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U.S. Department of State

Zimbabwe Country Report on Human Rights Practices for 1998

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ZIMBABWE

President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU-PF) have dominated the legislative and executive branches of the 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; these changes went 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.

The economy based on agricultural production. The country has abundant arable land, minerals, good infrastructure, a diversified manufacturing sector, an educated and disciplined work force, and a strong tourism sector. Its chief hard currency earners are tobacco, gold, ferroalloys, nickel, and tourism. The economy suffered from poor economic management, government corruption, high inflation and high real interest rates, a dramatic slide in foreign exchange values, high budget deficits, and high unemployment. Over half the population relies on subsistence agriculture. The formal sector unemployment rate exceeds 40 percent. During the year, the economy declined and real disposable fell

due to high inflation and higher imported input costs. Throughout the year, the Government faced increased pressure from urban labor groups and rural low-income groups as the standard of living dropped. In November protests and riots broke out over a 67 percent increase in the price of gasoline and cooking fuel. Rioters burned several vehicles.

The Government respected some of the human rights of its citizens; however, there was a worsening in some areas, and significant problems remained, including incidents of police killings, torture, and brutality, harsh prison conditions, arbitrary pretrial detention, security force intimidation of opposition party candidates and their supporters, failure to fully investigate assaults on opposition candidates, restrictions on academic freedom, infringements on citizens' privacy, and, despite the new electoral law, restrictions on opposition party financing. The political process remained heavily tilted in favor of the ruling party.

As a result of widespread irregularities in the voters' rolls and charges of election fraud by opposition candidates, the High Court ordered that a previously disqualified independent candidate be allowed to contest a Harare city council ward seat. The High Court subsequently barred the Registrar General from holding those elections until the rolls were reviewed. By year's end, those Harare city council ward elections had not been held.

Supporters of the ZANU-PF candidate in the February by-election in Chitungwiza attacked independent Member of Parliament (M.P.) Margaret Dongo with a gasoline bomb. The police failed to arrest any individual on the scene, and the Government has not pursued a case against the suspect identified by Dongo. 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 under government control, and strict

anti-defamation laws led to self-censorship. The three privately-licensed television stations faced financial difficulties and merged into one station under the name Joy TV. It remains restricted to broadcasting on a channel leased from the Zimbabwe Broadcasting Corporation; creation of an independent transmission facility is restricted 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, but there were reports of the use of excessive force. Government sources reported that at least eight persons were shot and killed during the January 19-22 food riots. The largely spontaneous riots were sparked by price increases on basic commodities such as bread, maize meal, and cooking oil, against the background of an overall declining standard of living for the average citizen. In one widely-publicized case, police shot a 12-year-old girl from Gweru on January 20, while she was fleeing from a demonstration on which the security forces had opened fire. At year's end, no police suspect had been identified, and the case remained under investigation. Local human rights organizations set up a legal defense fund for the victims and called for the establishment of an independent commission of inquiry to investigate citizen complaints of human rights abuses arising from the food riots. By year's end, no security officers had been arrested or charged with those deaths nor had the Government set up an investigation.

In November police fired into a crowd protesting fuel price increases in the city of Mutare. One person was killed. The officer who fired the shot was not prosecuted (see Section 1.c.).

Harsh prison conditions contributed to the average of 25 deaths per month; most persons died from acquired immune deficiency syndrome (AIDS), according to 1996 statistics, the latest available (see Section 1.c.).

By year's end, the Government had not responded formally to the Legal Resources Foundation (LRF) and Catholic Commission for Justice and Peace (CCJP) report on atrocities committed during the 1982-87 Matabeleland crisis. However, in March Minister without portfolio Eddison Zvogbo apologized, in his personal capacity and in a symbolic departure from government practice, for the atrocities committed by government forces in Matabeleland.

In November the murder of a white farmer coincided with the occupation of her farm by squatters. Police arrested a former employee, but squatters were not believed to be responsible for the crime.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution prohibits torture, and cruel and inhuman treatment. The issuance of the ZRP service charter and improved training has resulted in better treatment of suspects and the public. However, the ZRP showed poor training in riot control; it used live ammunition, tear gas, and clubs to disperse crowds during the food riots. There were widespread reports that at least 10 persons were shot and injured during these riots; the victims deny that they were engaged in any criminal activity at the time. In addition, Home Affairs Minister Dumiso Dabengwa called in the Zimbabwe National Army (ZNA) during the riots, and authorized them to use firearms to restore order, even when there was no imminent threat to life.

ZRP/ZNA actions resulted in a number of injuries to demonstrators and bystanders including a child in his Harare home and a woman in Mabvuku whose arm had to be amputated. There were several other credible cases of woundings from stray police bullets.

There were credible reports that the ZRP beat and tortured detainees during the food riots. In one case, police reportedly beat a woman in a Mabvuku home and in another tied loaded tear gas canisters to the heads and between the legs of 2 men who the police believed were withholding information concerning the burning of a police car during the riots. In still another case, police allegedly beat persons they believed to be University of Zimbabwe students who the ZRP considered to be agitators during the food riots. An officer in at least 1 Mabvuku police station admitted beating an innocent 19-year-old man, who is seeking monetary compensation.

Although the ZRP service charter and improved training generally have resulted in better treatment of suspects and the public, there were several credible reports that police beat suspected looters at their homes and at police stations during questioning. Police were accused by the victims of using whips, hoses, and batons to beat the victims. Several of the victims sought medical treatment for serious ZRP-inflicted injuries and reported their cases to the police and human rights organizations. There were reports that the police clubbed students in March and used tear gas in June to disrupt demonstrators at the University of Zimbabwe (see Section 2.a.).

Following the Government's announcement on October 31 of a 67 percent increase in fuel prices, street demonstration and rioting broke out in several major cities. Angry crowds burnt several vehicles and threatened commuter omnibus drivers who had increased their fares in response to the higher fuel prices. Police arrested 27 persons in Bulawayo on November 2 for destruction of public property, including the destruction of 19 vehicles. Twenty persons were injured during the street violence but no charges of police brutality were filed.

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. Government prison service authorities reviewed overcrowding in prisons during a July workshop and concluded that exposure to HIV/AIDS was a major cause of deaths in detention. However, no exact figures were available, and prison authorities called for more research to address this growing problem, with some arguing for early release of such terminally ill prisoners. 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, has 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 paid \$112,500 (Z\$4.5 million) in damages for wrongful arrest cases in 1996, the last year for which statistics were available.

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. However, in practice 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.

During the January food riots, police arrested over 200 persons for alleged looting or public disorder. There were numerous credible reports of forced confessions, torture, and physical abuse (see Section 1.c.). Many appeals were filed against the resulting convictions. In Harare the looting suspects initially were denied bail, which the Law Society of Zimbabwe successfully challenged as being based on political considerations, not the law. At year's end, many of those cases still were pending.

Originally promulgated 30 years ago and widely used during the Ian Smith regime to silence political opponents, the Official Secrets Act and the Law and Order Maintenance Act (LOMA) grant the Government a wide range of legal powers. LOMA gives extensive powers to the police, the Minister of Home Affairs and the President to prosecute anyone for political and security crimes that are not clearly defined.

In December 1997, opposition M.P. The Reverend Ndabaningi Sithole was convicted and sentenced to 2 years' imprisonment under the LOMA for conspiring to assassinate President Mugabe in 1995. In January Sithole filed an appeal, and the sentencing judge called for a pardon in light of Sithole's age, poor health, and evidence of the Government's prior notice of the assassination plan. At year's end, Sithole remained free on bail pending a ruling on his appeal.

The Government proposed new legislation to replace the LOMA--the Public Order and Security Bill (POSB). However, the new draft bill, while significantly amended from the 1997 version following strong public protests from human rights and legal organizations, contained several negative elements similar 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. The POSB passed Parliament but as of year's end, the President had not signed this legislation. Consequently, the LOMA remained in effect.

According to the Government, the total prison population was 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 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 can not be 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 do not have legal representation. 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. The government-established Citizens Advice Bureau was eliminated due to budget constraints in 1997. 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. However, some High Court judges imposed lenient sentences in some cases of rape and child sexual abuse, and local women's and legal organizations challenged these decisions.

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.

Local legal and human rights organizations strongly criticized the Attorney General for declining to prosecute the Mayor of Chitungwiza, Joseph Macheke, for shooting to death one man and wounding two others who allegedly attempted to rob Macheke's liquor store during the January food riots. Macheke was the successful ruling ZANU-PF party candidate in a contentious mayoral election campaign against an independent. The Attorney General determined that Macheke was acting in self-defense and that prosecution, therefore, was not in the public interest. Legal and human rights critics accused the Attorney General of bowing to political pressure and usurping the function of the court.

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 only to the ZANU-PF-dominated Parliament's approval.

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. Police routinely engaged in unauthorized searches of homes during the January food riots, seeking evidence or looted property.

The need for land reform is accepted almost universally; 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. President Mugabe repeatedly has said the Government would not

compensate for land, but only for improvements, a position not sustainable under the act. However, the President reversed that position during the Government's September 9-11 land conference for international donors, when government ministers promised to abide by 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, some of the original 1,461 farms designated in November 1997 for compulsory land acquisition, many of which remain on the revised list, are owned by the black, urban elite. In some cases, land apparently was targeted for acquisition to achieve political goals.

By year's end, approximately 400 farms were removed from the list of those to be acquired following the filing of 1,420 administrative appeals with the Ministry of Lands and Agriculture. In November the Government issued notices that it owned 841 farms, leading to a number of farm in the east being invaded by impoverished blacks some of whom were armed. The Government called for the squatters to vacate the farms they had occupied in order to proceed with an orderly resettlement program. The Government stated that its resettlement program would begin with 118 primarily underutilized and derelict farms offered by commercial farmers. By year's end, the Government had resettled only 4 of the designated farms, and it continued to send unclear messages about its resettlement program. On one hand, President Mugabe made statements during the year that the Government would confiscate farms and pay only for improvements to the land (for example, buildings and irrigation systems), but not for the land itself. In December Mugabe stated that the Government would take farms and issue IOU's for payment at a later date. On the other hand, senior ministers stated that the resettlement program would proceed along the path outlined during the September land donors conference. However, government officials continue to avoid any detailed discussion about the issue of compensation. At year's end, the resettlement process remained mired in bureaucratic and financial gridlock.

Section 2 Respect for Civil Liberties, Incl