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Zimbabwe

An assessment of human rights violations in the run-up to the March 2005 parliamentary elections

1. Introduction

For the past five years, elections in Zimbabwe have been characterized by an escalation in human rights violations.¹ These violations take place before, during and after elections. The majority of victims are members and supporters of the main opposition party, the Movement for Democratic Change (MDC), including opposition Members of Parliament (MPs) and opposition candidates. The perpetrators have largely been supporters of the ruling party, Zimbabwe African National Union – Patriotic Front (ZANU-PF), and members of the security forces.

Amnesty International researchers have been monitoring the human rights environment in Zimbabwe as the country approaches the 31 March parliamentary elections. Although there are fewer reports of politically-motivated violence than has been the case in previous elections, Amnesty International is concerned that human rights are being systematically violated in the context of election campaigning. The organization is also concerned by the level of non-violent intimidation and harassment that is taking place in the country. This briefing paper is a summary of Amnesty International's major concerns.

The human rights backdrop to the elections

Amnesty International's human rights concerns in respect of the 31 March elections cannot be viewed in isolation from the broader human rights context in Zimbabwe. Key elements of this broader context include:

- The past five years have been characterized by a serious deterioration in the human rights situation in Zimbabwe, with widespread and credible reports of state-sponsored intimidation, arbitrary arrest, torture and attacks on supporters of the political opposition, human rights defenders and the independent media.
- Repressive laws that violate freedom of expression, association, assembly and information remain in place. These include the 2002 Public Order and Security Act and the 2002 Access to Information and Protection of Privacy Act, both of which the African Commission on Human and Peoples' Rights has recommended should be amended so as to be brought in line with international human rights law.² Two new laws - the Zimbabwe Electoral Commission Act and the - as yet unsigned - NGO Act

¹ See Amnesty International documents since 2000: <http://web.amnesty.org/library/eng-zwe/index>

² African Commission on Human and Peoples' Rights, 17th Annual Activity Report, Annex II, Executive summary of the report of the fact-finding mission to Zimbabwe 24th to 28th June 2002

also contain provisions which restrict the rights to freedom of expression, association, assembly and information.³

- Zimbabwe's crisis over the rule of law, triggered by repeated flouting of court orders, harassment of judicial officers and politicization of the police service, remains unresolved. A culture of impunity persists as thousands of victims of human rights violations have been deprived of the protection of the law and denied access to an effective remedy.

Zimbabwe is State Party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the African Charter on Human and Peoples' Rights (ACHPR). Zimbabwe has also endorsed the Southern African Development Community (SADC) Principles and Guidelines Governing Democratic Elections, which include commitments to ensuring the full participation of citizens in the political process; freedom of association; political tolerance; equal opportunity to exercise the right to vote and be voted for; and the independence of the judiciary.⁴

2. Human rights violations in the run-up to the parliamentary elections

Violations of the rights to freedom of expression, association and assembly in the context of election campaigning

The rights to freedom of expression, association and assembly have been systematically violated in Zimbabwe over the past five years, both through the use of repressive legislation and the actions of the Zimbabwe Republic Police (ZRP). Amnesty International believes that the clampdown on freedom of expression, association and assembly forms a key part of government strategy to silence those who are critical of the government and the human rights abuses taking place in Zimbabwe.

Amnesty International believes that the police are using the repressive Public Order and Security Act (POSA) and arbitrary arrests to hinder opposition campaigning activities in the run-up to the 31 March parliamentary elections. In the six week period between the end of

³ For a human rights critique of the proposed NGO Act see, amongst others: Amnesty International, "NGO Act is a gross violation of human rights", 10 December 2004, AI Index: AFR 46/039/2004; International Bar Association, "Analysis of the Zimbabwe Non-governmental Organizations Bill, 2004", 24 August 2004; Human Rights Watch, "Proposed law on NGOs would violate basic rights", 4 September 2004; Zimbabwe Lawyers for Human Rights, "Zim NGO Bill: Dangerous for human rights defenders", July 2004; Parliament of Zimbabwe, "Parliamentary Legal Committee adverse report on the NGO Bill [H.B. 13, 2004]", 9 November 2004. For a human rights critique of the Zimbabwe Electoral Commission Act, see: Human Rights Watch, "Zimbabwe: Electoral Bill fails to meet benchmarks", 25 November 2004.

⁴ Southern African Development Community (SADC) Principles and Guidelines Governing Democratic Elections, 2004.

January and beginning of March at least eight MDC candidates and the MDC's Director of Elections were arrested or detained by police.⁵ For example:

- MDC candidate for Zengeza, Goodrich Chimbaira, was arrested on 23 January and charged under POSA for allegedly holding an illegal meeting in his home. POSA requires that police are notified of public meetings. Goodrich Chimbaira was detained overnight and released. Police indicated they would proceed by way of a summons.
- On 16 February police raided a training session being run by the MDC for its candidates in the March elections. The MDC's Director of Elections, Ian Makoni, was arrested and charged under POSA with holding an illegal meeting.

To the best of Amnesty International's knowledge no ZANU-PF candidates have been arrested in the context of the March election campaign.⁶

It is not only candidates standing in the elections who have been targeted. Opposition campaign workers have also been arrested while engaging in peaceful campaign-related activities, such as checking the voters' roll.⁷ For example:

- At the beginning of February an MDC campaigning team comprising some 13 people was arrested in Gwanda after they gave an open palm salute to the Deputy Foreign Affairs Minister when his vehicle passed by. The open palm is an MDC symbol. The activists were each fined Z\$25,000, allegedly for "insulting" the ZANU-PF MP.⁸
- On 3 February police detained approximately seven MDC campaign workers who were going door-to-door checking the voters' roll in Matebeleland South on behalf of MDC MP for Matebeleland South, David Coltart. The police, referring to POSA,

⁵ MDC candidates and MPs reportedly arrested or detained from 23 January to 6 March are: MDC MP for Makokoba, Thokozani Khupe, was arrested on 23 January, held overnight, and charged under POSA with holding an illegal meeting; MDC candidate for Zengeza, Goodrich Chimbaira, was arrested 23 January under POSA on allegations of holding an illegal meeting; MDC MP for Kuwadzana, Nelson Chamisa, was arrested on 25 January on allegations of inciting public violence; MDC candidate for Shamva, Godfrey Chimombe, was arrested on 22 February while putting up posters; MDC candidate for Bindura, Joel Mugariri, was arrested on 24 February allegedly for putting up campaign posters without permission; MDC candidate for Zvimba North, Prince Chibanda, was detained on 3 March and held overnight but not charged; MDC candidate for Mount Darwin South, Henry Chimhiri, was detained by police on 4 March, charged under Miscellaneous Offences Act and released on payment of a fine; MDC candidate for Mudzi West, Shorai Tsungu, was reportedly detained by police on 5 March in connection with allegations that he was responsible for graffiti in 2002. All of these MDC candidates were released - on bail or after paying fines or without charge. Source: MDC.

⁶ On 9 March 2005 ZANU-PF Secretary for Information and Publicity Mr. Nathan Shamuyarira, speaking to Amnesty International by telephone, said that he was not aware of any ZANU-PF candidates arrested in the context of the current election campaign.

⁷ Interviews with MDC candidates and activists and human rights defenders, February and March 2005.

⁸ Interview with Maxwell Zimuto, Information Officer, MDC, March 2005. The activists paid admission of guilt fines under the Miscellaneous Offences Act.

allegedly told the campaign workers that the MP should have sought permission for the activity, although no such requirement exists under POSA. The group was detained for more than two hours and then released without charge. On 17 February the High Court in Bulawayo granted an order instructing the police not to prevent or interfere with David Coltart's attempts to verify the voters' roll for his constituency. However, within days of the court order being handed down police again detained three of David Coltart's campaign workers. They were held for several hours before being released without charge.

The ability to exercise the rights to freedom of expression, association and assembly is fundamental to the establishment of a climate in which all citizens can exercise their right to take part in the conduct of public affairs, freely and without fear. Amnesty International believes that the Government of Zimbabwe is systematically violating these human rights.

Politically-motivated violence

Amnesty International has received reports of beatings and violent attacks committed in the context of the current election campaign. For example, in January ruling party supporters in Chipingi South in Manicaland, attacked and burnt the homes of MDC supporters. Several people, including children, were reportedly beaten and some fled across the border into Mozambique. Some 40 people are believed to remain in Mozambique, afraid to return to the area fearing further victimization. Amnesty International understands that police have arrested several people in connection with the attacks.

Reports of violence and intimidation in some high density suburbs are also of concern. In February 2005 Amnesty International spoke to residents of Chitungwiza, an area on the outskirts of Harare, who said that they could not move about after dark for fear of intimidation and assault by ZANU-PF supporters, youth militia⁹ and soldiers. The residents – who asked not to be named for fear of reprisal – reported that violence against real or perceived MDC supporters in Chitungwiza was orchestrated by specific ruling party supporters whose activities were known to the police.

The above reports notwithstanding, there have been significantly fewer reports of politically-motivated violence in the run-up to the March elections than was the case with the elections in 2000 and 2002. Numerous human rights monitors and victims of past violence expressed the view that the current reduction in violence is part of a government strategy to ensure the elections are free from overt political violence, while using implicit threats and non-violent tactics to intimidate voters.

Amnesty International's investigations suggest that human rights abuses may be under-reported in some areas. Victims of violence in Chitungwiza, for example, stated that they did

⁹ Since 2001 young people trained under the National Youth Service have been used by ZANU-PF as party militias. For further information see: Amnesty International, "Zimbabwe: The toll of impunity", June 2002, AI Index: AFR 46/034/2002

not report all acts of violence to the police or human rights organizations because they believed no action would be taken against the perpetrators. Amnesty International believes that fear of reprisal also contributes to under-reporting. Several people to whom Amnesty International spoke in February 2005 referred to the intimidating presence of youth militia and soldiers at or near police stations in Chitungwiza.¹⁰

Food and elections: a pattern of abuse

The use of food as an instrument of political pressure is prohibited in international human rights law, as is discrimination on the basis of real or perceived political affiliation. Over the past two years Amnesty International and many other organizations have documented and reported on the use of food to manipulate voters in elections in Zimbabwe.

Between 2002 and 2004, as a consequence of poor harvests, Zimbabwe needed and received significant amounts of international food aid. However, in May 2004 the government claimed Zimbabwe had had a "bumper" harvest and told the UN and international donors the country no longer needed food aid. This claim has been widely discredited.¹¹ Many areas of Zimbabwe are now experiencing food shortages and hunger.¹² Since most international food aid stopped in mid 2004 people are now dependent on the government-controlled Grain Marketing Board (GMB) for access to maize – the staple food of many Zimbabweans.

Zimbabwe's main harvest season is April/May; March is known locally as the height of the "hungry season", when the previous harvest has run out and before a new harvest is due. In 2004 Amnesty International and other human rights groups expressed concern that a March election date could allow the government to manipulate people through fear of hunger ahead of the elections.¹³ Amnesty International expressed concern that some of Zimbabwe's most chronically food insecure areas – such as parts of Matebeleland and Manicaland – are also areas where the political opposition is most popular. People in these areas are particularly vulnerable to manipulation of food.

¹⁰ Graduates of the National Youth Service are given preference for recruitment in the police. However, Amnesty International has also received reports of known youth militia members wearing police uniforms, in circumstances where it is unclear if they are officially recruited into the police service or simply being given uniforms.

¹¹ See: Food and Agriculture Organisation/World Food Programme Special Report, 5 July 2004; ZIM VAC "Rural food security and vulnerability assessment", April 2004; Famine Early Warning System (FEWS NET), "Rural Food Supplies dwindle", 15 September 2004; See also: WFP Emergency Reports since August 2004 and Parliament of Zimbabwe, "Parliamentary Portfolio Committee on Lands, Agriculture, Water Development Rural Resources and Resettlement report on food stocks", presented to parliament on 10 November 2004.

¹² In January 2005 FEWSNET issued an emergency alert for Zimbabwe. This is defined as "a significant food security crisis is occurring, where portions of the population are now, or will soon become, extremely food insecure and face imminent famine. Decision makers should give the highest priority to responding to the situations highlighted by this Emergency alert."

¹³ Amnesty International, "Zimbabwe: Power and hunger – violations of the right to food", October 2004, AI Index: AFR 46/026/2004

During February and March 2005 Amnesty International interviewed people from Matebeleland, Masvingo and Manicaland who all reported that MDC supporters had difficulty accessing GMB maize. In order to access GMB stocks in many areas individuals must be on a list which is compiled by the head of the village, and it is at this point that discrimination is reported to occur. Several human rights monitors confirmed to Amnesty International that people in some areas cannot get their names on these lists because they are known to support the MDC.

An environment of intimidation and fear

There is a pervasive climate of fear in Zimbabwe linked to the elections. Several sources in different parts of the country reported on the threatening presence of organized ZANU-PF supporters and youth militia in rural areas and high density suburbs. These groups are a source of fear because they have been responsible for numerous violations over the past five years and their actions are believed to be sanctioned by the government.¹⁴

In February 2005 Amnesty International spoke to residents of rural areas of Matebeleland and suburbs of Harare who described recent incidents of intimidation by ruling party supporters and youth militia, including demanding that individuals produce ZANU-PF party cards, questioning individuals about their activities and party loyalty, assaulting individuals and damaging property. Many such incidents go unreported because people do not believe the police will act to protect them.

A former MDC activist in Matabeleland South, whose home had been destroyed by ruling party supporters, told Amnesty International that intimidation and fear had caused her to “surrender” to ZANU-PF. She described how, in September 2004, she joined ZANU-PF, “to be safe”. She was interrogated by ZANU-PF supporters about her past involvement with the MDC and then “baptised with water”. However, she believes she is still suspected of supporting the opposition and told Amnesty International that she plans to move away from her home for the election period and not to vote “to keep safe”.

A significant fear is the fear of reprisal following the elections for those who vote MDC. Following elections in 2000 and 2002 people believed to have voted for the MDC were subjected to acts of reprisal, including eviction, assault, and denial of access to food.¹⁵

Fear of reprisal has been exacerbated by the fact that people no longer have any faith in the secrecy of their vote. Two concerns were repeatedly raised with Amnesty International during a visit to Zimbabwe in February: the use of transparent ballot boxes and the counting of votes *in-situ*.

¹⁴ In some cases ZANU-PF supporters have been arrested, charged and brought to justice; however the majority of ruling party supporters who have committed human rights abuses have not been brought to justice. See: Amnesty International, “Zimbabwe: The toll of impunity”, June 2002, AI Index: AFR 46/034/2002

¹⁵ Amnesty International, “Zimbabwe: The toll of impunity”, June 2002, AI Index: AFR 46/034/2002

- People have been told that the ballot boxes will be transparent and that this will mean their vote can be “seen”.
- Across Zimbabwe ruling party supporters have reportedly told people that when votes are counted *in-situ* the proportion of an area that voted for the MDC will be known, with the implicit threat that reprisal will follow for those areas that vote MDC.

Amnesty International believes that the threat of future persecution is credible, given widespread human rights violations that followed the 2000 and 2002 elections, and the impunity that the majority of the perpetrators of these violations have enjoyed.

Elections and the toll of impunity

The pervasive climate of fear in Zimbabwe is fuelled by a history of impunity for the perpetrators of human rights violations. The serious violations and abuses of human rights during the war of independence from 1965 to 1980, especially by the government led by Ian Smith, were covered up by the blanket amnesty that accompanied independence. Gross human rights violations committed by the Zimbabwe National Army in Matabeleland in the 1980s were subject to an amnesty in 1988. Clemency Order (1) of 1995, officially excused the politically-motivated beatings, burning of homes and intimidation perpetrated by supporters of ZANU-PF during the 1995 elections. Another presidential pardon for political violence was declared after the June 2000 parliamentary elections: those involved in human rights violations - such as kidnapping and torture, but excluding murder, rape and fraud - were placed beyond the reach of the justice system.¹⁶

This same culture of impunity is evident in respect of the violations that have occurred in the past five years. Amnesty International has documented numerous cases of human rights abuses in which no attempt has been made to bring the perpetrators to justice.¹⁷ Impunity has been facilitated by politicisation of the police force and undermining the independence of the judiciary.

In February 2005 Amnesty International interviewed people whose human rights had been violated because they had supported the MDC in previous elections. In each case the victims had not been able to gain relief or redress.

In February 2002, shortly before the presidential elections, an entire village in Buhera, Manicaland, was forcibly evicted by ZANU-PF supporters because the villagers were known to support the MDC. In February 2005 Amnesty International went to Buhera to meet the villagers, who remain displaced, with families living in temporary shelters. In their new location they have almost no access to land – their original land is now being used by the ZANU-PF supporters who evicted them. The Zimbabwe Human Rights Association (ZimRights) assisted the villagers to obtain a court order in late 2002 which stated that they should be allowed to return to their village, but this court order has not been enforced. The

¹⁶ Ibid.

¹⁷ For further information see: <http://web.amnesty.org/library/eng-zwe/index>

villagers told Amnesty International that appeals to the local authorities have been fruitless. A local official reportedly told them that if they want assistance to regain their land they have to join ZANU-PF.

In October 2002 some 60 families in southern Manicaland were forcibly evicted from their village by ZANU-PF supporters, an act of reprisal because they had voted for the MDC candidate in the March 2002 presidential elections. Amnesty International spoke to several of the villagers in February 2005, and they reported that homes were burnt and people beaten during the evictions. Once again the displaced villagers obtained a court order to allow them to return home. However, local authorities have refused to enforce the court order and those evicted have never been able to return to their village. No-one has ever been charged in connection with the assaults or the illegal evictions.

Amnesty International is aware of several other cases similar to those described above. The fact that those victimised because of their support for the MDC in previous elections have not been able to access justice or gain relief sends a clear message: those who support the political opposition can be subjected to human rights violations with impunity and no possibility of redress.

Amnesty International is concerned that this longstanding climate of impunity is facilitating the repetition of similar human rights abuses in the run-up to the March 2005 elections.

3. Conclusion and recommendations

Article 13 of the African Charter on Human and Peoples' Rights states: "Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law." In its resolution on the Electoral Process and Participatory Governance, adopted at its 19th Ordinary Session, in Ouagadougou, Burkina Faso, in 1996 the African Commission on Human and Peoples' Rights has further emphasized that it is the duty of States Parties to the African Charter to take the necessary measures to preserve and protect the credibility of the electoral process. In order for citizens to participate freely in elections, the authorities are responsible for ensuring that all the rights that are pivotal to such participation can be enjoyed by all without discrimination.

As a consequence of persistent, long-term and systematic violations of human rights and the government's repeated and deliberate failure to bring to justice those who commit serious human rights violations, Amnesty International does not believe that all Zimbabweans are currently able to participate in the election process freely and without fear.

Amnesty International is making the following recommendations to governments and inter-governmental bodies sending election monitors to Zimbabwe.

Recommendations to governments and inter-governmental bodies sending election monitors to Zimbabwe

- **Ensure that all election monitors have a clear mandate to monitor and report on those areas of human rights that directly impact on the ability of people to participate in the election process freely and without fear.**

All election monitor delegations should, if possible, include people trained or experienced in monitoring human rights. Elections monitors should pay particular attention to the following areas:

- The impact of impunity for past human rights violations perpetrated against members and supporters of the MDC.
 - Discrimination in access to and distribution of food, particularly in those areas - such as in the south and east of the country - which experience chronic food deficits.
 - The extent to which all people in Zimbabwe have been able to exercise their rights to freedom of movement, assembly, association and expression throughout the election period.
 - The security of all parties, candidates and supporters before, during and after the elections.
- **Ensure that election monitors are prepared to raise issues of human rights violations or police inaction with the authorities and to publicly condemn human rights violations before, during and after the elections.**
 - **Ensure that monitors remain in the country for as long as necessary after the elections to help ensure that the aftermath is free from acts of reprisal and to report publicly on any that may occur.**
 - **Request that election monitors have access to all sectors of the population since violations often occur far away from polling stations.**

Recommendation to SADC election monitors:

- In addition to the recommendations made above Amnesty International urges all election monitors from the SADC region to adhere to the letter and the spirit of human rights commitments contained in the SADC Principles and Guidelines Governing Democratic Elections.