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U.S. Department of State

Zimbabwe Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

ZIMBABWE

President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU-PF) have dominated the legislative and executive branches of Zimbabwe's Government since independence in 1980. The Constitution allows for multiple parties; in addition to ZANU-PF, there are a large number of smaller parties. However, they are poorly organized and led, poorly financed, and subject to periodic intimidation by the ruling party and Government security forces. Late in 1997, the Parliament amended the election laws to allow for increased access to funding for opposition candidates, and this action should increase the size of the electorate; these changes will go into effect in early 1998. The judiciary is independent, but the Government occasionally refuses to abide by court decisions.

The Zimbabwe Republic Police (ZRP) are responsible for maintaining law and order. The Zimbabwe National Army and Air Force are responsible for external security. The Central Intelligence Organization (CIO) under the Ministry of State Security is responsible for internal and external security but no longer has powers of arrest. Members of the security forces committed human rights abuses.

Zimbabwe's economy is agriculturally based, with strong mining and tourism sectors and a diversified manufacturing base. It has become increasingly market based following the 1991-95 structural adjustment program. Primary exports are tobacco, cotton, oil seeds, livestock, gold, and nickel. Over 60 percent of the population engages in subsistence agriculture. The formal sector unemployment rate is above 45 percent. Indigenization (black economic empowerment) is a Government priority to redress economic disparities between the majority black population and a small white elite. The estimated 1996 annual per capita gross domestic product of \$588 is expected to rise or decline if another drought occurs

as predicted. Due to the rapid decline in the Zimbabwe dollar and escalating inflation at year's end, the poor and working class saw a significant drop in their standard of living.

The Government respected some of the human rights of its citizens; however, there were significant problems in some areas, including incidents of police brutality, harsh prison conditions, pretrial detention, the Government's refusal to abide by several court rulings, CIO intimidation of opposition party candidates and their supporters, restrictions on academic freedom, infringements on citizens' privacy, restrictions on opposition party financing, and attempts at interference with nongovernmental organizations'(NGO) leadership selection. The political process remained heavily tilted in favor of the ruling party.

As a result of the Government's improper handling of the October 1995 mayoral elections in Harare, Bulawayo, and Gweru, the High Court nullified the results of those votes. Ruling party candidates won the subsequent 1996 mayoral elections in all three cities, and in 1997 the Supreme Court upheld the validity of the new elections.

During the December mayoral election in Chitungwiza an independent candidate, Fidelis Mhashu, campaigned strongly, but was defeated by the ZANU-PF candidate by a narrow margin. Mhashu was beaten severely in June at a local government office in the presence of government officials. There have been no reports of arrests or charges being brought against any individuals arising out of that attack. Although the small independent press was increasingly open and critical of the Government, there was some self-censorship. The electronic media--the major source of information for most citizens--remained totally Government controlled, and strict anti-defamation laws also led to self-censorship. Three new private television stations were granted broadcast rights. All three stations are likely to face financial difficulties due to limited revenue, and are restricted to broadcasting on an available channel leased from the Zimbabwe Broadcasting Corporation; creation of an independent transmission facility is still forbidden under the Broadcasting Act. Domestic violence against women remained widespread, and traditional, often illegal, discrimination against women and the disabled continued.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political killings by Government security forces.

Harsh prison conditions contributed to the average of 25 deaths per month of prisoners in custody (see Section 1.c.).

The Legal Resource Foundation and the Catholic Commission for Justice and Peace (CCJP) interviewed thousands of victims or relatives of victims of atrocities committed during the 1982-87 Matabeleland crisis and presented their findings to the President in March. The Government did not respond to the report nor take any action on the 1993 Simplicius Chihambakwe commission investigation of the Matabeleland crisis. Despite calls by the CCJP for an investigation into the widespread killings of civilians in Matabeleland and recommendations for compensating people in the affected area, the Government took no further action on the bodies discovered at various locations nor has anyone been held accountable for the massacres.

b. Disappearance

There were no reports of politically motivated disappearances.

In the case of the 1990 disappearance of Rashiwe Guzha a court declined to declare her dead but ordered the distribution of her estate. The former CIO Deputy Director-General, with whom Guzha had a romantic relationship before her disappearance, and who was rumored to have been involved in her disappearance, died during the year.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture, and cruel and inhuman treatment. There were no credible reports of torture. The ZRP service charter and improved training have resulted in markedly better treatment of suspects and the public. However, there are still reports of occasional police brutality. In July police beat 20 female residents of a Harare housing complex and arrested 45 for alleged prostitution and loitering. Most of the women arrested were married and in their own residences at the time. Only one Government official, independent Member of Parliament Margaret Dongo, challenged the arrest and beating of these women. There have also been frequent reports that police beat detainees at Mbare Musika police station in one of the highest crime areas in Harare. A police officer also publicly beat a female bus inspector for refusing to give him a bribe. There has been no public Government reaction to this beating.

The Government has not actively pursued past allegations of torture, nor prosecuted CIO or ZRP officers for such abuses. The CIO continued to refuse to pay court-ordered damages to a 1990 torture victim.

Prison conditions remained harsh and have improved little since the CCJP issued its 1993 report describing extreme overcrowding, shortages of clothing, and poor sanitary conditions. Overcrowding and poor sanitation aggravated outbreaks of cholera, diarrhea, and AIDS-related illnesses. An average of 25 prisoners a month died in custody, 18 from AIDS-related illnesses, in 1996 (the last year for which statistics are available). The Government has established a successful community service sentencing program to try to alleviate prison overcrowding. The Legal Resource Foundation, in cooperation with the prison service, established a human rights training program for prison officials. Officials who mistreat prisoners are routinely punished.

The Government permits international human rights monitors to visit prisons.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest, detention, or exile, and the Government observes these prohibitions. The law requires that police inform an arrested person of the charges against him before he is taken into custody. Warrants of arrest issued by the courts are required except in cases of serious crimes or where there is the risk of evidence disappearing. The Ministry of Home Affairs pays an average of \$150,000 (Z\$1.5 million) each year in damages in wrongful arrest cases.

Although a preliminary hearing before a magistrate is required within 48 hours of an arrest (or 96 hours over a weekend), the law is often disregarded if a person does not have legal representation. A 1992 amendment to the Criminal Procedures and Evidence Act substantially reduced the power of magistrates to grant bail without the consent of the Attorney General or his agents. In practice, however, a circular issued by the Attorney General giving a general authority to grant bail has lessened the negative impact of the rule. High Court judges grant bail independently.

The Government still enjoys a wide range of legal powers under the Official Secrets Act and the Law

and Order Maintenance Act (LOMA). Originally promulgated 30 years ago and widely used in the past to prosecute political opponents of the Government, the LOMA gives extensive powers to the police, the Minister of Home Affairs, and the President to address political and security crimes that are not clearly defined. The Government invoked the LOMA in July to ban demonstrations by former combatants who demanded compensation for wartime injuries. The ban was not vigorously enforced against the war veterans and was lifted after 2 weeks. In December opposition leader M.P. Ndabadingi Sithole was convicted and sentenced to 2 years under the LOMA for conspiring to assassinate President Mugabe in 1995. At year's end, no appeal had been filed nor was there any government reaction to the judge's call for a pardon in light of Sithole's age, poor health, and evidence of the Government's prior notice of the assassination plans.

The Government proposed a security bill to repeal the LOMA; however, the draft bill contains several negative elements or similarities to the LOMA, including vague definitions of political and security crimes, harsh penalties for failure to report the acts of others, and restrictions on freedom of assembly, speech, and association. Following unprecedented public debate on the bill and subsequent consultations with legal, democracy, and human rights organizations, the Government withdrew the bill for further revisions.

According to the Government, the total prison population has been reduced to 18,000 from 22,000 in 1996, due in large part to alternative sentencing under the community service program for youth offenders. The Government also reports that 6,000 prisoners are pretrial detainees. Detainees spent an average of 6 months incarcerated before their trials because of a critical shortage of magistrates and court interpreters.

The Government does not use exile as a means of political control.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the judiciary has a well-deserved reputation for independence. However, on occasion the executive branch refuses to abide by judicial decisions. The Customary Law and Local Courts Act of 1990 created a unitary court system, consisting of headmen's courts, chiefs' courts, magistrates' courts, the High Court, and the Supreme Court. With this restructuring, civil and customary law cases may be heard at all levels of the judiciary, including the Supreme Court.

Judges are appointed for life and can be removed from the bench only for gross misconduct. They are not discharged or transferred for political reasons. Magistrates, who are part of the civil service rather than the judiciary, hear the vast majority of cases and are sometimes subject to political pressure. Military courts deal with disciplinary or court martial proceedings. Police courts, which can sentence a police officer to confinement to camp or demotion, handle disciplinary and misconduct cases. Trials in both these latter courts meet internationally accepted standards for fair trials; defendants in these courts have the right to appeal to the Supreme Court. All levels of the judiciary often make rulings unpopular with the Government.

The Constitution provides for the right to a fair trial, and the judiciary rigorously enforces this right. Every defendant has the right to a lawyer of his choosing. However, well over 90 percent of defendants in magistrates' courts go unrepresented. In criminal cases, an indigent defendant may apply to have the Government provide an attorney, but this is rarely done and rarely granted. However, in capital cases the Government provides an attorney for all defendants unable to afford one. Litigants in civil cases can request legal assistance from the NGO Legal Resources Foundation, but no longer from the government-

established Citizens Advice Bureau, which was eliminated due to budget constraints. All litigants are represented in the High Court. The Supreme Court has instructed magistrates to ensure that unrepresented defendants fully understand their rights and to weigh any mitigating circumstances in criminal cases, whether or not the accused presents them as part of his defense.

The right to appeal exists in all cases and is automatic in cases in which the death penalty is imposed. Trials are open to the public except in certain security cases. Defendants enjoy a presumption of innocence and the right to present witnesses and question witnesses against them. Defendants and their attorneys generally have access to Government-held evidence relevant to their cases. The legal system does not discriminate against women or minorities.

The Government generally abided by court decisions even when it was strongly opposed to the rulings. However, the Government routinely delayed payment of court costs or judgments awarded against it. For example, the CIO continued its refusal to pay damages awarded by the High Court to a former opposition party official whom CIO agents had tortured in 1990.

Legal and human rights activists continued to criticize the Government's efforts to adopt constitutional amendments detrimental to human rights protections. For example, Amendment 11 (1992) changed the Constitution to allow corporal punishment of minors after the Supreme Court ruled that caning of minors constituted cruel and inhuman punishment. Amendment 14 (1996), which denies both men and women the right to confer automatic residency on their foreign spouses, was passed in response to a 1994 Supreme Court ruling declaring that women should have the same rights as men to confer residency and citizenship on their spouses (see Section 2.d.). Amendments to the Constitution are not ratified by the public but are subject to the ZANU-PF-dominated Parliament's approval only.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution prohibits arbitrary interference with privacy, family, home, or correspondence. Human rights groups are concerned that Amendment 14 erodes these constitutional rights by repealing Section 11 of the Constitution which specifies protection for the right to the privacy of one's home and from the compulsory acquisition of property without compensation. Although Government authorities generally respect citizens' right to privacy and violations are subject to legal sanction, it is widely known that the Government sometimes monitors private correspondence and telephones, particularly international communications.

The need for land reform is almost universally accepted; however, there are problems with implementation of the 1992 Land Acquisition Act (Land Act). Under the Land Act farmers whose lands have been designated for acquisition may appeal only the amount of compensation, not the initial decision to acquire their farms. In November the Government said that it would not compensate for land, but only for improvements on the land, a position not sustainable under the act. In the past, the act was implemented largely along racial lines; the Government stated that black-owned commercial farms would not be subject to acquisition. However, in November owners of 1,471 farms, some of which are black-owned, were notified their land would be acquired by compulsory means in 1997. In some cases, land was apparently targeted for acquisition to achieve political goals. In December, 1,420 administrative appeals were filed with the Ministry of Lands and Agriculture by owners of the targeted farms, challenging the notices to acquire their lands. By year's end, the Government had not acquired any of the newly identified land. Opposition party leader M.P. Ndabadingi Sithole continued his legal battle with the Government over its 1993 acquisition of his farm.

Section 2 Respect for Civil Liberties, Including:**a. Freedom of Speech and Press**

The Constitution provides for freedom of expression but allows for legislation to limit this freedom in the "interest of defense, public safety, public order, state economic interests, public morality, and public health." Although the independent press is increasingly open and critical of the Government, there is some degree of self-censorship in private media and a high degree in the Government-controlled press. For example, the Catholic Commission for Justice and Peace and Legal Resources Foundation's detailed report on the 1980's Matabeleland crisis was distributed to government and private papers. However, only one private paper commented on the substance of the report. Self-censorship is aggravated by anti-defamation laws that make no distinction between public and private persons. In addition an extremely broad Official Secrets Act makes it a crime to divulge "any information acquired in the course of official duties."

The Government has shown a modest increase in tolerance for private media criticism of official corruption during the Chidyausiku Commission's investigation into fraud and malfeasance in the management of the war victims compensation fund.

The major print media (seven English language newspapers and one local-language tabloid) belong to the Mass Media Trust, a holding company heavily influenced by the government ruling party. The Ministry of Information controls the Zimbabwe Inter-Africa News Agency wire service. The Government influences mainstream media through indirect ownership, editorial appointments, directives to editors, and removal of wayward editors. In December a popular radio broadcaster was dismissed followi