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OVERVIEW ON THE HUMAN RIGHTS DEFENDERS (HRDS) SITUATION IN ZIMBABWE SINCE JANUARY 2002. Paper presented by Arnold Tsunga, Chairman, ZIMRIGHTS and Executive Director of Zimbabwe Lawyers For Human Rights (ZLHR)

Introduction

This paper seeks to give a very general overview of the situation of HRDs in Zimbabwe and the general environment in which they are working. An attempt will be made to give both a sufficiently factual and analytical picture of the political, socio-economic and legislative environment prevailing and impacting on the work of HRDs. The whole paper will also be placed in the context of international relations and an effort will be made to explain how the international environment interrelates with and influences local processes and the work of HRDs. It will be made evident in the paper that HRDs are vital in a country where the human rights record is declining. It will also be made clear that undemocratic governments also tend to adversely react to the work of HRDs since they dislike being scrutinized. The Zimbabwean government is no exception. The various methods that the government uses to cause discomfort to HRDs including adverse propaganda will be referred to in passing. Finally the reaction of civil society to the harassment of HRDs will be looked at and suggestions made on how this process can be further strengthened.

Definition

A human rights defender (hrd) is a person who devotes her/his energies to ensure that, in their day to day life, people enjoy basic fundamental human rights enshrined in the constitution and the international bill of rights comprising the Universal Declaration Of Human Rights, The International Covenant On Civil And Political Rights, and The International Covenant On Economic, Social And Cultural Rights. A hrd can be anyone from any profession including even civil servants, police, army, public prosecutors, and magistrates.

Zimbabwean human rights groups under the umbrella body of the Zimbabwe Human Rights NGO Forum (“NGO Forum”) have defined a hrd as follows;

“any person who actively champions the promotion and protection of any of the constitutionally guaranteed rights and in the process becomes the subject of attack by any organised group including but not exclusively state agents and other functionaries.”¹

¹ Human Rights Defenders Emergency Fund definition of hrd as adopted at a HRDEF workshop attended by NGO Forum members at Harare on 1 March 2003.

A United Kingdom based organisation concentrating on HRDs Frontline has defined the hrd as;

“ A human rights defender is a person who works, non violently, for any or all of the rights enshrined in the Universal Declaration of Human Rights.²

The World Organisation Against Torture (OMCT) a Swiss based international NGO defines a hrd as follows;

“Each person victim or risking to be the victim of reprisals, harassment, or violations, due to his compromise exercised individually or in association with others, in conformity with international instruments of human rights, in favour of the promotion and realization of rights recognized by the Universal declaration of Human Rights and guaranteed by several international instruments”³

It follows from the above that in an environment of a declining human rights record the hrd is normally at the frontline. Invariably the hrd falls foul with the state as the institution that has the obligation to ensure that an acceptable human rights environment prevails in a country. States generally show dislike for being scrutinised on their human rights record. As a result HRDs often find themselves as targets for persecution by state agents and require special protection. This is a universal reality. The United Nations Human Rights Committee has passed resolutions on HRDs with a view to ensuring their safety in many countries where there are poor human rights record.⁴ The United Nations General Assembly passed a Declaration on Human Rights Defenders on 9 December 1998 which is an instrument that places an obligation on state parties to ensure that certain minimum standards or conditions exists in states in which HRDs operate.⁵

A bird's eye view of the macro environment in which HRDs have been operating in Zimbabwe since January 2002 will now be done.

Political Environment

It is necessary to superficially refer to the year 2000 because that is when ZANU PF using its control over national resources initiated a systematic and calculated process both legislatively and non legislatively of trampling upon and curtailing basic fundamental

² Frontline definition as contained in their magazine “Dispatches 2002”

³ See the joint ZimRights, FIDH and OMCT report on HRDs titled “ Onslaught Against Human Rights Defenders In Zimbabwe in 2002” February 2003

⁴ The recent 59th session of the United Nations Human Rights Commission held in Geneva passed a resolution on HRDs

⁵ The declaration on Human Rights Defenders was adopted by the UN General Assembly on 9 December 1998. Inter alia it reinforces the importance to observe the rights contained in the Universal Declaration of Human Rights as well as in the International bill of rights. It also provides for the right of everyone individually and in association with others to fight for the promotion and protection of the fundamental human rights nationally and internationally. It further places a responsibility on the state to take legislative, judicial, administrative and other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

rights with the objective of retaining political power in Zimbabwe through hook or crook. Unmitigated, nationwide politically motivated violence and intimidation was started in earnest in 2000 and merely escalated systematically over the years right through to the present date. In 2000, Zimbabwe had two politically important electoral processes, the constitutional referendum which the Government lost and the parliamentary election which ZANU(PF) narrowly won in controversial circumstances albeit allegations of electoral irregularities, including politically motivated violence and intimidation. Indeed subsequent to the election results the High Court has nullified results in 8 constituencies which is a record in Zimbabwe.⁶ The significance of the results of these electoral processes is that for the first time in the history of Zimbabwe, the country found itself with a genuine and credible opposition party with a realistic chance of winning a free and fair election and thus dethroning ZANU (PF) from power. The elections were marred by politically motivated violence with over 200-recorded deaths.⁷ The most significant being the cold blooded summary execution of Chiminya and Mabika allegedly by two known assailants Mwale and Kitsiyatota who remain free to roam the streets despite a High Court of Zimbabwe judge Devitte ordering that they be prosecuted.⁸

The government also engineered violent farm invasions which phenomenon it conveniently termed a land reform programme or third chimurenga to disguise the political motives. Soon the rural areas became virtually inaccessible for HRDs after non legislated militias war veterans and youth brigade were deployed to curtail freedom of movement, assembly, association, and of expression. Certain areas became known to be no go areas for opposition and HRDs in general such as Mount Darwin North and South, Guruve and Shamva, Uzumba Marambapfungwe, Mashonaland West Province and Midlands province.⁹ In the final report on the Presidential election of March 2002 the Zimbabwe Election Support Network (ZESN) reported that;

“the number of known militia bases were located as follows in the provinces: Mashonaland Central (40); Matabeleland (29); Mashonaland West (23); Masvingo (13); Bulawayo (13); Mashonaland East (9); Chitungwiza (9); and Harare (5). In Masvingo the party militia was camped at vice President Muzenda’s Paradise Motel”

⁶ The following electoral challenges were successful 1. Buhera North Election Petition won by ZANU (PF) Morgan Tsvangirayi was the Petitioner against Kenneth Manyonda. 2. 3. 4. 5. 6. 7. 8. All in all the MDC challenged in the High Court results in 38 constituencies as follows; Bikita West, Goromonzi, Guruve South, Gutu North, Gwanda South, Hwedza, Kariba, Makoni East and West, Marondera east and West, Masvingo South, Mazowe east and west, Mberengwa east and West, Mt Darwin South, Murehwa North and South, Mutoko south, Mwenezi, Shurugwi, Zvimba North, and Zvishavane, Bindura, Buhera North, Chegutu, Chikomba, Chiredzi North and South, Chivi North, Gokwe Central, East, North, South and West (See NGO Forum report on Human Rights and Zimbabwe’s June 2000 Election; January 2001)

⁷ See the NGO Forum reports of 2000

⁸ In his ruling dated 26 April 2001 on the election petition in HH case No 67/2001 Justice Devitte stated, “The evidence I have narrated above [on the killing of Chiminya and Mabika] in its essential details was not contested... I must stand for the truth. The killing of Chiminya and Mabika was a wicked act... In terms of s. 137 of the Act the record of evidence must be transmitted by the Registrar to the Attorney general ‘with a view to the institution of any prosecution proper to be instituted in the circumstances’ and the attention of the Attorney General is drawn to the evidence on the killing of Chiminya and Mabika.”

⁹ Zimbabwe Election Support Network reports on the March 2002 Presidential election at p 36.

Presently despite extensive funding of certain h/r organizations there is still no meaningful human rights activity in virtually all rural areas in Zimbabwe and unless this issue is addressed urgently, the information gap between urban and rural areas will continue which will result in no meaningful changes in the election results to patterns in future elections especially the impending 2005 Parliamentary Elections. Members of the judiciary were not spared either from politically motivated violence. The most daring case being the attack of magistrate Walter Chikwanha who was dragged from court at Chipinge in August 2002 by war veterans and publicly assaulted for making a ruling that was deemed to be unfavourable to ZANU PF. During his assault another magistrate Mr Nkomo was also manhandled together with a number of other court officials. This was in the presence of the police. No arrest has been made to date despite the positive identity of the assailants. Two judges of the High Court Justice Blackie and Justice Paradza were arrested in humiliating fashion by the police and detained. The police conduct suspiciously looked politically motivated. Justice Blackie had sentenced the Minister of Justice to a jail term for contempt of court while Justice Paradza was seen to have embarrassed the government when he ruled against the detention of the Mayor of Harare who is from the opposition MDC.¹⁰ A number of judges signed a petition protesting against the treatment to which Justice Paradza was being subjected. For HRDs the message is loud and clear. If members of the judiciary, can be subjected to this type of treatment, what more of mere HRDs and ordinary citizens.

Farm and other property invasions were increased. The government conveniently linked HRDs and NGOs with the opposition Movement for Democratic Change in order to ostracise them.¹¹ Torture as a tool of repression was used extensively with over 1000 documented cases in October 2002.¹² Teachers who fit the definition of HRDs by virtue of their special place in civilisation became targets of politically motivated violence in 2002 with reports of violence against teachers being received in 8 out of the 10 provinces. Over 35 schools were reported closed in Masvingo province alone due to intimidation of teachers. 107 503 teachers were forced to pay protection fees. 20 994 teachers were kidnapped, 15 659 assaulted/harassed, 14 442 displaced, and 4926 received death

¹⁰ Retired Judge Blackie was arrested in September 2002 and detained in humiliating circumstances and subsequently charged for obstructing the course of justice. Prior to his retirement, Judge Blackie convicted and sentenced the Minister of Justice to three months imprisonment for contempt of court. Justice Benjamin Paradza was arrested from his chambers at the High Court of Harare on the morning of Monday 17 February 2003 and was detained overnight at Borrowdale police station. His arrest was generally linked to the fact that he had recently presided over a case involving the Harare Executive Mayor Mudzuri where the government was seen to have suffered a humiliating legal defeat to the MDC. The government has since refuted this link.

¹¹ ZimRights, FIDH and OMCT in their joint report on HRDs of February 2002 (supra) cite cases from March 2002 to November 2002 where the government used the press to churn out propaganda against human rights groups such as Amani Trust, The Legal Resources Foundation, Amnesty International, ZimRights, ZESN, Catholic Commission for Justice and Peace, the National Constitutional Assembly and the Crisis Coalition.

¹² NGO Forum October 2002 report; See also ICG report 42 Zimbabwe: The Politics of National Liberation and International Division; See also the Zimbabwe Human Rights Bulletin Issue 7, by Zimbabwe Lawyers for Human Rights p11

reports.¹³ Rape was also reported to have been used as a weapon to fight political opponents by ZANU (P.F).¹⁴

Arbitrary arrest and detention, kidnapping, selective prosecution, denial of fair trial, degrading and inhuman prison conditions, promulgation of repressive legislation such as The Public Order and Security Act (Cap 11:17) and The Access to Information and Protection of Privacy Act (Cap 10:27) were other methods used to curtail enjoyment of fundamental rights and also create a minefield for HRDs.¹⁵

Between 1 January 2002 and 14 April 2002 the total cumulative picture of documented politically motivated violence was as follows; 54 deaths/executions; 48 schools closed; 229 threats/intimidation; 214 kidnappings; 29 disappearances; 5 rape cases; 241 property damages; 945 cases of torture; and 242 unlawful detentions.¹⁶

The situation has not yet improved with torture, violence, intimidation, and selective prosecution on the increase in 2003. The worrisome factor of the new wave of torture being the involvement of members of the armed forces who raid targeted victims including HRDs in the middle of the night.¹⁷ Job Sikhala and his lawyer Gabriel Shumba who has since sought political asylum elsewhere were severely tortured in a case well documented in the courts.¹⁸ Journalists, lawyers and public prosecutors have been specifically targeted by state agents or die-hard ZANU P.F activists.¹⁹ Ordinary activists

¹³ Zimbabwe Human Rights Bulletin issue 7 (pages 11& 98)

¹⁴ ZESN Presidential report (supra) p45; ICG Report No 42 (supra) p7; Zimbabwe Human Rights Bulletin issue 7 (p 87/8); see also Daily News report where patrons at a night club in Chitungwiza forced to have sex.

¹⁵ Refer generally to the Zimbabwe Human Rights Bulletin, Issue 7 Baseline report for examples.

¹⁶ ZESN Presidential Report (supra) p 36

¹⁷ The IDASA regional human rights defender's Report of 26 March 2003 states "This is the first time in three years that the military have constituted the highest percentage of perpetrators, and also the first time that the majority of the victims have not been able to name the perpetrators. The personnel involved in the torture had the names and addresses of the victims, and in many cases, if the victims were not accessible, the other occupants of the house were assaulted." Netsai Kaitano a ZimRights National Council member was raided at 1.00 am by men in uniform and thoroughly beaten, Men in uniform also gang raped an MDC polling agent's wife in Harare according to reports from the daily News See also the release by ZADHR dated 26/6/03.

¹⁸ On 21 January 2003, Zimbabwe Lawyers for Human Rights (ZLHR) wrote as follows on increase in torture cases; "Zimbabwe Lawyers for Human Rights has read with alarm various reports in the press about the torture being perpetrated by the police, particularly in the Law and Order Section, and other Law Enforcement Agents. In the last week alone there have been several disturbing reports. There were reports of the inhuman treatment and torture of Gabriel Shumba, a legal practitioner, Job Sikhala, an opposition member of parliament, and other people they were arrested with. Their complaints and the medical reports on the injuries they sustained while in police custody are part of the court record. We are unaware that the police have at any time denied the allegations that they assaulted and tortured the accused, and forced Job Sikhala to drink an unidentified substance."

¹⁹ On 10 April 2003 in a press release ZLHR reiterated its grave concern at the upsurge in threats, harassment and intimidation of prosecutors, lawyers, magistrates and judges, particularly those handling human rights-related cases, and called upon the government to comply with its obligations and responsibilities to guarantee the independence of the Judiciary and to ensure that adequate protection is

in communities have been targeted as well throughout the country with MDC members routinely arrested and tortured. About 400 of them were arrested in March and April 2003 alone after the President encouraged state agents to be ruthless with activists during his eulogy at the late Minister of Transport Dr Swithum Mombeshora's burial at the heroes acre. Members and former members of the defence forces and the police have also been specifically targeted for abuse in order to instill fear and discipline to serving members and to make them more susceptible to political control. Zimbabwe Lawyers for Human Rights have handled cases involving abused members of the defence forces and police.

The political environment in which the HRDs worked since January 2002 and before was therefore very trying and dangerous. With a political environment as volatile and unpredictable like the one prevailing in Zimbabwe presently, the work of a hrd is therefore very risky and tricky.

Economic and social environment.

The Zimbabwean economy has been reported in the press as the fastest declining economy in the world. Unemployment currently stands around 80%. Inflation is running around 800%. 6 out of 12 million are facing possible death due to starvation unless we get food relief. 80 % of people are living below the poverty datum line. The USD is now trading at 1USD to Z\$4 500.00 on the parallel market and yet it was trading around Z\$300 in April 2002. The country has no foreign currency reserves. The interest on government debt has been taking 37 cents out of every dollar of government revenue in 1996 according to the government ZIMPREST document. Since then both the domestic and foreign debt have increased manifold. The budget deficit has been consistently increasing virtually uncontrollably every year. The GDP is expected to have dropped 9.6% in the year 2002. The total fall in three years is reported to have been 21%. The real per capita GDP is below USD 1 per day and Zimbabwe now fits the World Bank definition of an extremely poor nation.²⁰ The country faces intermittent shortages of basic foodstuffs, especially staple food such as bread, rice, mealie meal, milk, beef, poultry, and cooking oil. The country also has a critical shortage of fuel and other petroleum products. Electricity is now in short supply and the Zimbabwe Electricity Supply Authority has periodically introduced load shedding. As of October 2002 ZESA is reported to have been owing USD24 to the South African Escom and USD12 to Hydro de

offered to members of the legal fraternity in the exercise of their judicial functions. In particular ZLHR insisted that all reports of threats, intimidation and harassment of the lawyers and public prosecutors must be promptly investigated and perpetrators prosecuted. The Media Institute of Southern Africa (MISA) at its Media Lawyers Network annual conference at Nyanga on 11-13 April gave out dossier with names of over 27 journalists who have been arrested in the past year some of them more than once. MISA's email is misa@mweb.co.zw

²⁰ Police detail Natal Dube was victimized for being fair and objective in Chipinge Policing district when he was involved in a case involving a dispute between ZANUPF and MDC members. He has since been discharged from the force and forcibly ejected from police residence in contravention of a Court Order (Case at Mutare Magistrates Court). Former army personnel Tendachawapuwa Makota and Peter Guhu had their pictures placed in a newspaper advert stating that police were looking for them as they were armed and dangerous and had to be approached with caution. See Sunday Mail April 2003.

ICG Africa report No 42 (supra), CSO reports)

Cabora of Mozambique.²¹ The transport sector is facing serious challenges with shortage of fuel and spares. All in all, there has been serious unemployment of both labour and capital between 2000 and the present date.

The serious economic meltdown stated above creates a number of social conditions as a natural by product. Severe poverty has afflicted most households. The level of economic crime has increased. Corruption has been on the increase. Half the population was facing starvation in the absence of food aid. Prostitution increased. AIDS and HIV incidents increased. So did deaths due to AIDS and HIV, exacerbated by declining levels of nutrition due to severe food shortage. Disgruntlement with the government increased with a lot of interest in politics and governance issues. Labour relations became generally strained with workers taking a more critical look at the government. Interest in the opposition was seen as growing due to the economic and social hardships that were prevailing. The government responded through increasing resources spent on law and order related issues. More money was spent on law and order issues. More men were committed to maintain law and order through legislated forces such as the police, the army, and the state intelligence agents (like the Central Intelligence Organization), and non-legislated militias such as the war veterans and the youth brigade (Green Bombers). The heavy-handed response or intolerance to criticism or alternative views on the part of government lead to general widespread polarisation and the resultant politically related violence. This socio-economic environment presented a fertile ground for action by HRDs in all aspects of human rights that is civil and political as well as economic, social and cultural rights. The growth of NGO and Civil society activity as a result of the declining human rights situation in turn attracted adverse reaction from the government, which then had a field day in churning out propaganda in the media against civil society and NGOs and other HRDs.²²

Legislative Environment

There are a number of Acts of parliament that are relevant to consider when one looks at the environment in which HRDs operate in Zimbabwe. These include The Broadcasting Services Act, The Access to Information and Protection of Privacy Act (AIPPA), The Public Order and Security Act, The Citizenship Act, The Private Voluntary Organizations Act, The Electoral Act and Regulations, and The Labour Relations Act. It will be sufficient to give very general aspects in which the respective legislation impinges on HRDs.

The Broadcasting Services Act virtually creates a monopoly on the part of the state owned Zimbabwe Broadcasting Corporation to be the sole electronic broadcaster in Zimbabwe. In reality it prevents independent electronic broadcasting in Zimbabwe unless certain impossible conditions are met. It also creates offences that are vindictive should one attempt to broadcast in violation of the Act, such as fines of \$2 million and the right

²¹ ICG Report 42 (supra)

²² See the ZimRights, FIDH, OMCT joint report February 2002 (Supra); see also section on international relations below

of the Minister of Information to confiscate or destroy the broadcasting equipment of the offender. The Act has been challenged in the Supreme Court and judgments are long overdue.²³ The Act infringes on the right to freedom of expression without which right it is impossible for HRDs to operate effectively.

The AIPPA seeks to place journalists and journalism in Zimbabwe under the actual and effective control of the Minister of Information in the President's department. Journalists must accredit with the Media Commission constituted by appendages of the government if they are to practice journalism in Zimbabwe. Media houses must register with the Media Commission or else they are deemed to be operating unlawfully. The Act creates a minefield for journalists and has been challenged in the Supreme Court in terms of its constitutionality.²⁴ Among some of the offences are writing false statements or writing a story where there is a real likelihood that it can be false, or engendering feelings of hatred or hostility towards the President. This Act was signed into law soon after the Presidential election in March 2002. Yet over 30 arrests have been made under the Act²⁵ within a few months of promulgation. This Act infringes on the right to freedom of expression which is vital for the work of HRDs and which is provided for in local and international human right instruments.

The POSA is arguably the most repressive piece of legislation in the history of this country's jurisprudence. It effectively bans any assembly without police permission, which permission is rarely granted to NGOs Civil Society, labour unions or Opposition parties or other human rights defenders. The Act allows police to use force or to kill to disperse public gatherings. In terms of the Act, the organizer of the public gathering is held personally civilly and criminally liable for any consequences arising from the public gathering or the police breaking the public gathering. The Act also outlaws criticism of the President or gesturing in a manner that brings ridicule to, or engenders feelings of hatred against, the President. Criticism of the police is also banned and so is publication of anything that is likely to engender feelings of hatred against the President.

POSA seriously violates and undermines the rights to freedom of assembly, association, expression, movement, and is not justifiable in a democratic society. HRDs cannot efficiently operate without the enjoyment of such rights. Using POSA the police have found it easy to arbitrary arrest and detain HRDs with impunity.

²³ Capital radio mounted a constitutional challenge of The Broadcasting services Act. The case was argued and judgment reserved. MISA has placed adverts in the press complaining about the delays in delivering the judgment arguing that delayed justice is denied justice. ZLHR also issued a press release on 16 March raising general concerns of lawyers in Zimbabwe in delays to hand down judgments, especially in politically related cases or cases of public interest.

²⁴ IJAZ and ZUJ also challenged the constitutionality of some of the provisions and institutions created under AIPPA Refer to Case No.5. Judgment was reserved and MISA have lodged a public complaint as above on the delays in delivering the judgment. N/B Judgments have since been given subsequent to the gathering of material for the preparation of this paper but not before undue delays had been experienced.

²⁵ See MISA Zimbabwe report on Journalist's arrest under AIPPA submitted in the Media Lawyers Network annual conference held at Nyanga between 11 – 13 April 2003.

The Electoral Act and regulations made thereunder have been used to prevent HRDs NGOs and Civil society from effective participation in the electoral process through;

- banning Civil Society, NGOs and HRDs from election monitoring
- banning Civil Society, NGOs, and HRDs from participating independently in civic education on electoral processes.²⁶

The PVO Act has been used to threaten NGOs involved in human rights work to register with the Ministry of Public Service Labour and Social Welfare or risk prosecution. Once they register with the Ministry, then the Ministry would have a say in the Board matters of the NGOs as well as in matters of their funding. This threat remains hanging over NGOs and HRDs.

The Citizenship Act has been used to deprive in some cases people of their citizenship. It is not possible as a hrd to function properly when there is a threat that you could lose your citizenship as a result of your human rights activism. The case of Juddith Todd is a case in point. Even the Supreme Court appeared to have become an unwitting tool of pressurizing the HRDs in this case.²⁷

The new labour Relations Act criminalizes strike action on the part of workers. Used in combination with POSA it attempts to paralyse labour movements. It introduces criminal and civil sanctions against the organiser. It therefore infringes on the work of HRDs.

On 13 February 2004 the President promulgated the **Presidential Powers (Temporary Measures) Regulations**, which oust the Court's powers to grant bail or refuse remand in cases under POSA. In terms of those regulations, which amended the Criminal Procedure and Evidence Act, even where a judge or magistrate finds that there is no reasonable suspicion that a suspect brought before the court has committed an offence, the judge has no right to grant bail for 7 days. However where the police prefer charges, then the judge cannot order release for 21 days. These regulations, which are patently unconstitutional, will be used to arbitrarily arrest and detain HRDs as part of the calculated persecution of HRDs as the nation moves closer to general elections in 2005.

International Relations and HRDs

The Zimbabwean human rights situation has divided the international community mainly between Western nations and African nations as well as between the developed countries and the developing nations. It has also introduced renewed arguments on ideological issues centering on capitalism, imperialism, colonialism, and neo liberalism. Infact

²⁶ ZESN Presidential Report (Supra)

²⁷ In the Registrar General of Citizenship v Judith Garfield Todd SC 4/03 the Supreme Court ruled that J Todd a well known hrd had two days to renounce New Zealand citizenship failing which she would lose her Zimbabwean citizenship. Malaba JA ruled with the concurrence of Chidyausiku CJ and Ziyambi JA that, "For the avoidance of doubt, the Respondent has two days, from the date of this judgement within which to renounce her New Zealand citizenship.... In the event of her failure to do so, she will lose her Zimbabwean citizenship by operation of the law." Paradoxically Judith Todd was born in Zimbabwe and grew up in Zimbabwe all her life. She was 65 at the time of the Supreme Court ruling and had never claimed New Zealand citizenship. Her father Sir Gaffield Todd was once a Prime Minister of Zimbabwe during the Rhodesia and Nyasaland federation.

questions about the current world order in terms of trade imbalances, general international economics and globalisation have been raised each time the Zimbabwean situation is discussed at international fora including at human rights institutions like the United Nations Human Rights Commission and the African Commission on Human and Peoples rights.²⁸ At the recent sessions of the unhrc in Geneva April 2002 and April 2003, British and European sponsored resolutions respectively on human rights situation in Zimbabwe were defeated on the basis of a no action motion that was lead by South Africa as the coordinator of the Africa Group. Effectively the west was pitted against Africa and some developing countries in the vote. At the end of the day politics and not human rights won the day.²⁹ The South Africans who have arguably singularly compounded the HRDs' situation in Zimbabwe by taking sides with the leadership and not the people of Zimbabwe are all too aware of the impact of international politics on the fight for justice and fairness as is evidenced by the statement made by the South African Ambassador in frustrating the EU sponsored resolution as follows;

“ The politicization of this Commission which is regrettable, adversely undermines discussion under agenda item 9. The country specific resolutions presented under this item do not undergo the proper process of consultation and end up dividing the commission, along North-South divide, instead of helping it in achieving its core mandate.”

The core mandate of the UNHRC is to promote and protect human rights but the South Africans paradoxically lead Africa astray in supporting the perpetuation of the suffering of thousands of Zimbabweans by giving unqualified support to the Zimbabwean government. The effect of this international trend is to create difficulties for HRDs. The government uses its success at the unhrc to fuel propaganda against HRDs locally. NGOs and HRDs are then labeled agents of the West, British Funded, oppositional or agents of imperialism or neo liberalism. The government also uses its good relations with African leaders to create an impression that local NGOs and HRDs are working against the interests of Africa and are agents of imperialism. The September 11 2002 events in the USA have also created further pressure for HRDs in Zimbabwe. The use of the word “terrorists” is now quite generous to include some of the work of HRDs in Zimbabwe. An example of government propaganda against HRDs and civil society comes in the form of an advert the Department of Information in the Office of the President and Cabinet placed in the public media after mass stayaways which reads;

“On March 18 and 19, terrorists, thugs and lawless elements using brutal tactics of Rhodesian Selous Scouts conspired with so called civil society, opposition press, self-proclaimed human rights activists and some church groups to unleash violence and thuggery on ordinary people under the guise of mass action.

Where and what is the connection between human rights and the mass violence of attempting to derail a passenger train ferrying innocent people? That is sheer massive violence!

²⁸ICG Africa Report 52. Zimbabwe: The Politics of National Liberation and International Division; ICG report No 47 Zimbabwe: What Next? ICG Report No 41, Zimbabwe at a Cross Roads: Transition or Conflict?

²⁹ IDASA Regional human rights defender's commentary dated 22/4/03.

TIME NOW FOR ACTION AGAINST MASS VIOLENCE!”³⁰

It is therefore clear that the position taken by Africa and South Africa in particular has aggravated the human rights situation in Zimbabwe. It has contributed to the worsening of our human rights record because the government takes comfort in knowing that it is not alone and in fact receives active support from a country that Africa and other developing countries look up to for leadership. Unfortunately the plight of the HRDs is unlikely to improve unless there can be responsible leadership from South Africa and other respected African nations. The megaphone diplomacy of Western governments in particular Britain has also not helped the HRDs or the human rights situation in Zimbabwe in that it plays directly into the propaganda strategy of the Zimbabwean government of creating an impression that it is being persecuted by a former colonial master for taking land from the whites, that is descendants of colonialists.

Civil Society Response

The civil society in Zimbabwe is now all too aware of the shrinking democratic space in which they are operating. It has therefore reacted by creating a human rights defenders emergency project. This project has been set up as a “rapid reaction” provision of legal services to human rights defenders across Zimbabwe who have been arrested, detained or otherwise targeted by state organs or affiliates as a result of their work in the human rights and civil society sector. The project will provide emergency legal representation to such human rights defenders. In particular the project will assist human rights defenders who:

- a) are arrested, detained or otherwise impeded by State agents in the exercise of their human or constitutional rights, or
- b) have become a target of attack by the State as a result of the exercise of their human or constitutional rights, or
- c) are attempting to assist others in the exercise of their human or constitutional rights, or
- d) are innocent bystanders to the above.³¹

The reaction of civil society in Zimbabwe needs to be applauded. It is important for the HRDs to feel a measure of security in their day-to-day operations at the frontline. Civil society is advised to work closely with other international human rights organizations on HRDs like, World Organisation Against Torture (OMCT); International Federation for Human Rights (FIDH), Amnesty International, Lawyers Committee For Human Rights, FRONT LINE and International Service For Human Rights ISHR – HRDOs to name a few. It is also important for civil society to establish constant communication with the United Nations Special Rapporteur on HRDs, madam H Jilani, and the African Commission on Human and Peoples Rights.

³⁰ The Daily Mirror 23/04/03; The Herald 23/04/03; The Sunday Mail 20/04/03 Financial Gazette 24/04/03

³¹ See the HRDEF acting administrator’s guidelines widely circulated to HRDs

Conclusion

This Paper has sought to give a very general overview of the situation of HRDs in Zimbabwe and the general environment in which they are working. An attempt was made to give both a sufficiently factual and analytical picture of the political, socio-economic and legislative factors at play and impacting on the work of HRDs. The whole paper was also placed in the context of international relations and an effort was made to explain how the international environment interrelated with and influenced local processes and the work of HRDs. It was evident in the paper that HRDs are vital in a country where the human rights record is declining. It was also made clear that undemocratic governments also tend to adversely react to the work of HRDs since they do not want to be scrutinized. The Zimbabwean government was shown to be no exception. The various methods that the government uses to harass HRDs including arrests, torture, arbitrary arrests and detention adverse propaganda were referred to in passing. Finally the reaction of civil society to the harassment of HRDs was looked at and suggestions made on how this process could be further strengthened. It is therefore important for civil society to work together to strengthen
