



**The Zimbabwean Struggle:**

*Obstacles to Democracy*

May 2004

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## Executive Summary

The crisis in Zimbabwe continues to deteriorate as the democratic, political and economic instruments of the country are further weakened. In recent years, the Government of Zimbabwe has introduced a range of legislation which is effectively impeding a normal democratic process while non-legislative moves have sought to politicise various state organs to secure power in the hands of the ruling Zanu-PF party. Government actions, carried out under the guise of maintaining national security or regularising the law code, have had considerable political implications favouring the ruling party and severely discriminating against opposition parties.

The roots of the increasingly repressive and hardline position of Zanu-PF, which has ruled the country since independence in 1980, can be traced back to 2000 when President Mugabe's party suffered the humiliation of being defeated in a referendum to change the constitution. Fearful of losing power, the Government introduced several pieces of legislation to restrict the freedom of assembly, curtail the media, allow for Government interference in the election process and provide additional powers to the President.

Judicial independence has been undermined as a result of political intimidation and the coercion of senior judges. The Government has actively de-professionalised the police and army appointing individuals known for their loyalty to the ruling party, while they have established and politicised a youth militia brigade which act with impunity and facilitates extensive control structures throughout the country.

Areas where Zanu-PF voter support was considered low have been targeted for 'land reform' activities.<sup>1</sup> In some cases, various armed groups under the control of the Government have systematically and violently intimidated opposition supporters. Opposition candidates are obliged to accept as part of electioneering a systematic campaign of violence, abuse, torture, arson, rape and murder perpetrated by ruling party supporters, youths, 'war veterans' and, in some instances, the army. As violence prevails over 'normal' election processes, the value of the vote decreases to the point where the public no longer views the ballot as a legitimate way of changing the government with the result that many people do not want to be associated with the political discourse.

The measures taken by the Government have cumulatively eroded the democratic process in Zimbabwe and, if the situation is allowed to continue, will negate any possibility of free and fair parliamentary elections which are planned for early 2005. The lack of freedom, fairness and transparency at the polls on the one hand, and a low opposition turn-out due to widespread intimidation on the other, could lead to Zanu-PF easily securing a further five years in power. Furthermore, it is possible that Zanu-PF could acquire the two-thirds majority in parliament necessary to change the constitution at will.

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<sup>1</sup> Roy Bennett, an opposition MP and white farmer, had his farm occupied in April 2004 by alleged war veteran and members of the army despite court orders banning such a move. The term war veterans, while commonly used, is a misnomer as the groups largely comprise people too young to have been involved in the 1970s liberation war. Legitimate war veterans from the liberation war have organised themselves and campaign peacefully for conflict resolution and human rights as well as being a representative body, and are generally not involved in farm occupations or pro-Zanu-PF activities.

Since 2000, the Zimbabwean population has faced economic collapse and widespread food shortages, with six million people on the brink of famine. The Zimbabwean economy has been in recession for five years with real GDP growth declining by 18.6 percent and 12 percent for 2002 and 2003 respectively. The official annual inflation rate in Zimbabwe rose from 598 percent in December 2003 to 622 percent in January 2004.<sup>2</sup> In 2002, over six million people (or approximately 50 percent of the population) faced food shortages.

While there has been a considerable humanitarian response from the international community, forecasts for the harvest currently under way (April/May) suggest that food production will reach only 50 percent of that required for a population of 11 million.<sup>3</sup> Meanwhile, the Government has not invited the UN to respond to 2004/05 food shortages stating that the government will be in a position to respond to food shortages, if any. This has sparked speculation that the Government is planning to significantly increase their existing practice of using food as a political instrument.

Despite the presence of a vibrant, if repressed, civil society in Zimbabwe and efforts by opposition politicians/parties, the ruling Zanu-PF has effectively manipulated several state instruments into political tools to create obstacles to the democratic process and support their continuation in power. South Africa, seen as a pivotal player in the region and leader of the African Renaissance, has failed to effect any form of positive change in the country. Efforts thus far by the European Union, while worthy in their own right, similarly have had little or no impact on improving the situation.

## **Changes Required to facilitate the Democratic Process**

To ensure free and fair elections can take place in early 2005, a facilitating environment is required during the period prior to the elections. In order to create such an environment, a number of steps are required:

1. The repeal of Acts of legislation which have created obstacles to the democratic process and have been used as instruments of repression by the Government and state bodies. These Acts include The Public Order and Security Act (POSA); The Access to Information and Protection of Privacy Act (AIPPA); The Broadcasting Services Act; The Electoral Act
2. The protection of the judiciary from political interference and re-establishment of the judicial system, ensuring equal access for all to an independent legal structure
3. An ending of acts of violence, torture and intimidation, perpetrated by members of the armed forces, or with their tacit support, on members of opposition political parties
4. A disbanding of the youth brigade militia (“green bombers”) and appropriate rehabilitation for the youths forced to undergo the training

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<sup>2</sup> [www.globalinsight.com](http://www.globalinsight.com)

<sup>3</sup> Report based on research prepared for Friedrich Ebert Stiftung, Germany

5. Complete de-politicisation food and effective management of food supplies in accordance with humanitarian principles
6. Full adherence to the “Norms and Standards for Elections in the SADC<sup>4</sup> Region” as developed and adopted by the SADC Parliamentary Forum

### **What the Irish Government and the EU Presidency can do**

The current period, prior to the March 2005 parliamentary elections, provides the last opportunity to prevent a chronic long-term crisis in Zimbabwe. To prevent such a descent the Irish Government, in its capacity as President-in-Office of the European Council, should:

1. Give senior political priority to resolving the Zimbabwe crisis during the period of May 2004 to March 2005
2. Prioritise the creation of an environment conducive to democratic principles in the policy towards Zimbabwe. This policy should look for:
  - a) the repeal of legislation in Zimbabwe which has systematically eroded fundamental freedoms and has been used as a cover for human rights abuses
  - b) to disband the Youth Militia and de-politicise the state’s armed forces, providing for the formation of a properly constituted and professional state security force
  - c) the creation of conditions to allow for independent media to operate freely, ensuring that the public are exposed to information regarding their governance
  - d) a commitment from the Government of Zimbabwe to allow for a transparent and genuine democratic process in the period prior to the elections
  - e) Government of Zimbabwe compliance with the “Norms and Standards for Elections in the SADC Region”
3. Engage constructively and intensively with South Africa over the coming period, taking advantage of their pivotal role and influence with the Government of Zimbabwe, to ensure a normal democratic process can take place in Zimbabwe.
4. Ensure that funds are made available for humanitarian assistance, ensuring that efforts by the Government of Zimbabwe to politicise food during the election process will be negated.

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<sup>4</sup> Southern African Development Community which includes Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe

## **1 Introduction**

The situation relating to human rights and the democratic process in Zimbabwe continues to deteriorate. Parliamentary elections are due in March 2005 and, in the current repressive environment, the principles of normal democratic process are being seriously undermined. The purpose of the paper is to outline the restrictive measures in place which inhibit the democratic process and to suggest steps which could be undertaken by Ireland and the EU to redress this inhibiting environment in Zimbabwe. The paper was compiled following visits to Zimbabwe by Trócaire, review of various reports produced by other organisations, including Trócaire partner organisations in Zimbabwe, and a seminar held in Dublin on 20<sup>th</sup> April 2004<sup>5</sup>.

Trócaire has been supporting development and humanitarian work in Zimbabwe for over 20 years, working closely with local partner organisation. In 2003, Trócaire provided over Euro1.3 million for long-term development initiatives and humanitarian response.

## **2 Repressive Legislation**

In recent years the Government of Zimbabwe has promulgated several pieces of legislation which enhances the powers of the Government, are extremely repressive and draconian, and a number of which contravene the country's constitution. These include: The Public Order and Security Act (POSA); The Access to Information and Protection of Privacy Act (AIPPA); The Broadcasting Services Act; The Electoral Act; and The Presidential Powers Act. The body of legislation, while ostensibly aimed at regularising various state sectors, provide considerable discretionary powers to Ministers and Government officials.

### **2.1 The Public Order and Security Act (POSA)**

At independence, the Government of Zimbabwe inherited the Law and Order (Maintenance) Act (LOMA), which was introduced by the colonial regime in 1960 and was widely used by the Rhodesian authorities to suppress any form of civil unrest. The Act was part of an extensive and repressive infrastructure inherited by Zimbabwe on independence. In the late 1990s, the government announced its intension to replace LOMA with the Public Order and Security Bill. Although the Bill passed through parliament in 1998, President Mugabe refused to sign it into law saying it had too many ambiguities. A revised version of the Bill was re-introduced in parliament in December 2001, passed, and signed into law in January 2002, amid claims by lawyers and human rights activists that it was even more draconian than LOMA, since it heavily restricts freedom of assembly, movement and expression.

The Act provides police with powers to prohibit demonstrations in an area for up to three months, if they believe this is necessary to prevent public disorder. Public gatherings are not allowed unless seven days' notice is given to the police while police are empowered to kill, if necessary, in the process of suppressing an unlawful public meeting. For certain offences, the period for which the police may detain a person before bringing him or her to court can be extended from two to seven days,

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<sup>5</sup> The seminar was attended by over 30 individuals, many of whom are actively involved in Zimbabwe, and contributed to an identification of the key issues affecting normal democratic process in Zimbabwe.

while all members of the public are obliged to carry an identity document on their person,<sup>6</sup> bearing resemblance to the “pass” laws of the apartheid regime in South Africa. The Act also contains a provision to ban the publication or communication of statements which are deemed offensive to the President.

The Act effectively bans any assembly without police permission, which is rarely granted to civil society, labour unions or opposition parties, and criminalizes the organising of a public gathering without such permission. The Act is wide-ranging and has been labelled by some lawyers as the most repressive piece of legislation in the country’s history.<sup>7</sup> Coupled with the politicisation of the police, which has systematically taken place in recent years, the Act provides the police with sweeping powers to arrest and detain at will anybody who they suspect is supportive of a political discourse other than the ruling party or their governing policies.

While the main victims of the POSA are, as intended, opposition politicians, the police have also used the Act to arrest civil society members, union activists and women’s groups. In October 2003, Dr. Lovemore Madhuku, chairperson of the NGO National Constitutional Assembly (NCA) was arrested along with hundreds of other activists while illegally holding a peaceful public demonstration in Harare to press for a new constitution and a return to the rule of law. On Valentines Day, police arrested 70 women marching against all forms of violence.<sup>8</sup>

## **2.2 The Access to Information and Protection of Privacy Act (AIPPA)**

The Access to Information and Protection of Privacy Bill was promulgated by an extraordinary Government Gazette on 30 November 2001. The Parliamentary Legal Committee<sup>9</sup> condemned as unconstitutional numerous sections of the Bill and demanded 36 amendments before presentation to parliament. The Bill was passed through parliament in January 2002 and signed into law in March.

The Act provides for the establishment of a Media and Information Commission (MIC) which regulates the operations of the media and deals with registration of media houses, accreditation of journalists, monitoring of the content of the media and investigates and resolves complaints against the media. The Minister of State for Information and Publicity (in the President’s Office) appoints between two and six commissioners while journalists’ associations are allowed to nominate three representatives to the commission. The Act also introduces a concept of journalistic privilege and makes its abuse a criminal offence, as it does the “abuse of freedom of expression.”<sup>10</sup>

Section 91 of the Act accords the Minister of State regulatory powers to prescribe the form and manner to be followed in applying for registration and accreditation, thereby placing in the hands of the Minister the responsibility of deciding who is allowed to

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<sup>6</sup> This provision has been abused by ZANU-PF militias who have confiscated the identity cards of individuals suspected of being members of the opposition, MDC. (*The Zimbabwe Independent* 08/02/02)

<sup>7</sup> Paper presented by Arnold Tsunga of Zimbabwe Lawyers for Human Rights at the 35<sup>th</sup> Congress of the International Federation for Human Rights (FIDH)

<sup>8</sup> Reported by Media Monitoring Project Zimbabwe and MISA (Media Institute of Southern Africa)

<sup>9</sup> Parliamentary portfolio committee responsible for reviewing legislation from a constitutional perspective

<sup>10</sup> *Media Under Siege* published by Media Monitoring Project Zimbabwe

practice as a journalist. All newsrooms can employ only those who meet the ‘qualifications’ prescribed by the Minister. The MIC is entitled to demand information of business plans and finances for mass media services applying for registration, and if any of this information is found to be false or changes over time, the Commission may deregister the media house and all equipment can be forfeited to the state.<sup>11</sup>

Since AIPPA became law, 79 journalists, mostly from the privately owned press, have been arrested under the Act. No successful prosecution has been recorded. However, its implications for freedom of the media in Zimbabwe have included the violent closure of *The Daily News* and *The Daily News on Sunday* on 12 September 2003. Sixteen journalists and five executives of the Associated Newspapers of Zimbabwe (ANZ), publisher of the two newspapers, were arrested and charged for allegedly practising and operating a media house without accreditation. Before applying for registration under AIPPA, ANZ had challenged the constitutionality of the Act in the Supreme Court. However, the Court dismissed the application on the basis that ANZ had not yet registered under AIPPA.<sup>12</sup>

The free flow of information in Zimbabwe depends heavily on the decisions of the MIC, which to date have favoured only pro-government publications. The MIC has been absolute in its intolerance of media houses which represent the views of groups politically not aligned to the ruling party.

### **2.3 The Broadcasting Services Act**

In September 2000, Capital Radio (Private) Limited took the Government to the Supreme Court challenging a section of the Broadcasting Act (1957), which provides for a state monopoly over all broadcasting in Zimbabwe. In its judgment, the Supreme Court<sup>13</sup> found the Act to be unconstitutional as it violated the public’s right to receive and impart information. In March 2001 the Government introduced to parliament the Broadcasting Services Bill which provides for the Broadcasting Authority of Zimbabwe (BAZ) to regulate the broadcasting sector in the country, with the exception of the Zimbabwe Broadcasting Corporation (ZBC) which remains directly responsible to the Minister of State for Information and Publicity in the President’s Office.<sup>14</sup>

The Act provides the Minister with powers to appoint the members of the BAZ who act as an advisory board to the Minister’s Department. The licensing of broadcast services and systems is vested in the Minister who is entitled to attach conditions to a licence which can be modified at any time. A licence to only one signal carrier company and only one national radio or television broadcasting service other than the ZBC can be provided. Commercial and community broadcasting licences are only

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<sup>11</sup> MISA – Zimbabwe State of the Media Report 2003

<sup>12</sup> The Court ruled that ANZ did not have “clean hands” (as they were not registered under AIPPA) and they therefore could not make an application to the Court. Lawyers have commented that this “clean hands” doctrine denies the constitutional right to be heard in court. The ruling contributes to the already established image of political subjectivity among members of the senior judiciary. (*Under Siege? Freedom of Expression in Zimbabwe – A publication by Zimbabwe Lawyers for Human Rights*)

<sup>13</sup> Up until 2000, the Supreme Court was considered independent and had the confidence of the public. However, political interference since 2000 has undermined this confidence – see section 3 below

<sup>14</sup> *Media Under Siege* published by Media Monitoring Project Zimbabwe



valid for two years and one year respectively. Community stations are not allowed to carry political content in their programmes.

National and international media organisations, along with a Parliamentary Legal Committee report, have stated that the Act is inconsistent with Section 20 of the Constitution, which guarantees freedom of expression. The Act provides for extensive involvement by the Government in programme content, in effect providing political control over the management and the content of all broadcasters in Zimbabwe. Breaches of the Act incur extremely high penalties, dramatically increasing the risks for potential investors, above a viable threshold. Although the Act officially ends the monopoly of ZBC, it makes the establishment of an independent broadcasting service practically impossible.

#### **2.4 The Electoral Act**

At the end of 2001, the Government announced its intention to amend the Electoral Act, with the new legislation passing hastily through parliament in January and signed into law in February 2002, weeks before the presidential election. The opposition immediately launched an application to the Supreme Court contesting the constitutionality of the Act. However, while the Court ordered the Act invalid (due to improper process in parliament), the President issued a Statutory Instrument (under the Presidential Powers Act – see below) reinstating many of the controversial elements of the Act.

Provisions of the Act/Statutory Instrument include:

- the requirement that all voters (except the uniformed forces and the diplomatic corps) vote in their constituencies, thus disenfranchising hundreds of thousands of Zimbabweans living abroad;
- the Electoral Supervisory Commission (ESC)<sup>15</sup> is confined to recruiting only public service personnel to act as election officials and monitors;
- the Registrar-General is allowed to make ‘corrections’ to names of the voters roll after registration without referring the case to a magistrate, as was originally the case;
- foreign funding for voter education is banned, except where the funds are channelled through the ESC;
- only the ESC is allowed to provide voter education.

These provisions provide for extensive control over the election process by those in power and prevents neutral and independent sensitisation of the public. By providing the Registrar-General full authority over the voters role, without right of appeal to the judiciary, the potential for manipulation of the role is considerably increased.

#### **2.5 The Presidential Powers Act (PPA)<sup>16</sup>**

The PPA contributes to the centralisation of powers in the hands of the President without accountability to constitution through the courts. The PPA allows the President of Zimbabwe to make regulations in circumstances when it appears to the President that:

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<sup>15</sup> Is appointed by and reports directly to the President

<sup>16</sup> Notes extracted from a paper given on 20<sup>th</sup> April 2004 in Dublin by Arnold Tsunga, Director of Zimbabwe Lawyers for Human Rights

- a situation has arisen or is likely to arise which needs to be dealt with urgently in the interests of defence, public safety, public order, public morality, public health, the economic interests of Zimbabwe or the general public interest; and
- the situation cannot adequately be dealt with in terms of any other law; and because of the urgency, it is inexpedient to await the passage through Parliament of an Act dealing with the situation

In practice the PPA has been used by the President to appropriate to himself the powers of the legislature while at the same time removing the jurisdiction of the court to grant bail. For example, using Statutory Instrument I37\04 the President legislated that, even where there is no *prima facie* case against an accused person in certain cases, including charges under POSA, a court can order her/his detention despite there being no such case, and a suspect cannot be granted bail for seven days from the date when the detention is so ordered. The President further legislated that where there is a *prima facie* case, the court shall order that the suspect be held in custody for a period of 21 days and cannot be granted bail for 14 days after the detention is ordered. In other cases the President has used these powers to allow for the forcible expropriation of farming equipment without compensation<sup>17</sup> and to provide for regulations governing elections in which he or his party is a contestant, a few hours before the election.

### **3 Undermining of the Judiciary**

Since 2000, the Executive has systematically and persistently manipulated the Judiciary. Of the five Supreme Court judges in 2000, only one remains on the bench, while resignations are a regular feature of other senior courts due to direct and indirect pressure being brought to bear upon judicial officers.<sup>18</sup> In one incident, Chief Justice Gubbay had his courtroom invaded by people who described themselves as ‘war veterans’ and he was informed by a Minister that his safety could not be guaranteed. The perception is that the President has now packed the Superior Courts with compliant judges, a situation which has not only negatively affected due legal process but has seriously undermined public confidence in the justice system.

A significant number of senior judges have been granted farms under the land resettlement scheme at the will of the government, which is equally entitled to withdraw the gift without compensation. The same judges often have to adjudicate on controversial legal and constitutional issues arising out of the land redistribution legislation (under which they themselves have received farms) thus compromising their independence to adjudicate.<sup>19</sup> The government has consistently disobeyed court orders which they viewed as inconsistent with their policy, such as in the case of *The Daily News* where police were ordered to ensure publication did not take place, in defiance of a court order allowing the paper to operate.

The inability of the judiciary to fulfil their duties has stifled efforts by civil society and others to challenge the constitutionality of the repressive legislation promulgated by the Government in recent years. In the case of *The Daily News*, the publishers, the

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<sup>17</sup> Presidential Powers Farming Equipment Regulations SI 273A/2003

<sup>18</sup> Notes extracted from a paper given on 20<sup>th</sup> April 2004 in Dublin by Arnold Tsunga, Director of Zimbabwe Lawyers for Human Rights

<sup>19</sup> Summary report issued by Mr Conor Maguire SC, Chair of the Bar of Ireland, following a visit to Harare with other Bar leaders from around the world.

Associated Newspapers of Zimbabwe (ANZ), challenged the constitutionality of the AIPPA which the Government used to close the paper. However, the Court dismissed the application on the basis that the ANZ had not yet registered under the AIPPA. Leading academic and practising lawyers have commented that this ruling sets a precedent which denies the constitutional right to be heard in court. The ruling contributes to the already established image of political subjectivity among members of the senior judiciary.<sup>20</sup> While efforts are being made to take cases to the African Commission (the next step following failure in the domestic courts) the Commission has suffered from a lack of funding and has thus far proven not to be a viable option.

#### **4 Elections and Intimidation**

The June 2000 parliamentary election saw the first significant parliamentary challenge to Zanu-PF with Morgan Tsvangirai's Movement for Democratic Change (MDC) winning 57 out of the 120 elected seats. President Mugabe was declared the winner of the presidential elections in 2002 amid claims by national and international observers of widespread fraud. Since the 2000 parliamentary elections, there have been a number of by-elections<sup>21</sup> which were characterised by violence, with seats transferring from MDC to Zanu-PF.

The election process in Zimbabwe in recent years has been mired in controversy, violence and political intimidation. The Registrar General, who compiles the voters' roll, has been accused of retaining the names and identification particulars of deceased people. There is regularly a parallel process of registration to the Registrar General when the local party chairperson or village head appears with their supporters and demand their vote whether or not they are on the voters' roll. Some people have also reported that their names have been removed from the roll which contributes to a general overall lack of confidence in the roll.

Opposition and independent candidates have regularly reported that they are physically prevented by ruling party supporters from reaching the nominations courts<sup>22</sup> and are therefore not in the election race. Since the emergence of a strong opposition movement in 1999, violence has become part of the political process and electioneering throughout the country. Documented cases of violence inflicted on non-ruling party candidates include abuse, torture, arson, rape and murder perpetrated by ruling party supporters, youths, 'war veterans' and, in some instances, the army. Whilst the ruling party is free to campaign, opposition candidates complain they are refused police clearance under the POSA. Where rallies have gone ahead, they are disrupted by Zanu-PF youths, if not forcibly broken up by the police.<sup>23</sup>

As violence prevails over the normal election process, the value of the vote decreases to the point where the public no longer views casting of the ballot as a legitimate way of changing the government and many people do not want to be associated with politics. This has contributed to quieter than expected polling days, as the campaign

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<sup>20</sup> *Under Siege? Freedom of Expression in Zimbabwe* – A publication by Zimbabwe Lawyers for Human Rights

<sup>21</sup> Up to August '03 four opposition MPs had either died or were dismissed in questionable circumstances. *The Zimbabwe Electoral Environment Post March 2002 – Any Changes for Better or Worse* – A report by Zimbabwe Election Support Network

<sup>22</sup> Where all election candidates are required to register officially.

<sup>23</sup> Reported by Zimbabwe Election Support Network

of violence and intimidation has largely achieved its objectives earlier. Civil society groups have established a systematic reporting procedure for politically motivated violence and report that, during 2003, there were 388 cases of assault, 497 cases of torture and 10 cases of murder perpetrated largely by members of the ruling party (or with its tacit support) against members of the opposition and independent candidates.<sup>24</sup>

## **5 Youth Militia Training (Green Bombers)**

National Youth Training was launched by the Government in August 2001 with a syllabus of four modules which included orientation (meaning patriotism), skills training (covering carpentry and agriculture), disaster management (suggesting natural climate induced disasters), and vigilance (implying moral education). Attendance at the training camps was initially presented as voluntary and there was passive acceptance or a dismissive reaction from civil society and the public. However, as the training camps came into practice, government revealed that youths were also expected to undergo basic military training,<sup>25</sup> that attendance at the youth camps was compulsory for all who intended to work in government or attend government colleges and universities,<sup>26</sup> and that the catchment age group was 10 to 30 years.<sup>27</sup> The Vice-President has described the training as a “nation-building programme that has been designed to correctly inform our youths of their history.”

By December 2002, it is estimated that 9,000 boys and girls had passed through formal training in five main camps and that possibly a further 10-20,000 had received training in smaller camps set up at district level.<sup>28</sup> While the government initially denied any military involvement or training, it later emerged that the youth trainers were retired army officials and ‘war veterans’. The Defence Ministry acknowledged that weaponry training was provided which would lead to the creation of a reserve security force that would exist throughout the country ensuring that the youth were “under the control of our existing national security structures.”

Testimonies of youths who have completed the training provide a chilling account of their experiences in camps throughout the country. Many speak of how they were coerced into attending the camp, the extensive military training they received, the fact that no skills training was provided, the absolute authority of the instructors, younger teenagers being obliged to act as servants, torture as punishment for failing to follow orders, multiple rape, imprisonment, and intensive training on Zimbabwe’s history through lectures and the teaching of slogans and songs. Youths were exposed to and obliged to partake in torturing and killing of political opposition activists.<sup>29</sup>

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<sup>24</sup> Reported by Zimbabwe Human Rights NGO Forum which is a consortium of civil society organisations that report monthly and extensively on political motivated crimes. The reports also cover other categories such as rape, unlawful detention, etc.

<sup>25</sup> Military training was described by the Youth Ministry as necessary to defend the country if the need arise

<sup>26</sup> Government policy later announced that attendance at the training camps was compulsory for all school leavers from January 2003

<sup>27</sup> It is widely reported that the vast majority of the youth camp population are in their teens

<sup>28</sup> Figures reported by Solidarity Peace Trust deriving from figures in the National Budget, and comments by the government. *National youth service training – “shaping youths in a truly Zimbabwean manner”* A report released by Solidarity Peace Trust in September 2003

<sup>29</sup> The Solidarity Peace Trust provides extensive and detailed accounts of events in the Training Camps

Before the March 2002 presidential election, youth militia were deployed to 146 camps around the country in close proximity to and in some cases sharing the venues for voting. Within weeks of their deployment in January 2002, reports began to emerge of acts of violence and brutality perpetrated by the youths, who later became known as the “green bombers”, including mounting illegal roadblocks, disruption of MDC rallies, arson, torture and murder. Their presence has characterised all national and local elections since 2002 and has been instrumental in facilitating Zanu-PF rallies while disrupting opposition party meetings.

## **6 Politicisation of Food**

There is widespread suspicion that food distributions have been organised for political purposes by politicians, youth brigade members and others aligned to the ruling party. The Government’s food programme operates outside the long-standing National Drought Management structure and under the newly created Task Force on Maize Distribution, also known as the Food Committee. Somewhat incongruously, the Food Committee is chaired by the Minister of State for Security and comprises representatives from the police, defence forces and the Central Intelligence Organisation while several former senior military officers are key actors running the agency. The Committee is responsible for importing and selling through a distribution network, effectively giving it control over all maize supplies for the domestic market, and oversees the provincial and district food committees which are responsible for the distribution of food locally. The provincial and district committees evaluate the extent of need in their areas, determine the amount of grain to sell to individuals, and distribute maize weekly at depots.<sup>30</sup>

The annual maize and small grain requirement<sup>31</sup> for Zimbabwe’s population of 11 million is estimated at 1,900,000 tonnes (including 480,000 tonnes for stock and poultry feed, 100,000 tonnes for industry including brewers, etc.). Recent estimates of the April/May 2004 harvest suggest production levels will reach 900,000 tonnes with an optimistic estimation of 1,000,000 tonnes (including 200,000 tonnes of small grain), leaving a shortfall of 900,000 tonnes for the period 2004/05.<sup>32</sup> In spite of this the Government of Zimbabwe withdrew their invitation to the UN Crop and Food Supply Assessment Mission, effectively ending the Mission prematurely. The Minister for Agriculture has since stated that the country has produced more grain than it needs for this year.

There are permanent police roadblocks on all major routes into the cities where Government officials are impounding maize coming into urban centres, where opposition gain their largest vote. While there are reports that Government is currently buying up food production in rural areas and developing their grain reserves, it is clear that there cannot be a sufficient availability of food produced domestically to satisfy the needs of 11 million people. The practice is more likely a manifestation of a policy which will allow the Government to control all grain supplies in the country over the coming year.

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<sup>30</sup> Human Rights Watch, *The Politicisation of Food in Zimbabwe*, October 2003  
<http://www.hrw.org/reports/2003/zimbabwe1003/>

<sup>31</sup> Based on baseline data collected in Zimbabwe since the early 1990s

<sup>32</sup> Report based on research prepared for Friedrich Ebert Stiftung, Germany.

## 7 The role of the European Union

Effecting a response to the Zimbabwe crisis provides a challenge to the European Union. The EU-ACP Cotonou Agreement<sup>33</sup> provides a mechanism for discussion between the EU and ACP countries on issues of human rights, fundamental freedoms and social rights, democracy, and transparent and accountable governance. The EU introduced 'smart' sanctions<sup>34</sup> on Zimbabwe in February 2002 claiming that free and fair elections could not take place in Zimbabwe. The Zimbabwe crisis was the key issue which led to the failure of the EU-Africa Summit in Lisbon<sup>35</sup> in April 2003 as African leaders insisted President Mugabe should attend, while the EU refused to suspend sanctions which prohibits President Mugabe from visiting the EU.

The six-monthly EU-Africa troika meeting which takes place six-monthly provides another forum for discussing the Zimbabwe crisis, amongst a number of other agenda items which include security, trade, etc. In 2002, 2003 and again in 2004,<sup>36</sup> the EU proposed resolutions at the annual UN Human Rights Conference in Geneva expressing concern at the human rights situation in Zimbabwe and calling for UN Human Rights missions to examine the violations.

Apart from the sanctions, on which the EU can act unilaterally, other attempts by the EU to respond to the Zimbabwe crisis have been less than effective. President Mugabe, using his rhetoric of neo-imperialism, has successfully appealed to his fellow African leaders to unite alongside him in a Pan-African response to the EU. The EU proposals at the UN Human Rights Conference in Geneva have failed to reach resolution stage due to block voting by African representatives. Initial, and quite vocal, denunciations by the EU and particularly by the UK have contributed to the discourse of neo-colonialism generated by President Mugabe. Divisions between member states of the EU on how to respond to the Zimbabwe crisis have also characterised the EU stance.

While divisions within the EU<sup>37</sup> create difficulties reaching a common stance, there is general agreement that the situation in Zimbabwe is deteriorating. This common view has facilitated the various measures to date which the EU has taken in response to the crisis, most notably the EU sanctions, the proposal of UN Human Rights resolutions and the Lisbon Summit. However, these measures have contributed little to creating an environment in Zimbabwe conducive to the democratic process. While Zimbabwe is an agenda item for discussion on EU-AU meetings, failure by the EU to give political weight to the issue reduces any potential of effecting change. Similarly, failure to engage consistently with South Africa, in a partnership manner, has inevitably led to ineffective and tokenistic measures from the South African Government towards Zimbabwe.

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<sup>33</sup> The 2000 Cotonou Agreement is a key instrument governing trade and development co-operation between the European Union and 77 African, Caribbean and Pacific (ACP) countries.

<sup>34</sup> The sanctions, renewed in 2003 and 2004, now prevents 95 senior Government and army individuals from entering the EU, freezes assets which are held in EU countries and prevents the sale of military equipment to Zimbabwe.

<sup>35</sup> The Lisbon Summit was intended to follow on from the Cairo EU-Africa Summit of April 2000 and covering a broad range of issues common to both the EU and Africa.

<sup>36</sup> Introduced by Ireland in 2004 on behalf of the EU

<sup>37</sup> An overt example of which was France's invitation to Mugabe to attend a summit in Paris while EU sanctions were in place banning Mugabe's travel to the EU

## 8 The Position of South Africa

To many there are straightforward human rights, humanitarian and economic reasons why South Africa should act decisively to respond to the crisis in Zimbabwe. However, the failure by the South African Government to act is partly due to the fact that President Mbeki holds a different perspective on the crisis and partly because circumstances limited his ability to act, circumstances orchestrated in no small way by his counterpart in Zimbabwe.

President Mugabe has presented his offensive against the opposition as formulating an alternative discourse around redress for colonial injustice, and the land issue became “the symbol that could distil a simplistic political binary, in which the ruling party could attempt to conceal all its post-colonial failings”.<sup>38</sup> While Zimbabwe was never the specific target of ‘liberal imperialism’, its implications were not lost on authoritarian states, with President Mugabe in particular asserting the doctrine was an attempt at re-colonisation of independent-minded Third World states<sup>39</sup> and he successfully used the argument in appealing to a wider Pan Africanist position. President Mbeki has a certain empathy with this assertion which was compounded further by very public denunciations, particularly from the UK, of the situation in Zimbabwe. A history of support from Zimbabwe to the ANC during the apartheid era further strengthens the bond between the countries.

The emphasis coming from Pretoria suggests regional solidarity, ‘African solutions to African problems’ and quiet diplomacy. There are also more practical reasons for South Africa’s stance towards Zimbabwe; worries over the performance in office of trade union-led parties such as the MDC;<sup>40</sup> reliance on alliances with other nation states such as Brazil and India (in the Group of 22) rather than popular movements; South Africa wishes to pursue African renewal and solidarity without jeopardising ‘African Renaissance’ principles; and the ANC, despite its own history, has never supported human rights organisations since coming to power but rather has dealt directly and exclusively with sovereign states.

While South Africa acknowledges a role for itself in contributing to a resolution to the crisis in Zimbabwe,<sup>41</sup> efforts to date have largely confined themselves to some form of mediation while ignoring the widespread human rights abuses which have dramatically eroded the democratic process. The perceived silence from Pretoria has been interpreted in Zimbabwe, by both Government and civil society, as tacit support for and endorsement of President Mugabe’s rule.

However, while there is little outward sign that South Africa is changing its role or method of seeking a solution in Zimbabwe, Zanu-PF maybe loosing favour in Pretoria. The quiet diplomacy and encouragement to have behind the scenes talks

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<sup>38</sup> Raftopoulos, Brian (2003) Institute for Democracy in South Africa *Zimbabwe: Moving towards a Negotiated Transition?*

<sup>39</sup> See paper presented to House of Commons Foreign Affairs Committee by Dr. Steve Kibble of Catholic Institute for International Relations (CIIR)

<sup>40</sup> The Congress of South African Trade Unions – COSATU is a junior, and sometime irritable, partner with ANC in Government. In Zambia, the union led Movement for Multiparty Democracy which came to power in 1991, defeated the ANC’s longtime ally President Kenneth Kaunda.

<sup>41</sup> President Mbeki has spoken publicly about his efforts to seek a solution to the crisis on several occasions and spoke of his envoys in ‘mediating’ between parties in Zimbabwe

between Zanu-PF and MDC have yielded nothing. There is increasing awareness in Pretoria that Zanu-PF has no idea on how to resolve the current situation and is only intent on staying in power. The economic collapse in Zimbabwe, while having some positive implications for neighbouring countries, is in the long-term likely to have negative consequences. The closure of *The Daily News* by Zanu-PF and increasing evidence that the Supreme Court in Harare is subjected to political influence further adds to the indefensibility of the Zanu-PF regime.

## **9 Norms and Standards for elections in the SADC Region**

The SADC Parliamentary Forum<sup>42</sup> Plenary Assembly, meeting on 25<sup>th</sup> March 2001, adopted “Norms and Standards for Elections in the SADC Region”.<sup>43</sup> The Forum is a representative body of national parliaments of the SADC Region, which includes Zimbabwe. The Norms and Standards were developed following experience gained as election observers in a number of elections during the late 1990s and provide a benchmark for all elections held within the SADC Region. The Norms and Standards include the following:<sup>44</sup>

- Candidates should have unimpeded freedom to campaign throughout the country;
- All Government Security Forces should act impartially and professionally;
- All parties should have equal and free access to the state owned media;
- The sanctity of the freedom of association and expression should be protected and strictly adhered to;
- There should be reasonable safeguards for political meetings, rallies, polling stations and party premises;
- The right of eligible individuals to vote unimpeded should be protected;
- The role of civil society, mainly in election monitoring and civic education, should be recognised by Governments;
- In the interest of promoting and entrenching pluralism, multi-party democracy and the integrity of the electoral process, the complete independence and impartiality of the Electoral Commission in dealing with all political parties should be maintained;
- The Electoral Law should empower the Electoral Commission to recruit and dismiss its own support staff on the basis of professionalism and competence rather than getting seconded staff from Ministries and Departments. Such staff have no loyalty to the Electoral Commission.
- All stakeholders should commit themselves to pluralism, multi-party democracy and politics as a condition for participating in the political process of the country;
- The electoral law should prohibit the Government to aid or abet any party gaining unfair advantage;
- Governments should take the emergence of private media as a healthy development in the institutionalisation of the democratic process, the conduct of elections and should therefore refrain from taking decisions and actions that thwart the development of a strong private media.

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<sup>42</sup> The SADC Parliamentary Forum was established by the SADC Heads of State in 1997 in accordance with Article 9 (2) of the SADC Treaty

<sup>43</sup> [http://www.sadcpf.org/documents/sadcpf\\_electionnormsstandards.pdf](http://www.sadcpf.org/documents/sadcpf_electionnormsstandards.pdf)

<sup>44</sup> As originally quoted in the SADC document



- Governments should take cognisance of the fact that the involvement of political parties in the electoral process fosters the transparency of the system and generates public confidence in the system.
- A code of conduct should be developed through consensus from all political parties to guide behaviour in the conduct of campaigns.

As mentioned earlier in the report, several pieces of legislation introduced by the Government of Zimbabwe are inconsistent with the principles put forward by the SADC Parliamentary Forum. The Government of Zimbabwe has put in place several obstacles to the democratic process and has ignored their responsibility of creating a facilitating environment for free and fair elections. While achieving public confidence in the democratic process is a goal of the SADC Forum, the Government of Zimbabwe has not only undermined this potential, but has pursued a policy of eroding democratic norms.

## **10 Conclusion**

Since the ruling party's first popular defeat in 2000, President Mugabe has used state structures to systematically erode the norms and standards required to facilitate a true democratic process. The parliament has been used to legislate for, and therefore 'legitimise', measures which provide favourable conditions for the ruling party. The same legislation has been used not only to disenfranchise the public and opposition parties, but also in the process has been used to exert considerable repression. Those who are not active supporters are expected to passively accept and endorse the ruling Zanu-PF in power. This support is expected at a time when the economic and humanitarian situation in the country is continuously deteriorating, trapping millions of people in poverty.

Meanwhile, President Mugabe and his ruling Zanu-PF are further entrenching themselves in power. An ostensibly legitimate policy is followed to maintain an acceptance and solidarity from within the African continent. The fear of accountability for his past actions prevents him from handing over power, while his supporters in Government benefit considerably from their position, largely at the expense of the public. The public are being subjected to widespread violations of their human rights, including torture and murder, and are suffering from unprecedented levels of poverty.

Parliamentary elections due in March 2005 will enhance their hold on power, allowing the continuation of current violations. It is imperative that, over the coming months and in the lead up to the 2005 elections, considerable efforts are put into creating an environment in Zimbabwe conducive to normal democratic process.

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