on his leg and was treated at Chitungwiza General Hospital. The two were accused of having taken part in the abduction and subsequent murder of Cain Nkala. Below is the full testimony of Davis Mutetwa:

#### **Davis Mtetwa**

“About 7 men arrived at my home and introduced themselves as police officers. They asked us to open up, myself and Chasara. The men had obviously climbed over the gate and were not in uniform. One of them identified himself to Chasara and produced an ID. They asked us to open the doors and the thoroughly searched our house - every nook and cranny was searched. All MDC membership cards, campaign material, files etc were confiscated as well as about 40 party constitutions. We were then asked to carry all the material outside to a blue 323 and a white Nissan Sunny parked outside. At no point did these officers produce a warrant or tell us that we were under arrest. We were force marched to the car and taken to Highlands Police Station. They gave us pieces of paper and told us to write our autobiographies. I wrote less than half a page and was told that that was not enough. All along these officers were liaising with police personnel at Highlands Police Station.

They accused us of not being comprehensive enough and began interrogating us. We were asked why we had joined the MDC and where our party portfolios, families and relatives were. They even retrieved the numbers from my phone and asked for my pin number. They questioned us about the operations of our party, who and how many whites provided the party in our province with money. In the mean time Chasara was in custody at Highlands Police Station.

When I indicated that no white person I knew had given us money, they began beating me and alleged that I knew that the MDC was sponsored by whites. They used a sjambok made of hippopotamus skin to hit me on the head. After that they handed me over to the custody of a police officer at the reception. The ordeal had lasted about 5 hours. After they had interrogated Chasara they took us to Harare Central Police Station. They had bought sadza at Rhodesville and one of them offered me sadza, I had no appetite and I refused.

At Harare Central they took us to the CIO offices in the basement. they then indicated that the time they had been waiting for had arrived. They said they now wanted us to tell them the truth and stop messing around. They also indicated that there was a way of us being implicated in the murder of Cain Nkala. Chasara was then taken out. I told them that I didn't know anything about the murder of Nkala. They severely tortured me, beating me with a sjambok underneath the feet. They rotated the administration of the beatings among themselves. In the meantime they were saying "munhu ngashandwe".

I lost all power to cry out. They further inquired as to how much was in the provincial account. They asked about vehicles that were allegedly bought by a certain Puzzey for the MDC as well as what farmers had offered the MDC money. This lasted from about 3pm till 11pm.

After that Chasara was called in and I was taken into another room. I was asked to salute a picture of Mugabe on the wall as well as toyi-toyi and chant ZANU (PF) slogans. After the beatings, both of us were taken together under guard and they indicated that they would then brief their boss upstairs.

Chasara was then released on the same day having sustained severe injuries. I was taken to Matapi Police Station where I was put in a cell with seven other inmates. We were denied drinking water. Four of them came for me at around 9 am . They took me to a Nissan sunny and blindfolded me and asked me to lie down. They took me to a room in an area I couldn't identify.

I was interrogated further on the same issues as before and then I was asked who I would vote for between Tsvangirai and Welshman Ncube. They also asked me what I thought about Masundire's leadership in the province and what role I had played in his suspension, i.e., what information I had given to the commission of inquiry into the factionalism that took place. I was also asked who we would make the MDC mayoral candidate and among the member of the police and army, who supported the MDC. I was further beaten with a sjambok.

At around 2pm, they went through the files they had seized and questioned me about each piece of correspondence. I was further slapped, knocked about and booted. They threatened me saying that I could disappear and that I was lucky to be going back in one piece. In the evening, I was blindfolded and taken back to the officer in charge, Law and Order section, who asked me to write statement regarding the death of Nkala. He took my fingerprints and then asked me to sign the statement. I was refused the services of a lawyer.

Before I was released the CIO officers involved said that I should not talk to the press and that I should take that seriously. They said my wife would be in trouble if I talked to the press.

I was taken home in a white defender and passed by the officer-in-charge at Morris Depot before proceeding home. I went to the Avenues Clinic but left as soon as my case had been reported. I am scared for my life. I have stopped going to work. They said that if I wanted to go back to work I should be prepared to campaign for ZANU (PF).

## **Hurungwe**

- On 12 October a group of ZANU (PF) youths came to EB's house and threatened to beat her because her son is an MDC activist. She received verbal abuse and threats against her family. EB has been continually harassed for over a year. She escaped to Chinhoyi. EB, 54, has developed a heart condition since the incident and is also affected psychologically by the incident. She finds it difficult to perform daily activities and experiences headaches, dizziness, and impaired concentration and memory. She experiences numbness or pins and needles in the arms and legs, pains on the legs and feet, chest pain, and palpitations.

- On 14 October at 8 p.m. as BC was closing the bottle store where she worked, a group of ZANU (PF) youths entered and asked if she was the MDC secretary. She denied it but they immediately set upon her with logs, fists and booted feet. They beat her for about an hour before she escaped. They threatened her and her family and they proceeded to burn her property. She walked through the night to Zvipani where she got a ride to Chinhoyi. As a result of the attack she experiences headaches, dizziness, and has pains in the ear, legs, arms, shoulders and feet.
- On 12 November, Maxwell Bidi, the MDC chairman for Hurungwe West was abducted by war veterans from Karoi bus terminus, taken to the ZANU (PF) offices and assaulted with logs, empty beer bottles and iron bars. His legs were then bound in wire and he was tied to roof trusses and beaten further. Bidi sustained bruises and cuts all over his body. One of the perpetrators was identified as John Dungiro. Below are excerpts from Bidi's testimony

### **Maxwell Bidi**

"I was abducted at about 3pm by 14 war veterans and ZANU (PF) supporters. I was on my way to Chinhoyi from my home area Magunje. When I disembarked in Karoi, waiting for a bus that would take me straight to Chinhoyi, I saw Cliff Sabadza at one of the call boxes and went to speak to him. I saw 2 ZANU (PF) guys crossing towards the ZANU (PF) offices. I did not suspect anything at the time. When the pioneer bus was about to leave, I said bye to Cliff Sabadza but at the moment I started running to catch the bus, I heard a lot of noise behind me and people shouting at me to run. I saw a group of ZANU (PF) youth surrounding me and they started to beat me. I failed to get into the bus, which drove away. I asked them why they were beating me and they said it was because I was the very person they had been hunting for a long time. I was grabbed by the neck and was kicked by the group. I shouted for help but the crowd just watched in fear and some ran for their lives.

They dragged me to their office, which is 50 metres away from the bus terminus. They ran into the office shouting, "kill him, kill him". In the office I was beaten with stones, chains, baton sticks and beer bottles. I fell unconscious for some minutes and when I woke up the youths were pouring water over me with plates and there was blood everywhere. I saw Gift Sabadza, who was also bloody. I do not know how they got him. I begged them to release him and keep me instead because I was almost dead anyway. They released him and dragged me onto a table. One of the war vets took out his knife and cut my trousers into pieces until I was left naked. He pulled out some rubber band and started hitting my private parts with them. Then the other two war veterans started beating me again. By that time their boss, war veterans chairman John Dungiro had walked in. He told me to stand up and clapped me with his left hand and I fell down. He kicked me and beat me then placed one foot on my head and the other on my neck. I know Dungiro, we are related, but he holds a grudge against me because I am an MDC supporter.

I was already badly wounded when the war veterans started beating me again. They were asking, "Who is Morgan? What is the MDC, What is *chinja* (change)?" Then they said, "*chinja tione!*" ('let's see you change then'). One of them ordered the youths to tie my legs and hands and hang me from the roof. It was getting dark and it was after 5pm when I heard people saying that the police had arrived. The policemen came and talked to Dungiro and the other war veterans outside. I saw the policemen peep through the window and they saw me hanging there. When our eyes met I thought I was going to be rescued but then I heard them being ordered not to interfere with politics. The policemen were told to come back tomorrow and they left. I was then asked about the whereabouts of Cain Nkala, where MDC gets its money from and which farmers support the MDC. At that stage I was no longer able to talk so they gave me a pen and paper to write the information down on but I was no longer able to do that either. As a consequence I was told I would be dead by 2 o'clock.

They started operating in shifts, some beating me and others whilst drinking beer. At about 12 o'clock a new gang of four came in. They asked me if I had been told I was going to die before 2 o'clock. I did not

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answer them. One of them brought a coffin beside me and told me that I only had 10 minutes left. When window. I took cover in a 3-metre trench that surrounds the office. From there I crawled into an office I saw the youth running around looking for me and accusing each other of leaving the window bus terminus. When I got there his wife pulled me into the house. She cleaned my wounds and gave me I went to Chamagamba Police Station to make a report and they said they would write a letter Chinhoyi phoned the Amani Trust and asked them to assist me. I was referred to a private passport, drivers licence, party cards, party programmes and \$5 000 in cash.”

- There was an attempt on the life of MDC President Morgan Tsvangirai on 12 October at Tsvangirai's convoy was allegedly ambushed while ZRP Inspector Makaza (OIC Kadoma) The damage was assessed at \$950 000. A report to the ZRP (CR41/10/2001) was miners' co-operative and Makaza's presence was denied. This is the second ambush on
- On 23 November, KS was approached by ZANU (PF) youths who demanded a party card 4 times with a big log. KS sustained lacerations on his back. Lodges in Kadoma. He was then assaulted by MDC supporters, Evans Ruzvidzo, Chishaya, Tinashe Kudemba, Tawanda Madevuko, Shepherd Banda, Kizito Mhike, and was treated at Kadoma General Hospital. The alleged perpetrators were charged and remanded in custody to 11 December. War veterans, ZANU (PF) supporters and youth was allegedly kidnapped. The MDC youths are said to have retaliated by
- War veterans and ZANU (PF) supporters assaulted five unnamed teachers at (PF) party cards and chant party slogans. A report was made to Sanyati Arda Police post miscarried due to the assault. Kapoka, MDC supporters from Rimuka, were abducted and assaulted by war veterans treatment and their condition upon admission was described as critical. Several houses in

Nyoni, Chamunorwa and Kapoka. The militia is based at the ZANU (PF) district offices in Rimuka, about 100m away from the police station.

### **Kwekwe**

- On 18 September 2001, at Duzi Mine, ZANU (PF) supporters Fidelis Bhebhe, Stella Jere, Matthias Madove, David Mutimwi, and Crispin Nhidza 'commandeered' three trucks to ferry ZANU (PF) youths from Kwekwe party office to Duzi mine, where they assaulted mineworkers and looted their property, particularly from Nelia Marongwe's mine store. They stole cash (Z\$3 000) and meat and also stole a scale (Z\$18 000) and gold concentrate (Z\$35 000) from the mine after switching off the mill. The grand total value of thefts was worth Z\$145 000. Other victims were Elisha Mushayi, Elisha Mukobvu, and Mususa. The five perpetrators were remanded in custody by Gweru magistrate David Johnston Butcher, to prevent them from using their senior positions in ZANU (PF) to interfere with ZRP investigations.

### **Marondera**

- On 11 November, Kudzanai Mashumba, the MDC provincial administrator for Mashonaland East, had his car burned by ZANU (PF) supporters in Cherutombo.

### **Mberengwa East / West**

- Headmaster Hove Gumbo, teachers V. Moyo and Marufu (who are also MDC members) together with unnamed pupils preparing for O- and A-level exams at Vutika High School in Mberengwa were forced to attend pungwes and undergo political re-education by ZANU (PF) supporters. The teachers have been victimised and have had their property destroyed. They have since fled the school. Those responsible have been identified as war veterans Walter Mucheregwa (who is also a teacher) Divine Chitoro, Nyasha Koke and others.
- On 10 November, MM was in the company of Ravengai Sikhucha and witnessed his murder. A war veteran, the MIC at Mataga Police Station, a CIO agent identified as Walter, one Mudzingwa and another police officer only identified as Chris, approached the two. They were accused of having committed an offence because they were alleged to have distributed material for the MDC. MM managed to escape unhurt but Sikhucha was assaulted with booted feet, clenched fists, open hands and baton sticks. He was then forced into a Nissan diesel truck and the group drove off with him. He was later found dead. Police who allege that the deceased simply fell off the back of a truck have ignored the murder report.

### **Mount Darwin North**

- On 20 September 2001, ZANU (PF) supporters dragged MDC supporter, Try Karedza, off a bus and severely assaulted him. Karedza suffered injuries on his left hand and his back. Karedza unwisely told his attackers that he was against fast-track land resettlement. He was saved by the bus crew. On his return, Karedza tried to report the attack to Harare Central Police Station but was referred back to Mt. Darwin ZRP.

### **Murehwa South**

- On 11 October FM was assaulted while walking home by three people who accused him of not surrendering his MDC membership card. He was threatened and punched in the

face and ribs. Since then, he is quite fearful of walking about. ZANU (PF) supporters

October. As a result of the attack he experiences headaches, dizziness, and pains in the ribs and eyes.

On 7 October, at 4 p.m., PK arrived at Chije Centre in Mutoko. Upon entering the shop

way to the local school, eight ex-combatants attacked him. They began beating him using fists and slaps until he bled profusely from the nose and mouth. They tore up his

30 minutes until some passers-by intervened. He did not report to police or go to a clinic.

As a result of the attack he has impaired hearing in his right ear.



Chisambiro Township. he was accused of having defected to the MDC and that his sons were in possession of MDC regalia. He denied this but was made to lie down and was

Chanyuruka.



EM is the ZANU (PF) district chairwoman. She attended a meeting at Chisambiro Township where she was accused of having defected to the MDC and that her sons

severely assaulted.



On 10 November, ZC's husband was assaulted by war veterans for belonging to the MDC. He was assaulted in front of policemen in Mutimbanyoka Village, Chief Chimoyo

guns that they should relinquish. They asked ZC why she had a beautiful home that they could not afford on their war vet gratuities and said that they therefore were funded by the

afterwards.

### **Mutoko South**

On 1 November, at around 18 00 hrs, IC was coming from a funeral in Chief Chimoyo

ZANU (PF) rally at Chisambiro Business Centre. After supper they went to the rally where people were being told to surrender all their MDC belongings. At about 2200hrs another

MDC supporters where they were coming from. One of them approached IC and told him that his name was on the war vets list. I.C. decided to hand over his MDC card but as he

The detainees were released at about 0200hrs the following day.



At around 18 00 hrs DC was coming from a funeral in Chief Chimoyo. He heard a passer-by saying that he and his colleagues were supposed to attend a ZANU (PF) rally at

told to surrender all their MDC belongings. At about 2200hrs another group of ZANU (PF) supporters joined the rally. They announced that they had captured MDC supporters

was on the war veterans' list. He decided to hand over his MDC card but as he did he was told to lie down and was beaten on the buttocks several times with a stick.

- On 10 November, IC met war veterans Steven Tambudze, Christopher Hodzi, Kambanje, Lewis Bhiri, Regis Matambo, Samanyanga, and Collen Bhiri at Chisambiro Business Centre. They beat him and accused him of having guns, communicating radios and holding sewing machines that were given to him by the MDC. He was beaten on the buttocks with logs several times. IC was released at about 1900hrs on the same day.

### **Mudzi**

- Five staff members of the Red Cross, including Kisi Katumirewere, were woken up by war veteran militia and forced, under threat of decapitation, to drive from St. Pius Clinic to Kotwa, where ZANU (PF) membership cards were demanded of them. The group was assaulted for over an hour and again threatened with death for not having these 'passports'. They were hospitalised in Marondera for some days.

### **Mwenezi**

- On October 15 Bernard Chiondengwa, the MDC candidate for Chivi North in the June, 2000 parliamentary elections, reportedly disappeared. He has failed to appear in court three times over his electoral petition and could not be contacted by his lawyers through party structures.

### **Shamva**

- On 16 September 2001 at about 11.00 a.m. whilst JM was at home at least 30 ZANU (PF) supporters approached him. They forced him to follow them at their base in Wadzanai offices. They wanted him to explain why he wasn't attending ZANU (PF) meetings. They accused him of being an MDC supporter and accused his siblings and other relatives of being MDC members. They said he should be disciplined by being beaten. They started assaulting him on his buttocks, left upper arm and right side of his neck with sticks. He was also beaten on the soles of the feet (falanga). He was kept in captivity for at least eight hours until someone passing by advised him to run away. He managed to escape at 7.00 p.m. that evening.

As a result of the attack, he experiences numbness and pins and needles in his arms and legs, pains in his shoulders and arms, pains in his legs and feet, and a backache.

- On 20 September 2001 at 6.00 p.m. a group of ZANU (PF) supporters came to TL's house and accused him of having falsely surrendered his MDC membership. They dragged him to council offices, handcuffed him and made him lie on the ground, beat him all over the body and stole his shoes. He received a blow to the head. He was verbally abused, and threats were made against himself and his family. They came to him the following day and made him leave Shamva.

As a result of the attack, he has cuts on his fingers, a bruise on his head, numerous wounds on his back, swollen buttocks, and train track scars on the back of his leg. He has extreme pain in his shoulders, arms, legs and feet, and has chest pain and disturbed sleep. As a result, his daily work is suffering.



## **Zhombe**

- Unnamed teachers and pupils from Zhombe Primary School and Tenda High School were abducted and taken to a war veterans base in Gokwe. Six teachers fled to Gweru

## **Laws in the pipeline to stifle dissent and protest**

The Zimbabwean Government is about to pass a whole series of laws that, taken in combination, protest. They will also drastically curtail the activities of civic organizations in relation to the electoral process. The laws will also result in the disenfranchisement of large numbers of voters.

### ***a) Access to Information and Protection of Privacy Bill***

been highly critical of the Zimbabwe Government and imposing further controls over foreign have had their accreditation withdrawn by the Information Minister.

Media Commission consisting solely of persons appointed by the Information Minister, a Minister Media institutions must be Zimbabwean owned and only Zimbabweans can be registered as Information Minister. If an owner of a media institution or a journalist operates without being is for a period of two years and the registration of journalist is for a period of one year but such various grounds, including failure to comply with the directions or orders of the Commission and breaches of media ethics and it has the power to deregister the journalist, suspend him or fine

A representative office of a foreign media service can only be set up with the permission of the correspondents in Zimbabwe which means that only a Zimbabwean with the prescribed

In terms of this Bill a media owner or a journalist can be sent in prison for up to two years for

- concealing, falsifying or fabricating information;  
authentic reports;

- denigrating, bringing into hatred or contempt or ridicule or to exciting disaffection against the President, the law enforcement agents or the administration of justice.

**b) The Public Order and Security Bill**

The proposed Bill contains a series of offences that will drastically curtail freedom of expression and the right of peaceful protest.

- A person can be sent to prison for up to five years for communicating to others a false statement intending to undermine public confidence in a law enforcement agency, the Prison Service or the Defence Forces or adversely affect the defence or economic interests of Zimbabwe. This is also committed where these consequences occurred even though they were not intended, providing the person communicating the statement knew that it was false or did not have reasonable grounds for believing that it was true.
- A person can be sent to prison for up to one year for intentionally making a public statement that engenders feelings of hostility towards or causes hatred, contempt or ridicule of the President, whether in person or in respect of his office or makes any abusive, indecent, obscene or false statement about the President, whether in respect of his person or office.
- A person can be sent to prison for up to twenty years if that person organizes or sets up a group or even suggests the setting up of a group that will apply pressure to or attempt to apply pressure to Government by various activities such as violence, **but also various other non-violent acts that are normally permissible in a democracy such as boycotts, civil disobedience campaigns or campaigns of resistance to any law.**

As can be seen from this last provision, which hinges on the definition of “coercion”, peaceful and normal democratic activity will incur severe penalties, without the option of a fine. The definition of coercion includes civil disobedience.

**c) Amendments to the Labour Relations Act**

These contain a provision making it a serious criminal offence to organise strikes, stayaways and boycotts.

**d) Amendments to the Electoral Act**

The election laws in Zimbabwe are already badly skewed in favour of the ruling party and the President is given wide powers to change the rules. The persons in charge of the administration of the elections are widely viewed as being supporters of the ruling party and as performing their duties in a highly partisan fashion. There is no independent Commission to ensure fairness in the elections. Electoral Supervisory Commission. In terms of the Constitution provides that the President appoints all the members of the Commission. The chairperson and two members are appointed by him after consultation with the Judicial Service Commission and the remaining two members are appointed by him after consultation with the Speaker of Parliament. Members of Parliament and local authorities are not eligible for appointment and public officers may not be appointed. The present Commission is seen as being both partisan and ineffectual.

The proposed amendments to the Electoral Act will impose a range of further restrictions. The effect of these restrictions will be to disenfranchise many voters, prevent civic organizations from

engaging in voter education, greatly limit election monitoring and observation and almost completely prevent the posting of posters and other campaign materials on wall, trees etc.

#### *Disenfranchisement*

- Only diplomatic staff and defence force personnel will be able to vote by post, thereby depriving the large numbers of Zimbabweans outside the country of their right to vote
- The requirement to produce proof of residency in the area in which one is seeking to register has meant that many people in the towns, especially young people, have not been able to register as voters as many of them are lodgers, and many have to move from place to place because of the difficulty in finding affordable permanent accommodation
- Although the Presidential election is a national election those running the election have announced that people will have to vote in the constituencies in which they are registered. Many people have fled from the rural areas because of the violence and, especially those who have been physically assaulted, will be too frightened to return to their home areas to vote. This will mean that they will be deprived of their right to vote as they will not be able to prove that they are now resident in the areas in which they have sought refuge.
- The requirement to produce proof of residency in the area in which one is seeking to vote will mean that Zimbabwean living outside the country will not be able to return to Zimbabwe to register and ultimately cast a vote because they will be unable to satisfy the residency requirement.

#### *Monitors and observers*

- The only people who will be able to be election monitors will be public servants appointed by the Electoral Supervisory Commission and trained by the Registrar-General. Public servants are clearly not neutral and are likely to favour the ruling party.
- The Minister of Foreign Affairs invites foreign election observers. He can invite whichever persons he likes to represent foreign governments, international and regional bodies. He may also invite "eminent" foreign persons. The Minister of Home Affairs has the sole discretion to invite persons to represent local organisations. He also may appoint "eminent" local persons. The Government has made it clear that it intends only to invite from outside Zimbabwe representatives of SADC, the AU and Ecowas. People from Africa and the Caribbean will be invited and maybe some other handpicked Commonwealth but whites will be probably not be invited according to the President. The Information Minister has said it would not invite enemies of the State to observe and it would use its discretion to invite friends to observe. Thus only persons likely to give a clean bill of health to the elections are likely to be invited to be observers. (Foreign press elements perceived to be hostile are also likely to be refused accreditation.)

#### *Voter education*

- The Government views most civic organisations as being hostile to it. The Justice Minister has stated that "most local NGOs are partial, foreign funded and loyal to their foreign funders." The amendments to the election laws effectively block civic organisations from engaging in voter education. Only the Electoral Supervisory

Commission may conduct voter education and no foreign funds may be received for voter education other than by the Electoral Supervisory Commission. Breach of these prohibitions attracts a maximum sentence of six months in prison. The Commission may, however, appoint a local person to assist with voter education but that person. An organisation may only be appointed for this purpose if its constitution specifically mandates it to provide voter education. Any person or body appointed to assist with voter education must use the education materials provided by the Electoral Supervisory Commission.

*Correction of voters roll*

- Under the amendments, wide powers are given to the Registrar-General and the constituency registrar to alter to correct errors or omissions on the voters roll and to change the original name or address of the voter to an altered name or address. These powers could be used in a partisan fashion to favour the ruling party.

*Posting of election materials*

- There are ridiculously wide provisions criminalizing the posting of election materials on any walls, trees, building etc without the permission of the owner. This would make it nigh impossible to post on a large-scale basis any election materials.

## **Conclusions**

As can be seen from the cases of violence, there is very strong evidence of continuing systematic torture being perpetrated, mainly by government agents and supporters of ZANU (PF). The victims are disproportionately members of the MDC or persons suspected of being members of the MDC. ZANU (PF) militia, ZANU (PF) youth, ZANU (PF) supporters, police and the CIO are all implicated in the perpetration of torture. There is also evidence of inactivity in defence of citizens, as well as failure to enforce the law effectively by the Zimbabwe Republic Police when the perpetrators are supporters of the ruling party. The evidence does not suggest that there have been credible attempts to restore the rule of law by the Government of Zimbabwe.

The violence is widespread and not confined to the commercial farms, although there is clear cause for concern regarding the violence on the commercial farms. The geographical spread suggests widespread application of torture, and few areas of Zimbabwe can be considered to be exempt from the violence. Most of the organised violence and torture is aimed at political objectives, and, as indicated above, the supporters of the MDC are the primary victims. Much of the violence is aimed at influence the electoral processes in Zimbabwe intimidating voters into voting for the ruling party or preventing oppositions voters from voting.

The strategic purpose of the violence must be read together with the recently declared intentions of the Government to enact new legislation. The electoral amendments and information and security legislation cannot be seen in isolation of the violence, and all point to an attempt by the Government to unfairly influence the forthcoming Presidential Election. Whilst the violence is mainly targeted at the MDC, the proposed legislation seems to be aimed primarily at civil society, and is intended to reduce or eliminate the legitimate role of civil society to act as critics of government policy.

The evidence contained in this report shows that the Zimbabwean government is set upon a path of ever-greater repression. This is wholly in conflict with the undertakings given to the Abuja meeting, the meeting of the SADC Presidents, and the meeting of the Abuja Foreign Ministers. There must be extreme concern therefore about the short-term, and the outcome of the Presidential Election, as well as the course that that Government will take after a fraudulent Presidential election.

## **Annexure 1**

### **Resolutions of the Crisis in Zimbabwe Conference, 4 August 2001**

#### **Introduction**

The delegates at this conference represent two hundred and fifty civic organisations in Zimbabwe and are able to express the views of civil society in Zimbabwe.

The Conference believes that the people of Zimbabwe earnestly want a peaceful, stable and tolerant society. They want to be able freely to choose their government and to require it to govern well in the interests of the people. They want their leaders to operate within the framework of the law and the law to be applied impartially to everyone. They want an honest and accountable government that consults them and takes account of their views before making decisions that will affect their lives. They want economic development for the benefit of all Zimbabweans and equitable distribution of resources.

Regrettably in Zimbabwe presently there is widespread violence, political intolerance, lack of respect for the law and unaccountable government. The violence has created a climate of fear. The disorder and instability has led to rapid economic decline that is bringing enormous suffering to Zimbabweans. Together with the HIV/AIDS pandemic, this has resulted in the near-collapse of the health services, extreme hardship for families, especially for women and children, and the growth of unprecedented poverty.

The State has also shown contempt for the law by ignoring the decisions of the courts and encouraging the police and army to disregard their constitutional duty. Judges, lawyers and journalists have been harassed because they have performed their legitimate duties. Members of civil society organizations, teachers, and medical personnel have been threatened.

There is a political, social and economic crisis in Zimbabwe. The solution to the problems besetting Zimbabwe lies mostly in the hands of the ordinary citizens of Zimbabwe. The crisis requires all Zimbabweans to act according to their belief in, commitment to, and passion for the defence of basic freedoms.

The people are the ultimate source of legitimacy, power and authority and the people have a duty to act in defence of these basic freedoms.

In the light of the deliberations at this Conference the delegates make the following resolutions:

#### **1. Constitutional reform**

Central to the crisis in Zimbabwe is the absence of genuine constitutional reform. There is an urgent need for comprehensive constitutional reform and this should be done before the 2002 Presidential Elections. One important matter that needs to be addressed is the excessive powers vested in the executive President.

The Conference therefore supports the resolutions made at the National Constitutional All Stakeholders Conference held on 31 March 2001 and the timetable for the implementation of these resolutions.

#### **2. Political rights**

All Zimbabweans must be able freely to exercise their political rights without being subjected to violence and intimidation or other sanctions such as loss of job.

All Zimbabweans must be allowed to form political parties, join political parties of their choice and peacefully campaign on behalf of political parties.

#### **3. Elections**

All elections, including the Presidential election, must be free and fair.

Government must immediately appoint an independent electoral commission. The members of this commission must be drawn from nominees provided by the major stakeholders in Zimbabwe. The commission must be provided with sufficient resources to enable it to carry out its functions properly.

The independent electoral commission will accredit all local and international election monitors. Accreditation must be done well in advance of the polling days and local and international monitors must be permitted to observe not only the polling process but also the conditions prevailing in the period leading up to elections and in the aftermath of the elections.

There should be a Code of Conduct covering the activities of political parties and candidates during the campaign and the election period, media coverage of elections and advertising and the conduct of election monitors. The independent electoral commission will be responsible for ensuring compliance with these codes.

There should be a more intensive voter education program, aimed particularly at the population in rural areas. There should be no attempt by the Government to control voter education as is currently proposed.

The voters' roll must be brought up to date and available at least three months before an election. Everyone should have access to this roll.

The Registrar-General's Office must be required to give full reasons for any disqualifications of voters.

The postal balloting arrangements must be revised to ensure that all eligible voters outside the country are able to cast their ballots. Very large numbers of Zimbabwean citizens living outside Zimbabwe are currently deprived of their right to participate in elections, and this is unacceptable. Election monitors must be allowed to monitor the postal vote process.

#### **4. Rule of Law**

The Conference notes that the rule of law does not mean that the law cannot change even if those laws are unfair. Unjust laws can and must be changed. Inherited oppressive laws and laws that stand in the way of progressive social and economic reform must be overhauled. A democratic society must operate within the framework of legal rules that have been passed in the interests of the people. Democracy cannot function in a lawless society.

The Conference views with the deepest possible concern the breakdown in the rule of law, the attacks upon the judiciary and the disobedience of court orders, the failure of the law enforcement agencies to enforce the law impartially, the failure to protect citizens from violence, and the increasingly militarisation of the state and civilian administration.

There must be an immediate return to the rule of law and all court orders must be obeyed.

The independence of the judiciary must be guaranteed.

The police must undertake their constitutional duty without fear or political favour and the Commissioner of Police and all other members of the police force guilty of partiality must resign.

The Central Intelligence Organisation must be depoliticised.

All militia units masquerading as "war veterans" must be disbanded.

#### **5. Gross human rights violations**

The present climate of political violence must immediately be replaced by a climate of peace and tolerance.

The President and the Government and all opposition political parties must repudiate the use of violence and must advocate peaceful political processes.

The Government must ensure that the police enforce the law without fear or favour.

All amnesties for human rights abuses must be removed.

An independent judicial commission must be set up to investigate all gross human rights violations with the power to ensure prosecution. This commission must be mandated to investigate not only recent violations but also past violations such as those in Matabeleland during the 1980s.

## **6. The media**

The public and private media must be allowed to operate freely without restrictions that are incompatible with an open democratic society.

The airwaves must be freed to allow diversity in electronic broadcasting. The legislation passed by Parliament governing electronic broadcasting must be repealed and be replaced with legislation that opens up the airwaves.

The public media must be obliged to give fair and balanced coverage to the differing opinions held by Zimbabweans.

The violence and intimidation directed at the independent media must end.

A proper system must be set up that will allow people to have access to information held by Government.

The proposed legislation that will enable Government to impose unreasonable controls upon media practitioners should be rejected by Parliament.

## **7. Corruption**

The Conference notes the existence of rampant corruption in the use of public funds and in the private sector. This has contributed to the dire economic situation, with both high inflation and prices adversely affecting all citizens. There is also corruption in some non-governmental organisations.

An independent anti-corruption commission must be set up with the extensive powers to investigate corruption, recommend prosecutions and recover stolen monies and assets.

There must be immediate investigations into the administration of all public bodies and parastatals.

Legislation must be passed that encourages people who know that corruption is occurring to report such corruption and be protected against reprisals for making such reports.

All ministers, members of parliament, civil servants, and members of parastatals must fully and publicly disclose their personal assets and interests.

## **8. Land**

The Conference fully accepts the present inequitable pattern of land distribution cannot continue and that there is an urgent need for major land reform in Zimbabwe. The land reform programme must, however, be properly planned and executed so that it benefits those in need of land and ensures that resettled farmers are given proper support systems to enable them to farm the land productively. It must also be carried out within a legal framework and without the use of violence.

The Conference notes that the chaotic "fast track" land grab has been carried out with violence and in contempt of the rule of law.

There must be an immediate cessation to the "fast track" land programme. The present occupations must be rationalised in terms of the law but those guilty of violence on farms must not be eligible for incorporation into a new lawful programme

There must be immediate compliance with all courts orders issued in connection with the "fast track" land programme.

There must be a transparent and accountable process of genuine land reform in the interests of those who need land. The reform programme must ensure that women benefit fairly and directly from land resettlement. A proper system of land tenure must be put in place and section 23 of the Constitution must be amended so that women can own land in their own right.

## **9. Economic policies**

An economic policy body must be set up with power to veto inappropriate Government expenditure.



The Conference notes the near-demolition of the Zimbabwean economy brought about by misguided policies, corruption, international isolation, and the involvement in the war in the DRC. All Zimbabwean troops must be withdrawn immediately from the DRC and the cessation of all military expenditure on this war.

There must be full and detailed disclosure of all government expenditure, auditing of all Government ministries, including the Office of the President, and the auditing of all parastatals.

#### **10. Human Rights Conventions**

Zimbabwe is a party to a number of international human rights conventions but the Government often continues to breach the provisions of these conventions.

The Constitution must be amended so that all human rights conventions are automatically incorporated into Zimbabwean law after Zimbabwe accedes to them.

#### **11. Women**

The social and economic conditions arising out of the crisis in Zimbabwe have had a particularly harsh effect on women.

In addressing the crisis special attention must be paid to the needs of women.

Government must give effect to all international human rights instruments on women's rights. It must repeal the provisions in section 23 that provide that the protection against discrimination on the grounds of gender does not apply where African customary law is involved.

#### **12. Youths**

Youths are suffering grievously as a result of the current crisis. Many are unemployed and their access to education is being increasingly limited.

In addressing the crisis special attention must be paid to the needs of the youth.

The massive increases in fees at all tertiary institutions must be withdrawn.

An independent youth commission must be established to represent the youth.

The National Service programme introduced by Government must be scrapped.

#### **13. Children**

The present crisis, including the AIDS pandemic, is inflicting enormous suffering for children. In addressing the crisis special attention must be paid to the needs of children.

#### **14. Steps to be taken if Government does not accede to demands**

The Conference believes that the crisis in Zimbabwe must be resolved immediately before the country descends into chaos.

It therefore reserves the democratic right to engage in civic action, including civil disobedience if Government refuses to accede to the demands of this Conference or to engage in meaningful discussion on these demands.

#### **15. Non-governmental organisations Crisis Centre**

Given the increasingly hostile environment under which non-governmental organisations are operating, the Conference supports the establishment of an NGO Crisis Centre to provide medical, legal and other necessary supports to all citizens requiring such support.

#### **16. Regional and international bodies**

The Conference calls on SADC, the African Union, the United Nations, the European Union, the Commonwealth and foreign governments to use their influence to bring about a restoration of peace, functional democracy and the rule of law within Zimbabwe and compliance with the African Charter on Human and People's Rights and United Nations human rights instruments and the Harare Declaration.

We call on the regional and international observers present at this Conference to communicate these resolutions to their governments and organisations and facilitate dialogue between civic society and their governments and organisations.

Once peace, functional democracy and the rule of law have been restored, the international community must be prepared vigorously to assist Zimbabwe with economic aid and debt relief.

## **Appendix 2**

### **The court cases on the land issue**

#### **The High Court decisions**

When the farm invasions started the Police Commissioner washed his hands of the matter, stating that the police could not act because the matter was political. On 17 March 2000, the Commercial Farmers Union (CFU) obtained a High Court order from Judge Garwe. This declared the invasions to be illegal and ordered the police to evict the unlawful occupiers from the land within twenty-four hours. This High Court order was made with the consent of all the parties, including Dr Hunzvi and the police.

However, the leaders of the war veterans publicly proclaimed that they would not obey Judge Garwe's court order but instead they would intensify the programme of farm occupations. The police also made no attempt to comply with the order, claiming that the issue was a political one and that it would be impossible, dangerous and counterproductive to do so.

The Attorney-General then applied for a variation of the order on behalf of the police. He argued that after the order was issued, the police realised that they had insufficient resources to effect the evictions. He also argued it would be ill advised for the police that to intervene in a situation that was so charged with political and racial overtones. The land distribution and ownership pattern in Zimbabwe was iniquitous and it needed to be remedied in the shortest possible time. He further argued that it would not promote the rule of law to enforce an inequitable ownership structure, through the application of brutal state power. The Commissioner of Police did not maintain a non-partisan position, as required by the Police Act. He openly proclaimed his complete support for the ruling party and, even as recently as last week, publicly expressed support for the land reform process of the Government.

In another High Court case Judge Chinhengo characterised the invasions as illegal and of a riotous nature. He said that the Commissioner of Police had a clear duty to enforce the consent order and to afford commercial farmers the protection of the law enshrined in the constitution. The rule of law meant that everyone must be subject to a shared set of rules that are applied universally, deal on an even handed basis with people and treat like cases alike. If there were laws that stood in the way of more equitable land redistribution, Parliament could change the laws. Whilst the laws remained in existence, however, the courts had the duty to enforce those laws and those affected by official inaction were entitled to bring actions based on the law to protect their interests. In the opinion of the judge, police intervention was unlikely to ignite an already explosive situation. Where the executive had acted in relation to previous farm invasions, the invasions had ended.

The farm invasions continued and the police continued to take no action to prevent the occupations or evict the occupiers. On 19 April 2000 the High Court held the leader of the war veterans, Dr Hunzvi, in contempt of court for failing to comply with an earlier High Court order barring him from inciting war veterans to invade farms. The judge, however, postponed the passing of sentence until 5 May 2000 on condition that the Dr Hunzvi complied with the initial court order and that he took steps to assist the CFU to ensure peaceful evacuation of the occupied farms. In his affidavit in connection with this case Dr Hunzvi had said he was committed to obeying the law and the court order, and that he would always strive to assist the CFU to "ensure the peaceful vacation of the war veterans of the farms." He also maintained that in speaking to the war veterans on the farms he had been trying to persuade them to leave the farms.

#### **The Supreme Court decisions**

The CFU brought two actions in the Supreme Court. In the first, which was brought in mid-September 2000, the CFU challenged head-on the legality of the entire resettlement programme. In the second which was brought at the end of October 2000, it complained that government had failed to follow the correct procedures for acquisition specified in the laws it had passed.

In the first case the CFU argued that the laws upon which the State was relying to carry out its programme of land acquisition were unconstitutional. It also argued that the programme had been carried out unlawfully. The programme had been beset by lawlessness due to the failure police had failed to comply with High Court orders to remove the invaders. It alleged that the programme had also been carried out in a politically and racially discriminatory fashion.

Before the Supreme Court could hand down its decision in the first case, the CFU felt obliged to bring a second action in the Supreme Court. It did so because government was not complying with legally prescribed procedural requirement in carrying out its fast track resettlement programme. In this second case the respondents were the Ministers involved in the carrying out the resettlement programme and the Provincial Governors. The respondents consented to the order handed down by the Supreme Court. In the order the respondents acknowledged the illegality stemming from the failure to comply with the procedural pre-requisites. The respondents were ordered to stop implementing the programme until the procedural pre-requisites had been followed, which steps were set out in the order. (These included the giving of three months notice to vacate). The Court also ordered the police to remove from farms all persons who had unlawfully entered the properties, had breached the peace or had conducted themselves in some other unlawful manner on the occupied farms.

The Supreme Court then gave its judgment in the first case. It observed: "there is no dispute that a programme of land reform is necessary and indeed essential for the future peace and prosperity of Zimbabwe." It was expected, however, that the resettlement would be carried out in conformity with the law. Although the land issue was a political matter, the political method of resolving this issue "is by enacting laws." Government had enacted the necessary laws but had then failed to comply with the laws it had enacted. All the courts were doing was to seek to have government abide by its own laws.

It went on to observe that government was "unwilling to carry out a sustainable programme of land reform in terms of its own law." Land resettlement had not being carried out in accordance with a programme of land reform as required by the s 16A of the Constitution or in accordance with other laws. The settling of people on farms "has been entirely haphazard and unlawful." "A network of organisations, operating with complete disregard for the law, has been allowed to take over from Government. War veterans, villagers and unemployed townspeople have simply moved onto farms. They have been supported, encouraged, transported and financed by party officials, public servants, the CIO and the Army. The rule of law has been overthrown in the commercial farming areas and farmers and farm workers on occupied farms had consistently been deprived of the protection of the law."

It declared that the farm occupations amounted to unfair discrimination. It said it might not have constituted unfair discrimination on the grounds of race if, in order to right historical wrongs, the government had expropriated farms owned by whites, provided that this had been done lawfully and with the payment of fair compensation. However, various government officials had announced that only ZANU (PF) supporters would be re-settled on the land. There was no doubt that it amounted to unfair political discrimination to target farmers who are believed to be supporters of an opposition party, and to award the spoils of expropriation primarily to ruling party supporters. If ZANU (PF) party branches or cells or officials are involved in the selection of settlers and the allocation of plots, the exercise degenerates from being an historical righting of wrongs into pure discrimination. The displacement of thousands of farm workers of foreign origin who were lawful permanent residents also amounted to unfair discrimination. It also declared that forcing farmers and farm workers to attend political rallies had violated their right to freedom of association and assembly.

The Supreme Court pointed out that it was the duty of the courts to insist on compliance with the laws be followed and that there be a return to lawfulness. The Supreme Court ordered the respondents to comply with the High Court and Supreme Court orders, made with the consent of the parties in terms of which government was ordered to comply with the law in carrying out land resettlement and the police were ordered to evict unlawful occupants.

It also interdicted the Minister involved in implementing the resettlement exercise from taking further steps to acquire land. However, it postponed the operation of this interdict for six months.

The court said it had suspended the order to enable the Ministers to produce a workable programme of land reform, and to enable the Minister of Home Affairs and the Commissioner of Police to satisfy the Court that “the rule of law has been restored in the commercial farming areas.” It is difficult to understand why the court suspended the operation of this interdict for six months. Once the court had decided that the government resettlement exercise was unconstitutional because it did not constitute a programme as required by s 16A of the Constitution one would have expected the court to order that the unconstitutional exercise stop until a proper programme had been put in place. What the court was doing was to allow the government to continue with an unconstitutional process while taking steps to make it constitutional by devising a workable programme and carrying it out in accordance with the laws establishing that programme.

Following the Supreme Court decisions, the Government took a number of steps. Some commercial farmers had applied for and been granted High Court orders obliging the Zimbabwe Republic Police to evict persons who had illegally occupied their land. To put a stop to this, Government passed new legislation that was fast-tracked through Parliament. This was the Rural Land Occupiers (Protection from Eviction) Act [Chapter 20:26]. The effect of this piece of legislation was to protect from eviction for a period of six months all farm occupiers who had occupied farms in anticipation of re-settlement. It suspended the operation of court orders ordering the eviction of settlers and it precluded the courts from ordering the eviction of these occupiers. It also protected the settlers against criminal and civil liability for unlawful occupation of properties and damage caused on the properties. This Act thus negated the earlier decision of the Supreme Court requiring the ZRP to remove all unlawful occupiers and to take steps to deal with the illegal occupation and unlawfulness obtaining on the commercial farms. It legalised the often-violent invasions of land that had taken place and prevented owners of occupied properties from taking legal action to recover possession of their properties.

After the period of suspension of the earlier Supreme Court order had expired, the matter was brought back to the Supreme Court for determination as to whether Government had put in place a programme of land reform as required by the Constitution had restored the rule of law in the commercial farming area. The Supreme Court was composed of the newly appointed Chief Justice Chidyausiku, three newly appointed Supreme Court judges and only one Supreme Court judge who had sat in the earlier cases, namely Justice Ebrahim. The Chief Justice and the three newly appointed judges decided that the Government had complied with the Supreme Court order to put in place a proper programme of land reform that complied with the Constitution. This programme was being carried out in accordance with the law. They found that the Rural Land Occupiers (Protection from Eviction) Act [Chapter 20:26] was constitutional. They found that this Act did not violate the constitutional rights of owners of properties, as the legislation applied to properties being acquired in terms of section 8(1) of the Land Acquisition Act [Chapter 20:10]. In terms of section 8(3) of that Act, it decided, the acquiring authority became the owner of the property being acquired in terms of section 8(1) and the original owner of the property only regained ownership if the Administrative Court refused to confirm the acquisition order. As the farmers were no longer owners of such farms but mere occupiers they could not exercise the rights of owners and claim that their rights as owners had been violated. They also found that the actual manner in which the programme of land reform was being implemented was a policy matter outside the purview of the court.

The four judges also found that the government had taken sufficient steps to restore the rule of law on commercial farms. Regarding rule of law, it found that the rule of law did not require that the rule of law did not require a totally crime free environment. What it requires is that the government take adequate measures to enforce law and order. The test for restoration of the rule of law was not the number and gravity of criminal acts committed but the rather all the measures including policing and prosecution. It was satisfied that the government had taken adequate measures to enforce law and order on the farms.

The decision of the four judges newest decision seems predicated more upon political expediency than on law. The evidence in this report shows that violence on commercial farms has increased and that little has been done to stem this violence.

In a strong dissenting judgement, Justice Ebrahim reached entirely different conclusions. He found that the rule of law had not been restored and that a lawful programme of land reform had not been put in place. The real question regarding legality was whether the programme was being implemented lawfully and in accordance with legally stipulated processes. Haphazard squatting could not constitute a lawful programme of land reform. He decided that Rural Land Occupiers (Protection from Eviction) Act was unconstitutional. In violation of constitutional rights, it deprived the landowner of his rights or interests in his land without compensation; it allowed arbitrary entry into property and occupation of that property, it deprived landowners of their right to protection of the law and the right to freedom of association.

The many factors taken into account in the previous Supreme Court decisions do not appear to have altered, and, as Justice Ebrahim indicated, the majority decision seems to have been predicated not upon issues of law but rather upon issues of political expediency. At one point in his judgment, Chief Justice Chidyausiku had this to say:

“More importantly, land acquisition and redistribution is essentially a matter of social justice and not strictly speaking a legal issue. The only legal issue of substance is whether the acquisition is done within the procedures set out by the law.”