

Civilian-Military Relations

Further to the letter sent to the ZCTU regarding the interrogation of the General-Secretary and staff of GAPWUZ by members of the Joint Operations Command [JOC], GAPWUZ would wish to point out that this harassment is contrary to both the Global Political Agreement [GPA] and Constitutional Amendment 19 [see Appendices 1 and 2].

The intention of the Parties to the Agreement, that the military and the security forces be placed under full civilian control, was expressed in the GPA, codified in Constitutional Amendment 19, and finally expressed in the Zimbabwe National Security Council Act, passed by the Zimbabwe Parliament on 9 February 2009. As the Bill stated, the intention of the legislature was as follows:

- *Reviewing national policies on security, defence, law and order and recommending or directing appropriate action;*
- *Reviewing national, regional and international security, political and defence developments and recommending or directing appropriate action;*
- *Considering and approving proposals relating to the nation's strategic security and defence requirements;*
- *Receiving and considering national security reports and giving general or specific directives to the security forces;*
- *Ensuring that the operations of the security forces comply with the Constitution and any other law;*
- *Exercising any other function that the Cabinet may delegate to the Council;*
- *Generally keeping the nation in a state of preparedness to meet any threat or security.*

It is absolutely clear that all the Parties intended that the security forces be placed wholly under civilian control under a committee set up by law with the security forces reporting to this committee, and that therefore there would be no independent existence of any other body, such as JOC, except with the authority of the National Security Council [ZNSC]. This was a critical development in the aftermath of the violence in 2008, and the uncontested evidence that the security forces had been involved in human rights violations since 2000.

It is therefore an obvious breach of all these understandings, and the Zimbabwe National Security Council Act, that the Joint Operations Command summons, under duress, a civilian organisation, no matter which organisation, and then interrogates that organisation about issues that are evidently not within JOC's mandate, and were not apparently authorised by the ZNSC.

The issue does not concern GAPWUZ or the labour movement alone. Unless the security forces are placed wholly under civilian control, as is clearly envisaged by the creation of the Zimbabwe National Security Council, and the Joint Operations Command is disbanded, then situations, such as that experienced by GAPWUZ last week, will persist. This is a situation of extreme seriousness and requires urgent action by the political parties, the labour movement, and civil society.

Appendix 1
ARTICLE XIII
STATE ORGANS AND INSTITUTIONS

13. State organs and institutions

13.1 State organs and institutions do not belong to any political party and should be impartial in the discharge of their duties.

13.2 For the purposes of ensuring that all state organs and institutions perform their duties ethically and professionally in conformity with the principles and requirements of a multi-party democratic system in which all parties are treated equally, the Parties have agreed that the following steps be taken:-

(a) that there be inclusion in the training curriculum of members of the uniformed forces of the subjects on human rights, international humanitarian law and statute law so that there is greater understanding and full appreciation of their roles and duties in a multi-party democratic system;

(b) ensuring that all state organs and institutions strictly observe the principles of the Rule of Law and remain non-partisan and impartial;

(c) laws and regulations governing state organs and institutions are strictly adhered to and those violating them be penalised without fear or favour; and

(d) recruitment policies and practices be conducted in a manner that ensures that no political or other form of favouritism is practised.

22.5 The new Government shall ensure that steps are taken to make the security forces conversant with the Constitution of Zimbabwe and other laws of Zimbabwe including laws relating to public order and security.

Appendix 2

National Security Council

10. (1) In this paragraph—

“Central Intelligence Organisation” means the intelligence service which, by whatever name called, formed part of or was based in the President’s Office before the inception date;

“Director-General” means the person, by whatever title called, in command of the Central Intelligence Organisation.

(2) The Inclusive Government shall without delay establish a National Security Council consisting of—

- (a) the President;
- (b) the Prime Minister;
- (c) the Vice-Presidents;
- (d) the Deputy Prime Ministers;
- (e) the chairman of the Public Service Commission;
- (f) the Ministers responsible for the Defence Forces and the Police Force; and
- (g) three other Ministers, of whom one each shall be nominated by the appropriate decision-making bodies of MDC-M, MDC-T and ZANU-PF.

(3) The President or, in his absence, the Prime Minister shall preside at meetings of the National Security Council.

(4) The National Security Council shall be responsible for—

- (a) overseeing and directing the operations and activities of the Defence Forces, the Police Force and any intelligence service of the Government, whether that service falls within or outside the Defence Forces or the Police Force;
- (b) ensuring that the operations and activities of the forces and services referred to in subparagraph (a) comply with this Constitution and any applicable law; and
- (c) exercising any other function that the Cabinet may delegate to the Council.

(5) An Act of Parliament may confer additional functions on the National Security Council.

(6) To enable the National Security Council to exercise its responsibilities—

- (a) the Commanders of the Defence Forces;
- (b) the Commissioner-General of the Police Force;
- (c) the Director-General of the Central Intelligence Organisation;

shall report to the National Security Council at such intervals and on such matters as the Council may direct, and shall carry out promptly any directions that the Council may give in regard to the operations and activities of the Force or organisation concerned.

(7) Decisions of the National Security Council shall be made with the concurrence of at least five of its members, including the President and the Prime Minister.

(8) Any decision of the National Security Council shall cease to have effect after seven days unless it has been ratified by the Cabinet.