

Under a Shadow: Civil and Political Rights in Zimbabwe

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Summary

On March 18 and 19, 2003, Zimbabwe's main opposition party, the Movement for Democratic Change (MDC) requested that its supporters stay away from their workplaces in protest against declining economic and political conditions in the country. It was the first time that the MDC had called for political action since the ruling party's victory in the March 2002 presidential elections, which were marred by widespread irregularities and incidents of violence. The independent press and the opposition party described the stayaway as a success, reporting fairly credible national observation rates of over 60%. Yet it also triggered a severe government backlash against political activity in the country.

State security forces arrested over 400 activists and other citizens, and many more were violently attacked both by security forces and by ruling party militia. The government deployed large numbers of military personnel to low-income suburbs of Harare and other urban areas. Further, in the run-up to two parliamentary by-elections held on March 29 and 30, the MDC was prevented from undertaking normal campaign activities, and known party activists were detained, beaten and harassed. The reaction of the government and the security forces during these weeks illustrated a clear and systematic repression of MDC activists, which amounted to a criminalization of political affiliation.

In addition to this direct repression of political activity, legislation passed prior to the presidential elections has resulted in a progressive closure of political space over the past year. Public demonstrations and protests are effectively illegal under the 2002 Public Order and Security Act (POSA), which curtails citizens' rights to freedom of expression. Serious restrictions on citizens' rights to assembly and association have made it difficult for elected representatives to regularly meet with their constituents - meetings are either declared illegal or are otherwise disrupted. In addition, police and youth militia have dispersed public meetings that received police clearance, private organizational meetings, and meetings of organizations that are exempt from POSA. Staff of non-governmental organizations (NGOs) say that their operations have been increasingly constrained by POSA and other legal restrictions since the 2002 presidential elections.

This report, based on over three weeks of research by Human Rights Watch, finds that Zimbabwe has suffered a serious breakdown in law and order, resulting in major violations of human rights. This environment has been created largely by actions of the ranking government officials and state security forces. State-sponsored violence and repression have expanded their scope both geographically and in terms of targets over the past year. The political violence endemic in the rural areas since 2000 has now become common in urban centers, and those targeted now include non-political actors, including civic organizations and church leaders.

Background

The deteriorating human rights situation in Zimbabwe is the continuation of a consistent pattern of human rights abuses over the past three years. These abuses began shortly before the parliamentary elections of June 2000, and they were linked both to the rising popularity of the MDC and the February 2000 defeat of the government's proposed new constitution in a referendum. Spontaneous as well as state-sponsored invasions of white-owned commercial farms occurred throughout 2000,¹ and the government failed to take firm action against the violence and lawlessness that accompanied these invasions. Police often refused to take action or even document reports of human rights violations on occupied farms.² Indeed, supporters of the government and of the government's fast track land redistribution were vested with a considerable degree of impunity, an impunity that the Presidential political amnesty of October 2000 actually made official.³

The government's actions during this period allowed the war veterans who had led the occupations of commercial farms to carve out their own zones of authority. War veterans have no official status as government officials and regularly ignore police and court directives. However, they have become increasingly involved in activities as disparate as policing, land distribution, and training of youths in the national youth service. Furthermore, the government has allowed the graduates of these training programs to monitor price controls and perform other informal policing operations, thereby creating another potential challenge to the authority of official state security forces. Clear lines of authority and jurisdiction have also been eroded by a gradual militarization of normal policing activities. The military has become increasingly involved in food distribution, electoral management, and other activities that would naturally fall under the mandate of the Zimbabwe Republic Police. The increasing disorder in this sector has created a permissive environment for continued violations of personal security and basic rights, even in the event of a substantive change in government policy. That is, even if the ruling party commits itself to a restoration of peace and order in Zimbabwe, its ability to ensure the compliance of its supporting structures is uncertain.

The severity of human rights abuses has increased, and the direct involvement of formal state institutions in such abuses marks a new and dangerous development in Zimbabwe's ongoing political crisis. Previously, war veterans, youth militia, and ruling party activists had been responsible for most of the violence and intimidation of opposition party supporters. Interviews in March and April of this year established that violent human rights violations are being carried out by uniformed army and police personnel. Further, the government has taken no clear action to halt the rising incidence of torture and mistreatment of suspects while in the custody of police or intelligence services. As in the past, repression of political activity and expression of dissent have been particularly noticeable prior to election periods. However, as economic and political conditions deteriorate, the government seems increasingly willing to directly involve itself in human rights abuses.

The government has become more vulnerable as a result of the deterioration of economic conditions in Zimbabwe - a situation that has been compounded by the lack of corn, gasoline and other basic commodities. The economy contracted by an estimated 12% percent during 2002.⁴ Minimum wages set by government are less than a third of the amount needed by a family of six to meet basic needs. The Consumer Council of Zimbabwe estimates that the amount needed by a low-income family of six to purchase a basic expenditure "basket" was Z\$88,578 in February 2003 (US\$104 at the official rate, US\$68 at the parallel rate)⁵; however, the government minimum wage in March for an unskilled or semi-skilled worker in the formal sector was approximately Z\$23,000 a month (US\$27 or \$18 in March).⁶ Inflation has surpassed 220% per annum, and it is estimated that unemployment exceeds 70% of the workforce.

Political Violence

In the weeks following the MDC-organized stayaway of March 17 and 18, Zimbabwe experienced a massive wave of arrests including the arrests of five MPs on suspicion of organizing the stayaway.⁷ Those in custody were denied adequate food and the right to legal counsel and were subjected to beatings and torture. A large number of those arrested were released after forty-eight hours detention without any formal charge, indicating that police are often arresting without sufficient grounds or legal standing.⁸ According to some ruling party Members of Parliament and other officials, the violence that occurred during this period was perpetrated by supporters of both the ruling party and the opposition.⁹ These individuals mentioned government reports of attacks by MDC activists against those who did not wish to participate in the stayaway, as well as several episodes of property destruction that occurred during the stayaway. However, these same officials suggested that either they themselves or others intervened when necessary to prevent charges being filed against "our youths" (their supporters). When asked, ruling

party members agreed that there was unequal application of the law and police discrimination against MDC supporters.

Many of those interviewed by HRW reported that informal curfews had been established in several areas and had been in place for more than two weeks. Areas in and around Harare that were reported to be most affected by curfews, security roadblocks, and military deployment included Chitungwiza, Mabvuku, Glen View, and Kuwadzana. There were also reports of large numbers of youth militia in Mbare. Other suburbs were also affected, though perhaps less intensively or for shorter periods of time.¹⁰

Residents in Kuwadzana and Highfield reported an increased presence of youth militia and military personnel in the week preceding the parliamentary by-elections in these constituencies. The Zimbabwe Electoral Support Network (ZESN) suggested that the low turnout in these constituencies as compared to the 2000 and 2002 elections was due to the climate of intimidation and fear fostered by military and militia presence prior to the election. In a preliminary press statement following the closure of the polls, ZESN reported that "the actual polling days were characterized by vote buying, violence, abductions of observers and party polling agents, intimidation, denial of access to the polling stations to accredited observers, and a heavy presence of the uniformed forces and ZANU PF youths in the vicinity of the polling stations."¹¹ There were serious restrictions on residents' mobility throughout this period, as commuter transport was stopped at roadblocks and commuters were required to produce identification. Residents reported that these roadblocks and nighttime patrolling by military and militia made them fearful for their personal safety. One Highfield resident commented: "By 6 o'clock [on the first day of voting] we were all inside. We had seen the military moving around, and everyone knew what was going to happen if you were on the streets. Men weren't even drinking by the bottle store."¹²

Targeted Attacks by State Security Forces

Human Rights Watch conducted the bulk of the research for this report in Harare but also consulted with human rights workers in urban centers nationwide. The largest numbers of reports of arrests and violence came from Harare, but similar patterns of targeted attacks against MDC members and supporters were observed in other urban areas. Human rights abuses in March 2003 demonstrated a significant degree of planning and coordination. Security forces possessed good information on MDC members and their movements. They would sometimes ask those they were beating for the location of particular individuals; and even if they did not get this information, revealed they already knew the answer.¹³

It seems that targeted attacks on MDC activists were perpetrated by members of the military or, possibly, by members of the Law and Order section of the police forces, who wear uniforms similar to army camouflage. Both military and the Law and Order section personnel drive green vehicles without license plates, which are the vehicles that victims and witnesses reported seeing driving around the low-income suburbs. Noting the time lags and similarities between incidents, one human rights worker speculated that a single unit of the military may have been put together to undertake these special assignments.¹⁴ Several victims told Human Rights Watch that perpetrators had a patch reading "commando" or "commando unit" on their uniforms.¹⁵

It is difficult to determine how many of the hundreds of detentions of MDC activists in March-April were accompanied by the kind of physical brutality that some victims described. However, it is clear that violent attacks by official state security personnel were systematic and widespread, particularly in the high-density suburbs. In most cases, "suspects" were not taken to police stations, and charges were neither filed nor mentioned to the individuals.

The attacks by state security forces were very brutal. In addition to beating victims with blunt objects, police and army personnel burned victims with cigarettes, forced them to drink poison, urine or other toxic liquids, sexually assaulted them with blunt objects, and beat individuals on the soles of their feet. There was no distinction made between family members of suspects and the suspects themselves. In some cases, it seems that family members were brutalized either to punish suspects or in the hopes of extracting information. In other cases, family members were mistaken for suspects or were thought to be hiding them. When security forces arrived at the house of a MDC activist two days after the stayaway, for instance, they mistook the suspect's mother for her. The attack on the mother did not stop once the activist identified herself: "I heard my mother screaming from inside my room, so I came out.

Unfortunately, I had a poster of Morgan [Tsvangirai, MDC President] on my wall, and when they saw it they went crazy. They started beating me with a cord and broken hosepipes, and they were yelling and calling me names. I saw the piece of cloth my mother was wearing had fallen down, and they were beating her. And they made her part her legs, and they put the AK inside her."¹⁶

Both the MDC activist interviewed and her brother, also a member of party structures, were eventually taken away in state vehicles. She reported that she was beaten and burned with cigarette butts on her hands and arms while they interrogated her about MDC plans for mass action. After some hours, she was released without being taken to a police station or charged with any offense. Medical personnel who treated her and her mother at a private clinic in Harare confirmed that their injuries were consistent with this account.

Members of the household of an MDC MP told a similar story, though this attack took place after the Kuwadzana and Highfield by-elections.¹⁷ Security personnel arrived at their house at around midnight in an armed group of about fifteen. Household members said that the MP was out of the country, but the “soldiers” accused them of lying and began beating the three male members of the household with *sjamboks* (whips) and baton sticks. The leader of the group told one victim that the military “will clean the whole of Chitungwiza and go to every MDC house.”¹⁸ Security personnel left after stealing basic commodities, a registered gun kept in the household, a cellphone, a car radio, Z\$200 000 (US \$236 or \$154 in March), and some cans of paint. Two household members volunteered physical descriptions of the perpetrators to Human Rights Watch.

Individuals living in these low-income suburbs will often initially deny having witnessed any arrests or incidents of political violence. After assurances of confidentiality, some admit that they have witnessed several events but say that they keep quiet for fear of being associated with the opposition and victimized themselves.¹⁹ With regard to late-night arrests or assaults by security personnel, “of course [residents] hear the noise, but no one would come out. They just sit and listen. Yesterday we had someone in [for treatment] who was beaten for looking through her window at what was going on.”²⁰

In areas seen to be MDC strongholds, civilians with no links to the opposition party or to activist organizations have also been assaulted, sometimes with the aim of obtaining information. A fifteen-year-old girl residing in Chitungwiza told the following story:²¹ A few days after the Harare by-elections, she was returning to the gate of her sister's house at around 9:30 at night, carrying a bag of clothing, when a large group of men in camouflage approached her. She thought they were soldiers, but they began beating her with batons and demanding names of MDC members and where such members met. She repeatedly told them her age, arguing that she was too young to know about such things, but they continued to beat and threaten her. She eventually told them that the MDC met at a particular school, and they left, taking with them her bag of clothes. Another woman, also with no links to politics, reported that “soldiers with black berets” pointed a gun at her head and demanded information about Job Sikhala (MDC MP for St. Mary's). She was then thrown on the ground, beaten, and jumped upon. They left her in the road after robbing her house of Z\$35,000 (US \$41 or \$27 in March).²²

The government justifies the deployment of large numbers of military personnel to residential areas, saying that such actions are necessary in order to preserve law and order. In an interview with the *Sunday Mail*, Information Minister Jonathan Moyo defended the deployment of military in high-density residential areas by stating: “It would be foolhardy to deploy only the police to deal with such terrorists. Terrorism in a constitutional democracy requires a military response and where the military is deployed nobody should expect a picnic because throwing petrol bombs at civilians and placing dynamite under bridges and in buildings is just not a picnic.”²³ During the stayaway, two commuter vehicles were damaged with petrol bombs, and physical property was also damaged in an urban area. Government has arrested dozens of individuals in connection with these events, but it has not presented any evidence establishing the identity of the perpetrators or the involvement of MDC officials or MPs in ordering such destruction.

Violations by Youth Militia

The increasing involvement of Zanu PF youth militia -- also known as “green bombers” due to the color of the uniforms they wear -- has also contributed to the breakdown of law and order and to increasing violence. The militia is composed of graduates of the Border Gezi National Training Centers; the first of these was established in Mashonaland Central (Mt Darwin), and several more have been opened in Matabeleland North and South, Midlands and Masvingo. The government has announced its intention to open 35 centers nationwide, which explains the rapid increase in the program's budget allocation from Z\$418 million in 2002 to Z\$2 billion in 2003.²⁴

Youths are induced to join the programs with promises of jobs, and the government has also made the youth service a prerequisite for entrance into the military, police, and the public university system. The program ostensibly teaches youths entrepreneurial and vocational skills, but the activities of youth militia who have been deployed to communities suggest that they have received military training and instruction in torture.

After graduation, the youths are deployed to different areas of the country to serve as Zanu PF militia. They set up informal roadblocks, monitor and violently harass those suspected of being MDC supporters, and ensure compliance with government-gazetted price controls.²⁵ The youth militia have been implicated in several acts of violence, torture, and property destruction in rural areas, and Zimbabwean human rights organizations documented an increasing proportion of political violence being associated with these groups in the run-up to the presidential elections.²⁶

The presence of youth militia in the urban areas noticeably increased in the latter portion of 2002, particularly in Harare and Bulawayo. By mid-January, there were reports that youth militia had set up bases in several locations in the Kuwadzana constituency, including a city council building and a shopping center.²⁷ There was also an increasing number of attacks against vendors accused of hoarding basic commodities or selling them for more than the ticketed price. Witnesses and victims of these attacks report that sugar and other basic commodities were then “confiscated” by the youth militia, often in plain sight of police officers. The youth militia are suspected of selling the stolen goods on the parallel market.²⁸ Youth militia have been involved in violent attacks on those suspected of opposition party loyalties. These attacks are much less targeted than those perpetrated by state security forces, and they are also more likely to affect bystanders. During attacks, police have not interfered with the activities of the militia. In one incident, a twenty-one-year-old social activist said that he was grabbed by youth militia two days after the stayaway in a township of Harare.²⁹ He believes his abduction was a case of mistaken identity. The militia demanded to look inside his bag, in which he had some fliers about a “people’s initiative” not linked with the MDC. Upon finding this material, they began to beat him with whips and they stole his cell phone and other personal possessions. Police passed by while he was being beaten and made no attempt to interfere. After three hours, he was taken to the police station, but he heard the youths continue to make statements about killing him. He paid bribes to two police officers to make the youths leave. He was taken to another police station and was then released without charges twelve hours later. Other victims interviewed by HRW told similar stories.

The Closure of Organizational Space

Since 2000, NGOs and church organizations have found it more and more difficult to operate in areas considered to be politically volatile or off-limits, particularly rural areas. Moreover, the combination of increasingly restrictive legislation and repression by security forces or informal actors has resulted in further constraints on basic liberties since the presidential elections of 2002. Lawyers and NGOs indicate that there are two dimensions to the crisis of law and order in Zimbabwe: (1) the increasingly repressive legal climate and (2) problems associated with selective enforcement or “excessive” enforcement due to the politicization of state security institutions.

Legal Restrictions on Rights to Assembly and Speech

The government passed two major pieces of legislation before the presidential elections, the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA), that severely limit criticism of government and public debate. Of these legal changes, the introduction of POSA has had the most immediate and the most negative impact on human rights conditions in the country. The Act prohibits a broad spectrum of speech acts, including any public statements that would be “likely to undermine public confidence” in the police and other state institutions, as well as any statements likely to engender “feelings of hostility” towards the President.³⁰ The vagueness of the language regarding prohibited speech makes the Act capable of being extended to almost any expression of personal belief and is, on its face and in its application a direct violation of Zimbabwe’s obligations to uphold freedom of expression under the International Covenant on Civil and Political Rights, to which the country has been a party since 1991.³¹

POSA’s restrictions on public meetings are also detrimental to the rights of Zimbabwean citizens to freedom of expression, association and assembly. POSA requires the organizers of a public meeting to inform local police of the meeting four days in advance. In order to preserve public order, police are given the authority to change the venue or other logistical aspects of the meeting, prohibit the meeting entirely, or prohibit all public meetings in a particular police district for up to three months. These sections of POSA have been used to shut down several public meetings, including those held by elected MDC officials to report back to their constituencies.³² The police do not provide clear reasons why meetings are considered threats to public order and do not suggest conditions under which the meetings could be held. In practice, any meeting organized by opposition party members or civil society organizations is presumed to threaten public order. The same presumption does not apply to meetings organized by ruling party supporters.

The freedoms of expression and association have also been curtailed by AIPPA, which requires the registration with government of all journalists and media houses.³³ Journalists operating without licenses are subject to heavy fines and imprisonment. These restrictions on journalism have recently been applied to non-journalists collecting information for other purposes. In one case, four Lutheran aid workers were arrested under AIPPA and held for several days in their hotel without formal charges.³⁴ The government seems prepared to go further to limit speech critical of government: a recent Ministry of Foreign Affairs order bans foreign diplomats from making speeches at their national day events.³⁵

The Private Voluntary Organizations Act of 1996 requires all organizations that provide welfare services or treatment or “any activities that uplift the standard of living of persons or families” to register with the government. Registration is not automatic, and the government has a right to deny an organization’s right to exist after examining its books and records. Until recently, this last provision had not been enforced, but in November 2002, Justice Minister Patrick Chinamasa announced in Parliament that all organizations not registered under the PVO Act should immediately cease operations or face arrests. NGOs reported that they were particularly concerned about amendments to the Act, currently being drafted by government, which would further strengthen government control over NGO operations.³⁶

The Arbitrary Enforcement of Legal Provisions

The detrimental effects of constraints placed upon political and civil rights by the government legislation are compounded by irregular, selective, and “excessive” enforcement.³⁷ Tactics used by police and other security forces include the arrest of political and civil society activists on criminal charges without credible evidence, the use of torture during interrogation, and the arrest or beating of those associated with the accused, such as family members, without any evidence of wrong-doing on their part.

The police have loosely interpreted POSA to place restrictions on a broader category of activities and actors. There is also a pattern of arresting individuals, holding them for the maximum 48 hours and then releasing them without charge. Interviews conducted by Human Rights Watch suggest that police often do not have a particular charge or infraction in mind when arresting members of the public. Some don’t even make an attempt to justify detentions: one victim of a severe beating by youth militia was told by police that they had been directed, “if you find anyone with MDC or any organization, just take them and hold them until August.”³⁸

Arbitrary detention is not merely practiced against political activists or MDC officials. For instance, one trade unionist reported that he had been arrested after the holding of a public meeting to discuss labor issues.³⁹ He had not addressed the meeting, and he asked on what charges he was being held. The arresting officers and their superiors said he had violated POSA - “all arrests are now under POSA,” they stated - but they refused to furnish a section number or a specific accusation.

In addition to detention without charges, scores more have been arrested, charged, assigned bail, and then told that the police would “proceed by way of summons.” Rarely are these charges pursued. Individuals so charged told HRW that they felt intimidated by these tactics, and they said that the pending charges put restrictions on their ability to plan and their freedom of movement. “They don’t come for a long time, but if you then ask about the charges, they tell you to go away and wait to be summoned. So you’re always thinking, if I do this thing or if I say that, will it make them pick me up? It’s like there’s a shadow over your head.”⁴⁰

The non-pursuit of charges may be due to the questionable legality of most of the arrests. Human Rights Watch interviewed over ten individuals who were arrested under sections of POSA with which they had either complied or from which they were exempted. For instance, the Peace-building Subcommittee of Crisis in Zimbabwe, which includes several religious organizations, informed police in advance of a meeting to be held on February 18th 2003. Subcommittee members, many of whom were from church organizations, arrived at the church to find a large group of riot police who informed them that the meeting would not take place.⁴¹ After a short dialogue with police about an usher he was supposed to drive home, one of the participants was assaulted by the police and told that he would be arrested under POSA. He was handcuffed and hit several times by the presiding officer. As the police were transporting the suspect to the police station, they stopped at an adjoining restaurant and arrested five attendees from the meeting on charges under POSA, though there seemed no basis for the arrests. Among those arrested were Bishop Trevor Manhanga of the Evangelical Fellowship of Zimbabwe, one of the three largest umbrella church organizations in Zimbabwe.⁴²

Widening the Spectrum of Targets

The extreme state of societal polarization in the country has blurred lines between political and civic activity. The government has come to see many organizations, particularly those in the realm of human rights and governance, as associated with or even part of the opposition party. Over the past six months, the government has explicitly refused to recognize the stated non-partisan nature of these organizations. The state-owned press has published several reports alleging that domestic NGOs and church organizations were under the control of foreign interests or were pursuing activities intended to undermine national security and order within the country. Many of these organizations receive funding from the UK Department for International Development and the US Agency for International Development, as well as other donor organizations and private foundations.

Zimbabwean NGOs report that this hostile environment has resulted in direct constraints on activities or in the compromising of some programs in order to continue operating.⁴³ For instance, the Legal Resources Foundation has reported that its paralegals eliminated or substantially changed the content of programs on the constitution and the declaration of rights in 2002, even though there was still strong demand for these programs.⁴⁴ Similarly, the Association of Women's Clubs (AWC) decided to formally halt its programs on voter education, women's legal rights, and human rights issues because of fears of intimidation.⁴⁵

Civil Society Organizations

The PVO Act detailed above has been used to seriously constrain the activities of Amani Trust, an organization formed in 1993 to treat and rehabilitate victims of torture and organized violence.⁴⁶ It is registered as a trust with the High Court, which excludes it from the provisions of the PVO Act.⁴⁷ The organization has provided assistance to liberation war veterans suffering from trauma, provided testimony to a government commission investigating war veterans' compensation claims in 1997, and has conducted training programs on torture and trauma in association with the Ministry of Health. However, by mid-2000, Amani was mostly providing treatment and support to former farmworkers, political activists, and those accused of being MDC sympathizers, simply because these groups composed the bulk of victims.

In 2000-2001, Amani set up safehouses in urban centers to house the many who were internally displaced due to violence. It also released several reports documenting abuses and reporting the names of perpetrators.⁴⁸ At around this time, stories in the state press reported that Amani was funded by the British government, that it was publishing false reports, and that it was allowing the safehouses to be used as bases for MDC "terrorist" operations. Following the release of Amani documentation on rapes at national youth training facilities and by war veterans, police, and youth militia, attacks against Amani in the government-owned press increased.⁴⁹ At the beginning of September, the government gave Amani notice that it should cease operations until it was formally registered under the PVO Act, legislation to which it would be exempt due to its registration as a trust. The organization closed its offices in mid-November after threats of arrests in the state-owned press and in Parliament.⁵⁰

Other organizations have been systematically harassed using the provisions of POSA, specifically those like the National Constitutional Assembly (NCA) that have continued to organize protests and public meetings over the past year.⁵¹ The NCA has had its national offices subjected to police searches five times from January 2002 to the present.⁵² On these occasions, police told NCA officials that they were suspected of possession of subversive materials, organizing public violence, or conspiracy to commit an offense. Police seized donor files, financial records, civic and voter education materials, and NCA T-shirts.⁵³

The most recent raid of the NCA offices occurred two days after the MDC-sponsored stayaway of March 18-19. On Friday, March 21, a large group of armed police arrived at the NCA headquarters to arrest NCA officers on suspicion of helping to organize the stayaway. According to a staff member, all of those present, male and female, were forced to lie on their stomachs on the lawn and were beaten with baton sticks.⁵⁴ The eighteen men present at the offices, including several members who had come from provincial offices to attend an evaluation workshop, were then taken to the police station and detained until Monday, March 24, without food or access to legal advice. They were then released without charges.

Churches and the National Pastors Conference

Following the presidential elections, the religious community in Zimbabwe was increasingly split between those groups openly critical of government's human rights record and those that were more muted in their criticism. Many church officials indicated to Human Rights Watch that there was a deepening crisis in the

church as economic conditions worsened in the country as a whole and attacks against pastors in the rural areas continued. These officials felt that the main church bodies - the Zimbabwe Council of Churches, the Catholic Bishops Conference, and the Evangelical Fellowship of Zimbabwe - were not vocal enough, and a large number of pastors began to feel that it was immoral to remain quiet. One pastor said he was apolitical but felt "a religious obligation to bear witness. There's no way you can be a Christian in this environment and turn a blind eye to what is taking place."⁵⁵ The National Pastors Conference, under the auspices of the inter-denominational Ecumenical Support Services (ESS), was formed in February 2002 to provide for pastors who were forced out of their parishes by political violence. Before and during 2002, the attacks on religious bodies were perpetrated by non-state actors, such as war vets and party activists, after pastors had performed funerals or provided other services to MDC supporters. By 2003, there was a feeling within the National Pastors Conference that the intimidation of pastors was coming from the state security institutions themselves.⁵⁶ There were few incidents of meetings being halted in 2002, but in rural areas, workshops and other church functions are always attended by members of the intelligence services, who sometimes even introduce themselves.⁵⁷

Individuals from several different denominations and church organizations said that relations between the government and the churches were in rapid decline by early 2003. In the run-up to the by-elections in Kuwadzana and Highfields, police and youth militia forcibly dispersed a "Crusade," a legally permitted prayer meeting, citing POSA.⁵⁸ Some church leaders saw the police interference and arrests at the 13th February Northside Christian Church meeting as the last straw. Members of the religious community noted that the meeting had initially been cleared by the police, and they felt that its cancellation showed that the government now saw church meetings as political. Said one official, "The feeling was, if we don't act now, they'll shut down all our meetings."⁵⁹

The Evangelical Fellowship of Zimbabwe, Ecumenical Support Services, the National Pastors Conference, and the Peace-building Sub-committee of Crisis in Zimbabwe organized a small march for Friday February 28, 2003. Those involved in the march were a small group of twenty three church leaders and pastors. They left the offices of the Evangelical Support Services in Harare at around 11am with a petition that they were going to present to the Commissioner of Police protesting police intimidation and arbitrary arrest.⁶⁰ Before reaching the police headquarters, two trucks full of riot police arrived, and the police were singing "you've chosen to be beaten." The group was held all day at the central police station without food or legal counsel before being charged under section 24 of POSA, even though religious groups are exempt from this section.

To date, the police have not pursued these charges. However, some of the pastors involved in the march have faced harassment and intimidation. One pastor said he had never had any direct experience with political victimization prior to this year. After participating in the February 28th march, he began to receive strange phone calls. The callers refused to identify themselves, and they told him to meet them at particular locations or they would "come and take [him] by force."⁶¹ Another pastor whose parish was located in a communal area has faced more severe harassment and intimidation.⁶²

After a series of visits from unidentified men and threatening phone calls, he took his family into Harare to stay and returned to his parish only during the day.

Another pastor confirmed that the deterioration of church-state relations was also occurring in the provinces.⁶³ Prior to the past few months, the Manicaland Church Forum, an inter-denominational organization committed to peace building, had been meeting regularly with all provincial MPs from both the ruling party and the opposition. Toward the end of 2002, there was a feeling that peace-building programs needed to be expanded nationwide and embrace a larger number of people, including the police. As part of these efforts, a member of the Forum presented a paper at a January conference suggesting that Zimbabwe may need a Truth and Reconciliation Commission at some point. Shortly thereafter, he was arrested under POSA and interrogated for two and a half hours by members of the CIO. He posted bail and was released; charges have not been pursued. Since that time, the Manicaland Church Forum has not been holding meetings, and the dialogue that the church had with government and ruling party MPs has ceased.

Zimbabwe's Obligations Under International Law

The systematic and arbitrary arrests of dissidents and the acts of torture described in this report violate international law. As a party to the International Covenant on Civil and Political Rights (ICCPR),⁶⁴ Zimbabwe has a duty to pass and enforce laws that protect its citizens against unwarranted intrusion by its security forces.

POSA violates Zimbabwe's international obligations. The ICCPR specifically guarantees a right to freely express one's opinions and beliefs. Article 19 reads:

"Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds . . . through any other media of his choice."⁶⁵

Two particular sections of POSA allow for interpretations that would easily violate Zimbabwe's obligation to allow freedom of expression under the ICCPR. Section 15 prohibits speech likely to "undermin[e] public confidence in a law enforcement agency, the Prison Service or the Defense Forces of Zimbabwe."⁶⁶ Section 16 prohibits any speech with the possibility of "engendering feelings of hostility towards; or causing hatred, contempt or ridicule of the President . . . whether in person or in respect of his office;" punishable by up to \$20,000 (US \$24) in fines or a year in prison. Further, any "indecent, obscene or false statement about or concerning the President" is also punishable under this section of POSA.⁶⁷ Authorities use the broad language of Sections 15 and 16 of POSA to target members of the MDC and other opposition groups critical of the government. They manipulate the meaning of POSA and AIPPA, granting almost unlimited authority to stamp out unwanted voices. The Zimbabwean Supreme Court recently ruled a section of AIPPA unconstitutional. Section 80 (1)(b) read with 80 (2) referring to publishing falsehoods violates Section 20 (1) of Zimbabwe's constitution, which guarantees unfettered freedom of expression.⁶⁸ Groups supporting the ruling argued that its limited scope left other abusive provisions in AIPPA intact, but they generally applauded the ruling. The government has declared that it is "under siege" and will continue using POSA to restrict MDC activities, in order to maintain order and the legitimacy of the current government.⁶⁹ Article 21 of the ICCPR states:

"The right of peaceful assembly shall be recognized. *No restrictions may be placed on the exercise of this right* other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others."⁷⁰

Arbitrary arrest is also strictly forbidden. Article 9 states:

"Everyone has the right to liberty and security of person. *No one shall be subjected to arbitrary arrest or detention.* No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law."⁷¹

"Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him."⁷²

The UN Code of Conduct for Law Enforcement Officials requires restraint, even in times of domestic tension. "In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons. . . . [They] may use force only when strictly necessary and to the extent required for the performance of their duty."⁷³ The Code forbids torture, corruption, and mistreatment of detained persons as well.⁷⁴

When it became a party to the ICCPR, Zimbabwe agreed to "take the necessary steps . . . to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the Covenant."⁷⁵ The ICCPR specifically guarantees equality before the law "without any discrimination . . . on any ground . . . [against] political or other opinion[s]." Zimbabwean authorities abrogate their duties as a party to the ICCPR when they arbitrarily arrest, beat and intimidate MDC opposition.

Conclusions

By failing to act strongly against the perpetrators of violence, by enlisting state institutions to beat and harass those perceived to be critical of government, by using rhetoric that relies on metaphors of war and terrorism, the Zimbabwean government has created a culture of impunity, intolerance, and injustice. The dismantling of this culture is necessary before Zimbabwe can begin political and economic recovery. The government of Zimbabwe is directly responsible for only some of the human rights violations in the country. Even where there are open questions about the degree of control exercised over war veterans and youth militia, it still remains responsible for their actions. There are also credible reports of violence and intimidation by MDC activists and youth. However, as one ruling party MP admitted, "when you ask who has the capacity to stop [the violence], if it had the will, the answer is government."⁷⁶ Due to economic conditions and the increasing levels of violence, Zimbabwe is currently facing a particularly volatile political situation. The continuation of current levels of polarization will impede the restoration of basic rights and security. Indeed, the evidence presented above suggests a potential for

continued erosion, perhaps at an accelerated pace, of human rights conditions within the country. It is imperative the Zimbabwean government to take credible measures to reduce tension within the country and to repair the reputation of state institutions. From this standpoint, recent efforts by regional actors to revive dialogue between government and opposition are a positive step toward normalization of politics inside the country. However, in order for such efforts to result in substantive improvement in human rights conditions in Zimbabwe, the Zimbabwean government must undo the damage wrought by persistent patterns of human rights abuse and the impunity that has accompanied them. This will require greater tolerance of political pluralism, greater transparency and accountability in government policy-making, and the arrest and trial of those responsible for gross human rights violations.

Recommendations

To the Government of Zimbabwe:

- Reestablish the rule of law by making law and order operations, including the interrogation of suspects, the sole domain of the Zimbabwe Republic Police. Disband the youth militia and shut down training bases established under the Zimbabwe National Youth Training Program. Withdraw military personnel from residential neighborhoods, especially those with upcoming elections, and limit military presence in urban centers. Arrest and prosecute those responsible for gross human rights violations.
- Reaffirm the government's commitment to due process and equal treatment under the law. Ensure that the police cease the use of detention without charges, torture, and selective enforcement. Investigate citizens' claims of torture by the Central Intelligence Organization (CIO).
- Encourage a climate of tolerance and mutual respect for differing political opinions. Cease inflammatory rhetoric, including tacit approval of violence, in the public press, at public rallies and state events. Allow elected representatives to meet with constituents without restriction, and ensure the safety and freedom of the opposition party to peacefully campaign prior to elections.
- Ensure the revision of existing legislation that constrains Zimbabwean citizens' ability to exercise basic rights, in accordance with international standards. In particular, repeal those sections of POSA that criminalize public meetings of a political nature and criticism of office-holders and government actions.

To the Opposition Party:

- Reaffirm the party's commitment to non-violence and tolerance. Investigate claims of political violence, coerced participation, and threats by MDC activists during the March 18-19 stayaway. Direct all party members to avoid violence, retaliatory action, or actions intended to intimidate or force cooperation.
- Encourage a climate of tolerance and mutual respect for differing political opinions. Cease the use of inflammatory rhetoric at public rallies and campaign meetings.

To the International Community:

- Continue to insist upon the immediate reintroduction of the rule of law and the cessation of the use of arbitrary detention as well as beatings and other forms of torture or cruel, inhuman or degrading treatment and targeting of opposition and civil society activists.
- Urge the Zimbabwean government to revoke those elements of domestic law that contradict or are applied contrary to international law and infringe the basic rights of Zimbabwean citizens. Urge all actors to respect the human rights of all parties and to abjure the use of violence and intimidation.
- Support ongoing efforts by regional actors to facilitate a quick resolution of Zimbabwe's political and human rights impasse.

¹ For analysis of the human rights violations that accompanied the government's 2000-2002 fast-track land program, see Human Rights Watch, "Fast Track Land Reform in Zimbabwe," March 2002.

² Weekly situation reports of the Commercial Farmers Union, 2000-2001. Available from zwnews.com.

³ The October 2000 presidential clemency excused all those liable to prosecution for political motivated crimes committed between 1 January 2000 to 31 July 2000, excluding the crimes of rape, murder and fraud. Amnesty International and other human rights organization saw this clemency as a direct cause of continued human rights violations in the country. See Amnesty International, "Zimbabwe: the Toll of Impunity," June 25, 2002.

⁴ UN Relief and Recovery Unit, "Humanitarian Situation Report," 13 January 2003.

⁵ The value of Zimbabwean dollar had been artificially maintained at ZW\$55 to the US\$ until February 2003, when government devalued the dollar to \$847 to the US\$. Because of the shortage of foreign exchange in the country, a thriving parallel market has arisen that is perhaps a more accurate measure of the Zimbabwean dollar's value. In March 2003, the ZW\$ was trading on this market for approximately \$1200 to \$1350 to the US\$.

⁶ Cited in Fews-net, "Zimbabwe Monthly Food Security Update" March 26, 2003, available at www.fews.net.

⁷ Information provided by the MDC, correspondence, April 2003.

⁸ HRW interview with Geoffrey Feltoe, University of Zimbabwe, Harare, May 2003. HRW interviews with the detained, Harare, March and April 2003.

⁹ HRW interviews, Harare, April 2003.

¹⁰ HRW interviews, Harare, March and April 2003.

¹¹ Zimbabwe Electoral Support Network, "ZESN preliminary press statement on the Kuwadzana and Highfield by-elections," Press Statement, March 31, 2003.

¹² HRW interview, 30-year-old female secretary, Harare, April 2003.

¹³ HRW interviews, MDC activists and party office-holders, Harare, March 2003 and April 2003.

¹⁴ HRW interview with Amani Trust, Harare, March 2003.

¹⁵ This identification was provided by three separate residents of Chitungwiza. HRW interviews, Harare, March and April 2003.

¹⁶ HRW interview, female MDC activist, Harare, March 2003.

¹⁷ HRW interviews with the MP's 62-year-old driver and his two nephews, Harare, April 2003.

¹⁸ Interviewee confirmed the use of the Shona word "clean."

¹⁹ Informal interviews and correspondence, Harare, February and March 2003.

²⁰ HRW interview, employee of Zimbabwe Human Rights NGO Forum, Harare, April 2003.

²¹ HRW interview, Harare, April 2003.

²² HRW interview, 35-year-old woman, Harare, April 2003.

²³ Sunday Mail, 6 April 2003.

²⁴ IRIN, 18 December 2002. Even taking into account inflation for 2002-2003, this is nearly a doubling of the budget allocation for this program.

²⁵ Anthony Reeler, former director of Amani Trust, "The Role of Militia Groups in Maintaining Zanu PF's Power," March 2003. Report can be obtained from zwnews.com.

²⁶ Monthly violence reports, Zimbabwe Human Rights NGO Forum; also, "Are they Accountable?" (December 2002).

²⁷ Zimbabwe Standard, 19 January 2003.

²⁸ HRW interviews with UZ student, Budiriro resident, and Mbare resident, Harare, March 2003.

²⁹ HRW interview, 21-year-old former teacher, Harare, March 2003.

³⁰ Public Order and Security Act. Promulgated by Extraordinary Government Gazette 22 January 2002 and became law on the same day. Restrictions on speech prejudicial to state institutions are contained in Part II, Offenses against Constitutional Government and Public Security.

³¹ Legitimate restrictions on the right to free expression must be set out in law with adequate specificity and be only those "necessary" -- that is, the least restrictive means -- to secure an interest recognized in the treaty, i.e. respect of the rights or reputations of others, the protection of national security, public order (ordre public), public health or morals. See International Covenant on Civil and Political Rights, art. 19; U.N. Human Rights Committee General Comment 10, 19th Session 1983; and Nowak, CCPR Commentary (N.P. Engel: Kehl, Strassburg, Arlington, 1993) p. 351).

³² HRW interviews with Dr. Elizabeth Marunda and Last Maengahama, Harare City Councilors, Harare, April 2003.

³³ Access to Information and Protection of Privacy Act Bill. The bill was promulgated and came into March 15, 2002.

³⁴ Daily News 27 January 2003. The police spokesperson added that the foreigners had entered the country under false pretences and "some interesting documents suggesting they could be on some clandestine mission."

³⁵ Zimbabwe Independent 11 April 2003.

³⁶ HRW interviews with staff of several NGOs, Harare and Mutare, March 2003.

³⁷ HRW interview with Albert Musaruwa, Legal Resources Foundation Harare, March 2003.

³⁸ HRW interview, Mbare resident, Harare, March 2003.

³⁹ HRW interview, Elias Mlotshwa, Vice President of Zimbabwe Congress of Trade Unions, Harare, April 2003.

⁴⁰ HRW interview with Reverend Immanuel Hlabangama, Manicaland Church Forum, Mutare, March 2003.

⁴¹ HRW interviews with John Makumbe, Chairman of Transparency International Zimbabwe, and Brian Kagoro, Crisis in Zimbabwe Coalition, Harare, March 2003.

⁴² Evangelical Fellowship of Zimbabwe, "Arrest of EFZ President," Press Release of February 15, 2003.

⁴³ HRW interviews, Harare, March 2003. Erin McCandless and Ezekial Pajibo, "Between Perception and Reality: Are NGOs Really Making a Difference?," DRAFT Report for MWENGO (January 2003).

⁴⁴ Legal Resources Foundation, "Annual Report of the LRF: Year ended 30th June 2002," p. 14.

⁴⁵ HRW interview with Sekai Holland, former Chairperson of AWC, Harare, April 2003.

⁴⁶ Material for this section largely drawn from HRW interview, Amani Trust, Harare, March 2003. Also, "Statement by the Mashonaland Trustees of Amani" (28 January 2002).

⁴⁷ See PVO Act, Part I, Section 2.

⁴⁸ Many of the large reports and monthly updates published by the Zimbabwe Human Rights NGO Forum rely on primary material furnished by Amani Trust. Amani also publishes its own independent reports and statements.

⁴⁹ Amani Trust, "Incidents of Rape Associated with Political Violence," 28 August 2002, and "Statement on Sexual Torture," 7 January 2002.

⁵⁰ IRIN 22 November 2002; The Herald 14 November 2002.

⁵¹ The NCA is a coalition of civic organizations brought together to press for constitutional revision, and it remains committed to this aim. However, many of those now in the MDC leadership were previously active in the NCA. For these and other reasons, the government views it as MDC or as a political party-in-formation.

⁵² HRW interview with Lovemore Madhuku, Chairperson, National Constitutional Assembly, Harare, April 2003.

⁵³ Most of the material seized at the national offices was eventually returned to the NCA after the organization threatened legal action.

⁵⁴ HRW interview Ernest Mudzengi, NCA employee, Harare, April 2003.

⁵⁵ HRW interview, member of Ecumenical Support Services Harare March 2003.

⁵⁶ HRW interview, member of National Pastors Conference, Harare, March 2003.

⁵⁷ HRW interview, church official, Harare, March 2003.

⁵⁸ HRW interview, Evangelical Fellowship of Zimbabwe, Harare, March 2003.

⁵⁹ HRW interview, church official,, Harare, March2003.

⁶⁰ HRW interviews with participants, Harare, March 2003.

⁶¹ HRW interview, Harare pastor, Harare, March 2003.

⁶² HRW interview, Reverend Watson Furayi, Harare, March 2003.

⁶³ HRW interview, Reverend Immanuel Hlabangama, Manicaland Church Forum, Mutare, March 2003.

⁶⁴ Zimbabwe ratified the ICCPR on 13 May 1991.

⁶⁵ ICCPR, Article 19(1-2)

⁶⁶ POSA, Sec. 15(1)(c)

⁶⁷ See POSA, Sec. 16

⁶⁸ Vincent Kahiya. "Media Landscape Still a Minefield for Journalists." Zimbabwe Independent, Harare. May 16, 2003.

Accessed at: <http://allafrica.com/stories/200305160708.html>

⁶⁹ Zimbabwe Independent. 28 March, 2003. Efforts to convince the government to amend POSA to respect the civil and political rights of citizens have been unsuccessful. "Justice minister Patrick Chinamasa . . . said POSA would not be amended as it was serving a key purpose. "We came up with POSA after a realization that the country was under siege . . . We cannot amend POSA when we are under an onslaught from institutions which are causing mayhem and anarchy in the country. "We cannot loosen up and let the MDC and other puppets of the United States and Britain run around bombing bridges and shops. POSA was the answer to this because we have to protect our democratic space and sovereignty."

⁷⁰ ICCPR, Article 21

⁷¹ ICCPR, Article 9(1)

⁷² ICCPR, Article 9(2)

⁷³ UN Code of Conduct for Law Enforcement Officials, Res. 34/169, Art. 2-3, 17 Dec.1979. Adopted by the General Assembly. The code "emphasizes that the use of force . . . should be exceptional . . . [and] in accordance with the principle of proportionality.

⁷⁴ Id., Art. 5-7

⁷⁵ ICCPR, Part II Article 2 (2) states: "Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant."

⁷⁶ HRW interview, Zanu PF MP, Harare, April 2003.