



*Final Draft*

## ZIMBABWE

# Report of the Fact-Finding Mission

June 2002

## INTRODUCTION

The African Commission on Human and Peoples' Rights (African Commission) undertook a fact-finding mission to the Republic of Zimbabwe from 24<sup>th</sup> to 28<sup>th</sup> June 2002. The mission was authorised by the 29<sup>th</sup> Ordinary Session of the African Commission held in Tripoli, Libya following widespread reports of human rights violations in Zimbabwe. Commissioner Jainaba Johm, Vice Chairperson of the African Commission, was leader of the Mission. Commissioner N Barney Pitso, the commissioner with responsibility for Zimbabwe, accompanied her. Ms Fiona Adolu, the Legal Officer at the Secretariat of the African Commission based in Banjul, The Gambia, provided professional assistance.

The African Commission on Human and Peoples' Rights is a creature of the African Charter on Human and Peoples' Rights (African Charter). The Summit of Heads of State and Government meeting in Nairobi, Kenya in June 1981 adopted the Charter. It came into force in 1986. Article 30 of the African Charter provides that an African Commission "shall be established *within the African Union* to promote human and peoples' rights and ensure their protection in Africa." State parties to the African Charter undertake to "recognise the rights, duties and freedoms enshrined in the Charter and shall undertake to adopt legislative or other measures to give effect to them" (Article 1). The Mandate of the African Commission is set out in Article 45 of the African Charter. Article 46 gives power to the African Commission to "resort to any appropriate method of investigation..." in order to fulfil its supervisory, monitoring and protection mandate.

The Republic of Zimbabwe is a State party to various international human rights treaties. Zimbabwe acceded to the African Charter on 30<sup>th</sup> May 1986. As a State party to the African Charter, Zimbabwe has been an exemplary signatory. It has participated in the activities of the African Commission, and fulfilled its obligations according to the treaty. Since Zimbabwe became a State party to the African Charter, the African Commission had never received any reports about human rights violations in the country. Since the 27<sup>th</sup> Ordinary Session of the Commission held in Algiers, Algeria from 27<sup>th</sup> April to 11<sup>th</sup> May 1999, statements from NGOs pointed to reports of widespread human rights violations in Zimbabwe. The attention of the African Commission was drawn to these reports and representations were made for urgent intervention on the part of the African Commission. The African Commission refrained from passing a resolution on the human rights situation in Zimbabwe and instead sought to engage the State party concerned in dialogue. This led to the African Commission undertaking a Fact-finding Mission to Zimbabwe in terms of its Mandate "to ensure the protection of human and peoples' rights under conditions laid down by the present Charter" as Article 45(2) puts it.

The stated purpose of the Mission was to gather information on the state of human rights in Zimbabwe. In order to do so, the Mission sought to meet with representatives of the Government of the Republic of Zimbabwe, law-enforcement agencies, the judiciary, political parties and with organised civil society organisations especially those engaged in human rights advocacy. The method of the fact-finding team was to listen and observe the situation in the country from various angles, listen to statements and testimony of the many actors in the country and conduct dialogue with government and other public agencies. We were conscious that the Mission could not be an investigative mission. We had neither the resources nor the time to conduct an investigation into the allegations and counter-charges submitted to us. Although we would have wished to, we

were not able to undertake, within the available period of the Mission, any field missions or visit prisons, hospitals and places of detention - all of which had been suggested to us. We received a large amount of documents to consider and we were presented with photographs and other forms of evidence to consider. A large amount of material had to be studied and carefully considered. Equally uppermost in our minds was the knowledge that in an atmosphere where passions were inflamed, we were bound to be subjected to partial truths and that somewhere in all the stories we would be told lay the fuller story once the totality is taken into consideration. We approached our task with an independence of mind and an inquiring attitude.

The Mission was well received by Mr D Mangota, the Permanent Secretary in the Ministry of Justice, Legal and Parliamentary Affairs and the staff of the department. The Mission received all the courtesies and enjoyed the hospitality of the Government of the Republic of Zimbabwe. The logistical arrangements were perfect. The programme was put together in liaison with the Secretariat of the African Commission. The Mission team was able to meet everyone critical for the success of the visit. During the visit more requests were received and accommodated in the programme. The result was that the programme was packed and no visits outside Harare were possible. Three government officials from the Departments of Justice, Foreign Affairs and Publicity and Information accompanied the team. The officials, however, did not sit in at our meetings with NGOs or at any other meetings where participants did not wish to have them present.

#### **BACKGROUND TO THE MISSION**

The Government of Zimbabwe, responding to calls for an overhaul of the Constitution, established a commission in 1999 to consult widely and present a constitution for adoption by parliament. Although this process was accompanied by disputes as to membership, the role of civil society and terms of reference, the Draft Constitution, 2000 was put to a National Referendum from 13<sup>th</sup> to 14<sup>th</sup> February 2000. Spearheading civil society participation in the constitutional review process, was the National Constitutional Assembly (NCA), a coalition of NGOs, religious bodies and other social forces. The NCA eventually campaigned for a rejection of the draft constitution because it was felt that the draft retained too much power in the President and would have allowed President R.G Mugabe to stand for another term of office. For its part, the Government inserted a provision in the draft constitution which was intended to regularise and ease land reform in the country. In the event, the draft constitution was rejected in the National Referendum. This process was accompanied by a mood of heightened tensions in the country. There were reports already surfacing in 1999, of land occupations and evictions of white farm owners. There were even reports of murders. There was evidence that there was collusion between the police and the land invaders and that law enforcement was not being applied evenly. The offending sections of the draft constitution were then enacted into law by amendment of the constitution in 2000.

Following the rejection of the draft constitution, land invasions became widespread and countrywide. Parliamentary elections were to take place later that year and the tensions were sustained throughout this period. There were now reports of the arrests of journalists for publishing false information, or for publishing information that would cause fear and despondency. There were reports of arbitrary arrests of journalists and torture of opposition activists and officials of the opposition party while in police custody (*Chavunduka v Minister of Home Affairs* 2000(1) ZLR 552(S)). Some earlier applications of a policy of land reform were challenged in the courts and found to be

unconstitutional. The court also found that the invasions of commercial farms were unlawful and the court issued an order directing the police to ensure that the invaders vacated the farms. The police ignored this and no consequence resulted (*Commercial Farmers Union v Minister of Lands*; 2000(2) ZLR 469(S); *Law Society of Zimbabwe v Minister of Finance*; 1999(2) ZLR 231(S)). In one instance, the court declared the General Laws Amendment Act, 2001 which forbids NGOs from participating in voter education during the run-up to the elections, unconstitutional. By resort to the Presidential Powers (Temporary Measures) Act, the same legislation was maintained.

The human rights situation in Zimbabwe has been the subject of sustained international alarm since these events. The Commonwealth suspended Zimbabwe from the body for a period of one year. That period has since been extended. The European Union and the United States have imposed a partial travel ban on the leadership of Zimbabwe. An African initiative saw Presidents Olusegun Obasanjo (Nigeria), Thabo Mbeki (South Africa) and Bakili Muluzi (Malawi) engage in diplomatic moves to resolve the Zimbabwe crisis. SADC has also undertaken its own initiatives aimed at establishing a government of national unity. At successive sessions, however, the United Nations Commission on Human Rights declined to adopt any resolution against Zimbabwe.

Following the National Referendum parliamentary elections were held in June 2000 at which for the first time the newly established opposition political party, the Movement for Democratic Change received nearly the same number of seats as the ruling ZANU (PF) Party. In the new parliament, however, the support of the ruling party was considerably boosted by the insertion of ex officio and nominated members. The Presidential election of 2002 was fiercely contested. President R.G Mugabe was returned with a greatly reduced majority and international observers were divided about the freeness and fairness of the elections. The opposition MDC, however, refused to recognise the legitimacy of the result and a court case is being pursued. Meanwhile, the Leader of the Opposition, Mr Morgan Tsvangirai and two senior officials are on trial for treason on allegations of plotting to murder the President, opposition members of parliament and journalists have been arrested and allegations of torture while in custody have routinely been made. One member of the opposition died while in police custody. Following allegations of threats and pressure against the judiciary, judges have for various reasons resigned or retired. New appointments were made and the outlook of the judiciary has now changed.

## **BRIEFINGS**

In preparation for the visit, the Secretariat of the African Commission prepared a briefing paper on Zimbabwe and the issues raised by the African Commission. The paper became a useful background material as we listened to and observed the situation while in Zimbabwe. On the day of arrival, Mr D Mangota and staff from the Ministry of Legal, Constitutional and Parliamentary Affairs had a briefing meeting with the team. The briefing meeting covered logistical arrangements, the programme for the visit and contact persons during the visit. As part of the briefing exercise, we had a substantial meeting with the Executive Director of the Southern African Human Rights Trust (SAHRIT). SAHRIT is a Non Governmental Organisation (NGO) that operates in 12 countries out of the 14 countries within the Southern African Development Cooperation (SADC) region. The organisation builds the capacity of civil society and Government institutions in human rights observance, deals with corruption issues, carries out

programmes on reporting by States to treaty bodies, human rights courses, human rights policing, research and documentation.

The Executive Director observed that the reason that land redistribution issue is a problem today and not in 1990 when Zimbabwe was released from the constraints of the Lancaster Agreement, was due primarily to the absence of good governance. The present Government has over the years failed to deliver on its promises to undertake land reform. Consequently, they were using the land question as a campaign platform by which they sought to remain in power so as to deliver the land back to the indigenous Zimbabweans.

He informed the delegation that illegal land occupations started out as demonstrations expressing discontent against the land policies that allowed mainly Whites to own land. However, these demonstrations took on a life of their own and the persons demonstrating later refused to vacate the farms which is how the matter degenerated into violence against the illegal occupants.

The Executive Director stated that whereas land reform and redistribution by Government was welcome, he was concerned that the program had resettled persons that were not proper farmers, thereby contributing to the downfall in the economy of Zimbabwe.

## MEETINGS

In the discussions held with a **group of senior lawyers**, the delegation of the African Commission was informed that Government could have handled the land issue in a better way with the same results. This way, they believe, that Zimbabwe would have had to worry about financing the process and there would have been no violence. However, once the issue was improperly dealt with, the situation spun out of control and then it became difficult for the law enforcement agencies to curb the violence. The level of the violence was high and because of this, many Zimbabweans began to query as to whether Government was encouraging the violence. Generally, the senior lawyers believed that under the circumstances there was no way that the police force could have controlled the situation without using some amount of force.

The issue of the land question in Zimbabwe was also raised with members of the, **Law Society of Zimbabwe**. They informed the delegation of the Commission that when the unlawful land occupations began, the Law Society had advised that any land occupations should be done cautiously and in accordance with the provisions of the Constitution. The Law Society was of a similar view that the land issue has arisen at this particular point in time because of the need of ZANU PF to retain power as the ruling party.

To properly understand the issue at hand and what was happening in Zimbabwe in terms of the land question, the delegation of the Commission also held meetings with organisations that represent both commercial and small-scale farmers. The delegation had the opportunity to hold discussions with **Indigenous Commercial Farmers Union (ICFU)**, the **Commercial Farmers Union (CFU)** and the **Zimbabwe Farmers Union (ZFU)**

The ICFU is one of the 3 farmers organisations operating in Zimbabwe established for farmers that needed to come together under one umbrella. The organisation has a membership of about 6,000 persons who have bought land or been resettled.

The CFU has a membership of about 3,200 farmers, with about 350,000 employees on these farms; altogether 2 million people live on these farms. The CFU informed the delegation that 70 percent of the CFU membership bought their land subsequent to 1980.

The ZFU represents small scale farmers and officially it has about 950,000 members but there are more people whose interests the organisation defends bringing that number to about 1.5 million farmers.

The President of the ICFU informed the delegation that during the land redistribution process, his organisation submitted proposals to the Government which were taken on board. He expressed regret at the loss of lives during the period - 1999 to 2002 when there were land occupations but insisted that this was never deliberate. He expressed hope for negotiations and reconciliation between the Whites and Blacks.

The President of the CFU explained to the delegation that 60 percent of the CFU membership is presently under the section 8 order that provides that farmers should leave their farms within a period of 90 days on being served with the order. Altogether 660 CFU members have been evicted and with them 60,000 farm workers. The CFU expressed its concern about amendments that allow acquisition of land by proclamation. They stated that 95 percent of commercial farms have been set out for acquisition and 60 percent have already been taken. They also informed the delegation that about 1,024 single farm owners have also been recipients of section 8 orders. However, they argued that certain farming activities cannot be stopped immediately in order to comply with a section 8 order. As such, CFU believes that section 8 is unconstitutional. In the spirit of reconciliation, members of the CFU have decided not to challenge this provision and other such legislation in court in an effort to initiate dialogue in these matters with Government.

In order to demonstrate that the CFU is willing to negotiate the land redistribution process with Government, CFU members have offered in total about one million hectares for resettlement and that offer still stands. With the offer, the CFU also proposed a package that would include transfer of skills and other types of input to the resettled farmers.

The CFU was however concerned about the proposed compensation arrangement whereby the burden of compensating farm workers is on the farmers. They claim that this arrangement has made both the farmers and farm workers destitute.

The President of the ZFU informed the delegation that members of the ZFU greatly appreciate Government's efforts to resettle Black Zimbabweans because alleviation of poverty in the country cannot succeed if Government does not attend to the land imbalances that exist in Zimbabwe.

He informed the delegation of the African Commission that unlawful land occupations were inevitable because people did not have land and the willing-buyer/willing-seller

terms of acquiring land had been too slow. Even then, only non-prime land was offered for sale by the White farmers.

On the question of unlawful land occupations, the ZFU President in his view thought that the police force had endeavoured to remove the unlawful occupants from the farms; but they had been overwhelmed by the extent of the occupations and the violence and had thus failed to handle the situation properly.

He however informed the Commission that following resettlement, the Government has provided support to the ZFU membership in terms of training, education and infrastructure. The only drawback has been that those peasant farmers that have been resettled on land formerly owned by Whites have not yet been issued title deeds because Government is still working out the processes.

In a meeting with members of the **Zimbabwe Council of Churches (ZCC)**, the Commission delegation was informed that ZCC had made proposals on land reform to Government through a book – “Right to My Land”. ZCC believes that it is important that land be redistributed amongst all Zimbabweans, however, they could not agree with the Government on the method. The ZCC informed the delegation of the Commission that churches have a moral authority to speak out on issues of justice and peace. They reported that it is true that there was violence and violations of human rights during the land occupations. However, ZCC believes that in order to maintain the rule of law and resolve issues relating to violations, the land question has to be properly resolved. It is not appropriate for Government to forcibly remove people from lands that they have been occupying for years. Thus, the ZCC is of the view that the fast track method may beget violence within the country.

The delegation of the African Commission also held meetings with members of the **Zimbabwe Congress of Trade Unions (ZCTU)**. The ZCTU was created in 1981 and is an umbrella organisation of 36 trade union affiliates. The ZCTU informed the delegation that the issue of land has been politicised and anyone that tries to approach it in another way is viewed as non-nationalist by the ruling party.

ZCTU states that it does not have access to farm workers in order to discuss with them how to resolve the situation. If an organisation is seen to be sympathetic to the farm workers then members of such an organisation are viewed as MDC supporters and as friends of the White people. Out of 300,000 workers about half of them have been affected by the land invasions and through the land reform program less than 10 per cent have been resettled.

Most farm workers have been internally displaced, making it difficult to keep proper records so as to enable them to seek compensation from farm owners. The ZCTU expressed its frustration at the Government authorities who, when approached with complaints, make excuses to the effect that matters relating to the land issue are political and colonial issues so nothing can be done unless the political and colonial issues are resolved first.

The ZCTU also informed the delegation of the Commission that there are proposals to curtail striking by trade unions. Presently a labour relations amendment bill has been proposed and it contains clauses that are not favourable to the trade union movement.

This proposed bill and the POSA are meant to be used by the Government for purposes of managing security within the country.

The delegation of the African Commission, discussed the concerns raised by the various institutions with authorities from the Government of Zimbabwe.

The **President of Zimbabwe** emphasised that Zimbabwe would like to move forward as a community and since the country's economy is agro based the emphasis has to be on issues relating to agriculture and land.

In a meeting with the **Chair of the National Land Acquisition and Redistribution Committee (NLAC) and Vice President**, the Commission delegation was informed that the economy of Zimbabwe is agro based and it is therefore not the intention of the Government to destroy the very economy that sustains the country.

The Chair of the NLAC explained how the land in Zimbabwe was partitioned for purposes of resettling Black Zimbabweans and stated that the maximum size of land differed depending on the region.

In respect of the land invasions, he was of the view that the Government was cautious about dispatching police onto the farms at the beginning when people were demonstrating and on the White owned farms. So the Government decided as a matter of policy that police would be sent out to remove those demonstrators who had refused to vacate the farms to ensure that they are relocated elsewhere.

The delegation of the Commission also met with the **Minister of Information and Publicity**. The Minister informed the delegation that it was not possible for the Government to undertake any meaningful land redistribution program in 1990. The Minister suggested that this was because, at the time, Zimbabwe was facing pressure from the international community not to undertake a land reform program that would have jeopardised the liberation efforts of neighbouring South Africa, which at the time was still under the apartheid system of governance and also had a similar land problem. (Most of the prime land in South Africa is owned by White South Africans)

Therefore at the time, the Constitution of Zimbabwe was amended to provide for adequate compensation for land bought on a willing/buyer-willing/seller basis. Consequently, in 1992, the Land Acquisition Act was enacted and it was then that the land crisis began. During this period, White Zimbabweans refused to participate in any negotiations with regard to the redistribution of land and began challenging the land redistribution process in courts of law. This state of affairs continued from 1992 to 1998.

The Minister reminded the delegation of the Commission that ZANU PF had fought the liberation war in order to restore the land back to the people but by 1996, most of the Black Zimbabweans had not been resettled despite promises from the international community and western countries to assist Government in the land reform program. Seeing that the Government was determined to go ahead with a land reform program, the international community suggested that the Government should negotiate the land redistribution process through a donor conference. In 1998 a donors' conference was held and promises were made to the Zimbabwean Government relating to funding of the land redistribution process. The donors did not honour these undertakings.



Relating to the question of the land invasions, the Minister stated that the occupations and demonstrations on White owned farms were not, in any way, the Government's approach to land redistribution. Therefore when the demonstrations got out of hand and people started invading the farms and taking them, Government in a transparent manner sent out the army and the police to stop the demonstrations. He maintained that during the whole process of land redistribution, the Government of Zimbabwe took care to enforce the laws. However, this could only be done within the capacity of the police. The Minister rejected media reports that the process got out of hand. He reiterated that the Government of Zimbabwe does not condone even one death that occurred in the during the land invasions.

When the delegation met with the **Speaker of Parliament**, he too stated that the law enforcement agencies were ill equipped to deal with the land invasions and the violence that accompanied the invasions.

He, however, explained that under the fast track land resettlement, the Government decided to acquire the stated land in a period of one year rather than the original proposal of acquiring 5 million hectares within 5 years.

He informed the Commission that under the present land reform program, each farmer can only own one farm and that those commercial farmers still interested in farming can continue to do so. The land that has been acquired from the White farmers is land in excess of what was prescribed by law as land that each farmer should have.

The Speaker stated that it is not true that Government has acquired all the land owned by White farmers except in those instances where the land acquired was adjacent to communal lands. In such instances, the White farmer would be resettled on a new piece of land so he can continue farming.

In the meeting with the **Commissioner of the Zimbabwe Republic Police (ZRP)**, the delegation raised issues relating to the violence that accompanied the unlawful land occupations and questioned why the police force was unable to contain the violence during this period.

The Commissioner of police informed the delegation that the land reform program and land laws are governed by civil laws and the role of the police in such cases is to ensure that court servers are not assaulted when they enter farms to serve court orders.

He explained that during the unlawful land occupations, a variety of crimes were committed on farms, including, arson, murder, assault, poaching, etc. The police carried out arrests but were hampered by the fact that persons arrested were only liable to a small fine of 50 Zimbabwean dollars and this did not deter people from committing the same crimes again. The provisions of the law were thus rendered redundant and ineffective and impracticable to apply to a majority of the people. As a result, the situation went out of control and the police force was overwhelmed.

In order to address such situations in the future, the Protection of Evictions Act was enacted in March 2001. Furthermore, the police force initiated new policing programs to deal with problems relating to land invasions. For instance, they deployed security units to patrol those farms that were considered vulnerable and local leaders have worked with the police to minimise violence on farms. They have also formed land committees and

attached police officers to look into crimes being committed on the farms to maintain law and order.

### **Constitutional Referendum, Parliamentary Elections and Presidential Elections**

Citizens have the legal right to change their Government. ZANU-PF party has ruled the country since independence in 1980. In 1999 the country's first viable opposition party emerged – the Movement for Democratic Change (MDC).

Following the formation of the MDC, the first electoral test for the ruling party came in February 2000 when a Constitutional Referendum was held on whether to accept or reject the Government sponsored draft constitution which had been amended. The most important amendment was the one relating to the acquisition of land; which provided that if Britain did not pay into a fund for land acquisition, the Government could then proceed to expropriate land without compensation. Majority of the electorate, however, voted against the proposed draft Constitution.

On 24<sup>th</sup> and 25<sup>th</sup> June 2000, Zimbabwe went to the polls to elect its 5<sup>th</sup> Parliament since independence in 1980. The opposition won 57 out of the 120 seats in Parliament.

Following the referendum and leading up to the parliamentary elections, there were reports of political violence and intimidation. It is alleged that violence escalated with the invasions of farms by war veterans and other landless peasants. There were reports of intimidation and violence which it is alleged were being used by ZANU PF as a strategy to crush support for opposition parties. This wave of violence continued after the parliamentary elections throughout 2001 and continued through to the Presidential elections which were held from 9<sup>th</sup> to 11<sup>th</sup> March 2002. It has been reported that the electoral processes were neither free nor fair and that there was widespread violence, vote-rigging and other irregularities.

Following the Parliamentary elections, the MDC contested the validity of the outcome of the election in a number constituencies won by ZANU-PF, an action that prompted another wave of violence. It has been reported, however, that human rights abuses have been cited in some of the cases that have been brought before the High Courts. Whereas most of the reports of acts violence have been attributed to ZANU-PF supporters, there have also been reports of MDC supporters carrying out assaults against ZANU PF supporters.

Amidst all these problems it was alleged that the police force turned a blind eye to the ongoing violence prompting the conclusion that the Government not only condoned the violence but organised the attacks and assaults on the members and supporters of the opposition parties. The police took little action to protect persons against the political violence and it is reported that in some instances the police openly admitted their reluctance or their inability to act in many areas. Those persons responsible for the human rights violations carried out during the elections have to date not been held accountable for their acts.

There were also reports during this period that the Zimbabwe National Army had become a politically partisan force. This was underscored by statements from Senior Officials within the army to the effect that the army would only support a leader who had fought the liberation war.

In October 2000, the President of Zimbabwe, issued a Presidential Decree granting a general amnesty for politically motivated crimes that occurred between 1<sup>st</sup> January and 31<sup>st</sup> July 2000. The pardon excluded the offenses of murder, robbery, rape, sexual assault, theft and possession of arms but did not exclude the charges of common assault and assault with intent to commit grievous bodily harm. Thus the amnesty protected nearly all the agents of the political violence campaign that preceded the 2000 parliamentary elections and effectively prevented any criminal prosecutions against them.

The Executive Director of **SAHRIT** was of the view that the situation in Zimbabwe started deteriorating in 1999 because there was growing political competition and thus Government felt threatened because they realised that there was growing discontent from the country in relation to the leadership. Therefore with the majority of the people voting in the referendum to reject the Government sponsored draft constitution, the political scene in Zimbabwe changed. MDC established itself as a viable opposition party and this threatened the ZANU PF leadership. Consequently violence was used as an election tool in a coordinated way, by using war veterans to campaign for the ruling party.

The legislative framework was manipulated to allow the President to enact laws through the Presidential Powers Act.

The Executive Director outlined some of the problems that he believed affected the conduct of the elections in the country, including -:

- Members of the police forces, the armed forces and civil servants from the education ministry were appointed to act as election monitors;
- Members of elections committees and their staff were drawn from the armed forces;
- The Registrar General who ordinarily deals with registration of companies, births, deaths etc was made the Registrar of voters and elections;
- Legislation enacted in relation to the conduct of elections forbade NGOs from conducting civic education unless clearance was obtained from the Electoral Commission. Furthermore, NGOs were also not allowed to source for funds from foreign donors to carry out civic education;
- NGOs had been allowed to take part as local observers for the Presidential elections, and this would have allowed 12,000 persons to observe the presidential elections, however, by virtue of an Administrative decision taken 2 days before the elections NGOs were informed that they were only allowed 3 local observers per station bringing that to a total number of about 400 local observers;
- By law about 1.5 million people were disenfranchised including students attaining the age of 18 years, Zimbabweans living and working outside the country who were not allowed to vote by post and people displaced by farm invasions who could not vote since the law provided that one could only vote at a place where they had been residing for the last 12 months;
- Security around the ballot boxes was lax; whereas in the past the law provided that a seal be placed on the ballot box this law was amended to provide that signatures would be enough to secure a ballot box;
- The Registrar was permitted to alter a person's name on the register without consulting that person;
- Monitors of elections were not legally allowed to accompany ballot boxes;

- The Citizenship Act was amended through the Presidential Powers Act and it provided that if a person had the potential of belonging or being granted citizenship in another country, then in such cases that person's Zimbabwean citizenship was withdrawn until such a time that that person would show that they would not apply for citizenship in another country. In fact, some people received letters from Government withdrawing their citizenship, an act which rendered them stateless.

In total all of the above problems created a situation of mistrust of the Government within the population. This atmosphere could have contributed to the escalation of violence in the country. The situation during this period was pathetic as both political parties were involved in acts of violence.

The delegation enquired as to whether there were political prisoners in the country. The SAHRIT Executive Director informed the delegation that there were no political prisoners but that the ruling party authorities normally harassed political opponents. They are constantly arrested without charges and often spend time in police cells before they are released.

The Mission also met and discussed the problems that were raised in relation to the conduct of the electoral process with the **Zimbabwe Congress of Trade Unions (ZCTU)**. ZCTU was created in March 1981 and is an umbrella of 36 Trade Union affiliates. However, since 2000 the organisation has been constrained in carrying out their activities as they cannot assemble, associate or even organise.

ZCTU informed the delegation of the African Commission that some leaders of MDC were members within the ZCTU so it is believed that ZCTU is pro-MDC. It is because of this that ZCTU always faces interference in their activities from ZANU PF supporters.

The organisation reported that it is particularly concerned about the effect of the POSA on its activities. They stated that by the very nature of their work, trade unions often have to hold meetings with their members. Yet this has been denied them by law. For instance, on 14<sup>th</sup> March 2002 the ZCTU could not hold their meeting because the police wanted to be part of the meeting but ZCTU would not allow this. The police force insisted on being present during ZCTU meetings but ZCTU challenged this in court. The courts held in favour of ZCTU. However, the police continue to ignore the court decision by insisting on being present at some of the ZCTU meetings.

During the meeting with the **senior lawyers**, they pointed out that they had been present during the elections that took place before and after independence. During this period it was evident that there were only a few non-consequential opposition groups that contested elections. However in 1999/2000, the country saw, for the first time, a seemingly strong opposition party - MDC coming up. MDC was backed by trade unions and thus had a national backing; therefore, a threat of the ruling party losing elections existed. Furthermore, for the first time as never before after independence, White Zimbabweans came out to cast their votes in elections, because their interests were at stake. This was clearly a factor that contributed to ZANU PF losing the vote during the referendum. The referendum was the first test for MDC, but for ZANU PF as the ruling party, they had been presented with a novel situation. Possibly that explains the acts of violence that seemed to have been carried out by supporters of ZANU PF.

The Senior Lawyers stated that during elections there was a tendency for political parties to rely on violence; Campaigns were marred by violence and Government paid lip service to ending the violence. With political violence abound, some criminal elements saw an opportunity to carry out illegal acts, which heightened the difficulty for the Government to distinguish between political and criminal killings. Consequently, political parties blamed each other and labelled all the killings as political. The police carried out some arrests and there were times that arrests were made on both political sides, but it is believed that the Government could have done better to stamp out the criminality.

The **ZCC** indicated to the Mission that they believe that it is healthy to have a strong opposition party and as such they believe it is mainly because of the threat from the opposition that the ZANU PF has achieved more in 2 years than it ever did in 22 years.

The ZCC stated that as a non-partisan institution in the whole electoral process, the Church has a big role to play. They conceded that the Government had not closed its doors to dialoguing with the ZCC. ZCC informed the Mission that they have stressed to the Government that a break through in the problems that are faced by the country could only come as a result of dialogue rather than through confrontation and cautioned that violence can only beget more violence. This situation would only serve to create a climate that does not foster development in the country.

ZCC reported that there was violence during the elections but that this could have stemmed partly from the fact that the Government reduced the number of polling stations during the presidential elections thus creating some tension between MDC and ZANU PF. They also added that presently in the rural areas there is an existing fear of terror.

There were reports that the violence that took place targeted institutions of learning especially teachers and pupils believed to support opposition parties. The **Progressive Teachers Union of Zimbabwe (PTUZ)** submitted a report to the compiled from February 2000 to April 2002 on the violence against teachers. The PTUZ is an apolitical trade union. However, members of the PTUZ as individuals are free to join and belong to any political party. The report states that the teaching fraternity, particularly those working in the rural areas, have been on the receiving end of violence perpetrated by war veterans and ZANU PF youths and that the violence is politically motivated.

The delegation was also able to meet with a number of NGOs working in Zimbabwe on various issues including human rights. Some of the NGOs present have observer status with the African Commission and have been active in its activities.

During the meeting with NGOs, **Zimbabwe Election Support Network (ZESN)** informed the delegation of the African Commission that ZESN were guided by the SADC parliamentary guidelines when they monitored the 2000 parliamentary and 2002 presidential elections. In 2000 there was a sudden increase in politically motivated violence on commercial farms and in rural areas, people were killed, tortured, maimed etc; and these acts of violence continued during the parliamentary elections and right through to the presidential elections. Suddenly and overnight the Government introduced legislation which restricted voter education and severed the ability of NGOs to monitor elections. There was violence in the rural areas and this extended to the urban areas. The main perpetrators were trained militia who maintained a constant presence throughout the election period.

It was not possible for independent monitors to monitor the elections because a number of them were detained or harassed. Instead the Electoral Commission recruited civil servants as monitors.

ZESN reported that voting during the presidential elections was not transparent, identity cards were confiscated and thus they were unable to vote. The numbers of polling stations in rural areas were reduced and mobile polling stations were introduced thus making it difficult to monitor elections. Altogether the electoral process was not transparent and many people were disenfranchised as a result.

The **Zimbabwe NGO Forum (ZNF)** informed the Mission that violence began after the referendum and that mainly it is the militia and war veterans who the ZNF believe were acting on behalf of ZANU PF who carried out the acts of violence. The President is the patron of the war veterans and ZANU PF has not disassociated itself from the violent acts of the war veterans.

The delegation enquired as to who forms the militia alleged to be carrying out the acts of violence in Zimbabwe. ZNF informed the delegation that the Government introduced the national youth service but that it has not been formalised like in other countries. It is the youth service trainees and war veterans who are in charge of about 45 militia bases throughout the country.

ZNF reported that the major form of violation has been intimidation and sometimes rape by the war veterans and although there was a general amnesty in 2000, few people have been arrested and prosecuted for the crimes that were exempted from the amnesty.

Furthermore, because of the level of violence on farms, a number of farm workers have been displaced as a result; in respect of education institutions, during the presidential elections 2002, 38 schools were closed because of the violence that was prevailing.

The ZNF believes that the police force is partial in the enforcement of the law thus there have been no prosecutions or even dismissals from the police force of erring officers and this they believe amounts to impunity.

**ZIMRIGHTS** informed the delegation that the police force and the central intelligence organisation (CIO) collaborate in carrying out violence or perpetuating it. ZIMRIGHTS stated that in Buhera this kind of collaboration was quite evident, especially in the case of the violations committed by one CIO officer known as Mwale who has never been arrested despite reports made to police on numerous occasions.

The **NGO Crisis in Zimbabwe Committee** observed that the Government and supporters of ZANU PF have shifted the whole debate by stating that it is only external forces that are questioning the situation of human rights in the country. The NGO stated that it is not true that the questioning about ongoing human rights abuses is outside legitimate national concerns. Zimbabweans are concerned about the ongoing acts of violations and about the situation of human rights within the country.

At the conclusion of the meeting with the NGOs, the delegation of the African Commission was presented with a victim of torture who narrated his experience of how he was taken from his home at night and led to a police station by unknown people where he was tortured because he supports MDC. He suspected that the acts of torture

had been carried by police personnel but wasn't sure as they were not wearing police uniforms. The delegation noted that the victim had been seriously injured as he could not sit and was only able to walk with a lot of difficulty.

The delegation of the African Commission also met with members of **MDC**. MDC explained that there are about 3 million MDC supporters country wide. With respect to the violence that is alleged to have taken place during the elections, MDC submitted evidence in the form of newspaper cuttings, documentation and video tapes demonstrating hate speeches given by President Mugabe before, during and after the elections and also acts of violence being carried out. They stated that during the elections people were beaten, harassed and their properties destroyed. Since 2000 and as a result of politically motivated violence, 127 people had been killed and thousands assaulted. They informed the delegation that before 2000 there was the typical violence that usually accompanies elections, but that after 2000 MDC noted that the violence became sustained, systematic and politically organised and aimed at MDC supporters. MDC claimed that most of these acts of violence were being carried out by Government trained militia and remnants of war veterans.

MDC is of the view that there is no political space for non ZANU PF supporters in Zimbabwe and this has also been enshrined in the law. For instance, the POSA requires that the police is notified 4 days before any large gatherings or demonstrations are held. However, more often than not, the police interpreted the said provision to mean permission should be obtained before assembling. MDC has often been denied the opportunity to hold their meetings because of this legislation.

Asked whether MDC supporters had been responsible for any acts of violence during the elections, the MDC General Secretary stated that in instances where MDC supporters had been accused of carrying out acts of violence, it had been done in retaliation or in self-defence. The MDC Secretary General concluded by stating that the police force in Zimbabwe is responsible for keeping law and order and should be able to arrest and charge those responsible for committing crimes be they MDC or ZANU PF.

Another political party that the delegation held discussions with was the **Democratic Party (DP)**. The President of DP stated that there is a problem of governance in Zimbabwe and that this was the major cause of the violence and abuse of human rights.

He related that since 1980 the political atmosphere in the country did not foster participation by opposition political parties. Whenever opposition parties are formed they suffer harassment. This situation prevailed even before MDC was born.

During the meeting with the **Ombudsman of Zimbabwe**, the Mission was informed that the mandate of the office had recently been extended to include investigations of alleged human rights violations. However, majority of the complaints that come in to the office are from indigent persons and relate mostly to cases of administration of estates and labour disputes. The Ombudsman stated that complaints relating to violations of human rights are very few. Except for a case that was lodged by some White farmers challenging the acquisition of land by Government, the office did not receive any complaints relating to the violations that occurred during the period 2000-2002. She was of the view that the reason there are no cases brought to the office relating to human rights violations is because most Zimbabweans are unaware of their rights.

The **Minister of Information and Publicity** stated that the MDC as a political party evolved out of human rights organisations. These organisations often held demonstrations in support of MDC. The demonstrations degenerated into violence, yet when the police tried to contain such situations they were accused of perpetrating violence when in fact the NGOs in collaboration with MDC were the main perpetrators of violent acts. The Minister conceded that during the period of elections there was extensive violence but that Government did not take pride in this at all and was therefore concerned about the situation. According to the Minister, the Government did what it could to contain the violence.

In respect to allegations about the election officers and monitors, the Minister informed the delegation that by law, election officers should be public servants whilst election monitors are not required to be public servants.

The **Speaker of Parliament** explained to the delegation that there was violence during the period of elections more especially before, during and after the parliamentary elections, but that the violence was reduced during the presidential elections in 2002. He acknowledged that, on the whole, during the electoral process, innocent people were injured in clashes but added that it was never to a massive degree and it differed from province to province.

In relation to the problem raised regarding the registration of voters, he explained that when the cut off date for registration of voters was announced, about 24,000 new voters appeared. As such, a supplementary voters' roll had to be printed following instructions from the Ministry of Justice. However, the new voters' roll was never inspected and this is where the problems may have stemmed from.

When the matter of violence was brought up in the meeting with the **President of Zimbabwe**, he stated that MDC had refused to accept the results of the elections and had therefore publicly embarked on a bid to use violence in its campaigns. The President regretted the violence that occurred during the electoral process, but he noted that the criminal justice system was overburdened by the scale of the violence.

The President also informed the delegation that members of the opposition have contested the election results including the results of the Presidential elections before the courts.

Officials met during a meeting with the **Minister of Home Affairs and the Minister in Charge of Security** believed that the violence in the country was sparked off by statements made by MDC leadership calling for use of violent means to remove the present Government.

In the meeting with the **Commissioner of Police**, the delegation presented him with the allegations raised by NGOs in relation to the attitude of the police force towards maintaining law and order during the electoral period.

The Commissioner of Police informed the delegation that during the parliamentary elections period both parties committed crimes and had their members arrested. He proceeded to give statistics of what the police force believed were politically motivated crimes on farms by ZANU PF and MDC in terms of Whites and Blacks arrested from January 2000-2001. He stated that in total 272 arrests were made, of which 76 were



ZANU PF supporters and 74 were MDC supporters. Altogether only 29 Whites were arrested. For the period between January and April 2002, which covers the period of the presidential campaigns and elections, of the total number of persons arrested for politically motivated crimes, 49 percent belonged to MDC, 45 percent to ZANU PF and 6 percent others.

The Commissioner of Police also reminded the Mission that in October 2000, the President had issued a Presidential Decree granting a general amnesty for politically motivated crimes that occurred between 1<sup>st</sup> January and 31<sup>st</sup> July 2000. Although the pardon excluded the offences of murder, robbery, rape, sexual assault and assault with intent to cause grievous bodily harm, the amnesty protected nearly all agents of the political violence campaign that preceded the parliamentary elections in 2000 and effectively prevented any criminal prosecutions against them.

The Commissioner of Police went ahead to outline efforts undertaken by the police force to maintain law and order during the presidential elections. He stated that to suggest that the police did anything untoward is absurd. The police force has to operate under difficult circumstances with inadequate resources, but, the Commissioner of Police categorically stated that under no circumstances does the police force torture or abuse human rights as an official policy. He, however, hastened to add that there could be a few cases of torture perpetrated by individual police officers, but he claimed that when such cases are brought to the attention of the police, the police will act on the reports.

On the question as to whether there is an independent complaints mechanism that the public could access in relation to abuses committed by police officers, the Commissioner of Police stated that there is none. He suggested that the public could consider using the Office of the Ombudsman. Within the police system, police officers can make use of the Police Service Commission if they feel that they have been wronged by the police. The Police Service Commission is composed of persons that are not necessarily police officers and are appointed by the Government on the advice of the Public Service Commission. However, one member of this body must be a retired police officer.

Pertaining to complaints about the police's interpretation of the word "notification" in Section 24 of the POSA to mean seeking permission from police, the Commissioner of Police stated that the police understand the meaning of the word "notify". He, however, added that MDC supporters do not notify the police before organising gatherings. In instances where MDC informed the police, they were not denied the opportunity to assemble except where the police believed that the gathering was meant for purposes of creating disorder. He however added that MDC does not normally inform the police when they intend to address large gatherings or carry out demonstrations.

The Commissioner of Police was informed that there were allegations that towards the end of the last day of voting during the presidential elections, members of the police force were beating persons who were in the voting queues. The victims of these beatings who were mainly MDC supporters reported the assaults but the police took no action and have shown no interest in carrying out any investigations. The Commissioner of Police informed the Mission that it was the youth disturbing the queues and so the police came in and contained the situation.

## Independence of the Judiciary

The Mission raised questions relating to reports of interference by the executive with the independence of the judiciary with the **Executive Director of SAHRIT**.

The **Executive Director of SAHRIT** informed the Mission that on the whole the courts are still functioning well, as the court decisions are still good. However, there were instances of racial divisions within the judiciary and this has been reflected in some of the decisions handed down by some judges. He also observed that a number of Zimbabweans questioned the appointment of the present Chief Justice because he seems to have been a political appointee given that he was previously the Chair of ZANU PF.

The **Secretary General of MDC** stated that out of 5 judges in the Supreme Court, 3 had resigned and only 2 of the original judges were still sitting on the bench. MDC believed that the recent appointment of judges sitting on the Supreme Court seemed to reflect that the judiciary is sympathetic to ZANU PF.

The **Dean of the Faculty of Law** informed the delegation of the African Commission that soon after independence there was a predominantly White bench and there were questions as to whether one could access justice from such a judicial system. He stated that Black Zimbabwean lawyers have always challenged the composition of the bench, but that at the same time they were concerned at the number of resignations of judges within such a short period. On the whole, the Dean believed that it was necessary to effect changes within the judiciary in order to address the social, economic, cultural and racial realities. When that happens one cannot say that the quality of justice has been compromised.

The **senior lawyers** informed the delegation that there has been a general public outcry relating to the state of the rule of law. The unnecessary harassment of judges mainly by members of the executive resulted in a number of them resigning. Additionally issues were raised in relation to judgments being delivered on the basis of race because quite a number of judges sitting on the bench were White. However, most lawyers believed that this situation could have been avoided if the Judge President had exercised some caution when allocating politically sensitive cases.

The delegation was informed that the government had appointed new judges who have been criticised as Government appointees and as such they are under immense pressure from the general public. The lawyers, however, expect that the new judges will act professionally and deliver good judgements.

The **Law Society of Zimbabwe** reported that it had spoken out on interference with the independence of the judiciary and as such some Government authorities have viewed the Law Society as a form of opposition. The Law Society is however concerned that lately judicial officers are not respected and are attacked with impunity by politicians. For instance, there is an increase in threats issued against judges and the President sometimes issues decrees that overrule decisions of the courts. It is therefore apparent that the Government does not support the judiciary. Added to that, is the sudden departure or resignation of some judges, which has deprived the country of some very good judges due to unwarranted allegations. The sudden departure of judges also sends out negative messages to the remaining judges. This may produce a chilling effect and in some ways affect the kind of decisions that judges write. Judges are now perceived by the public to

be afraid of ruling against the State and so it is believed that the judiciary is not independent. Furthermore, it is quite evident that within the judiciary there is some mistrust between the judges. The public has almost lost all confidence in the upper courts to the extent that they feel that they are more likely to get a better brand of justice in the lower courts.

With respect to the newly appointed judges, the Law Society believes that even though they are well qualified, they are inactive and some of them have been viewed as being sympathetic to ZANU PF.

The **Minister of Information and Publicity** stated that the judiciary in Zimbabwe is racist, which had been the case since the post-colonial times. Therefore, the country needs to rid its institutions, the executive, the legislature and the judiciary of all those persons that come with colonial baggage by installing those that are committed to democracy and human rights. The Minister reported that under the former Chief Justice there was corruption within the judiciary and he was determined to oppose the Government by consistently delivering judgements against it.

The Minister argued that NGOs in Zimbabwe understand independence of the judiciary to denote a judiciary that decides against the Government and where this does not happen then the judiciary will be perceived as one that is not independent.

The Minister stressed that the allegations made against the judiciary are baseless and as such it is not true that the independence of the judiciary in Zimbabwe has been compromised by the Government.

The **Speaker of Parliament** stated that at independence the judiciary was racist because the judges were supporters of the Ian Smith regime. This became quite evident when the government embarked on the land redistribution program. Consequently, most of the White judges resigned.

When the delegation met with the **Chief Justice** and the **Judge President**, they outlined the problems that had been presented to them about the judiciary.

The Chief Justice explained the structure of the judiciary in Zimbabwe stating that presently 6 judges sit on the Supreme Court and 16 on the High Court. He informed the Mission that there was racism within the Zimbabwean judiciary, a fact that should be recognised and dealt with. Polarisation along racial lines exists within the country and subsequently this is manifested in the decisions of the judicial officers.

The Chief Justice confirmed the allegations that High Court orders had been ignored by the Executive following the land occupations. This is because the Executive believed that land matters in Zimbabwe had to be resolved through social justice rather than legal justice.

The Chief Justice also confirmed that some Ministers had issued statements attacking judges, but he added that in some of these cases the statements were justified.

With respect to the problem of public criticism of the judiciary, the Chief Justice noted that everyone in Zimbabwe expects the judiciary to rule in their favour. This expectation has created problems.

The delegation expressed concern about the resignations of senior judges and questioned what the mandate of the Judicial Service Commission was. The Chief Justice informed the delegation that the Judicial Service Commission only considers submissions for appointments to the judiciary. In cases where there has been misconduct by a judicial officer, the Chief Justice is mandated to look into the matter and make recommendations to the President of Zimbabwe who will act on the Chief Justice's recommendation. He informed the delegation that there is no mechanism or body to consider cases of judicial misconduct but that the judiciary is presently in the process of setting up a mechanism to deal with judicial misconduct and also draw up a code of conduct for the judicial officers.

### **Independence and Treatment of the Press and the Media**

The African Commission had received reports that the Government had enacted legislations that generally restricted the right to freedom of speech and the press. Additionally, there were numerous reports of arbitrary detentions, harassment and intimidation of journalists and media workers compelling them to practice self-censorship.

When the delegation met the **Executive Director of SAHRIT**, he stated that media in Zimbabwe is often used as a propaganda tool. For instance the Minister of Information and Publicity seems to have led a propaganda war on the media and as a result a big percentage of journalists have lost their jobs in the last 2 years.

This situation has not been helped by the polarisation of the media, which means that issues are often personalised; as such, Government and private owned media are on 2 opposite extremes thus making it difficult to reach a middle ground.

With respect to the role of the Media and Ethics Commission, the Director was of the view that Media Commission has no credibility. He reported that members of the Media Commission are often manipulated by the Minister of Information and as such the Media Commission is considered partisan and not representative of all the journalists in Zimbabwe.

In a meeting with **Ms Peta Thorncroft**, an individual journalist in Zimbabwe, she informed the delegation that the media is caught in a situation where they cannot verify information because they have no access to institutions and authorities and are never granted audience when they seek interviews with government officials.

On his part, the **President of the DP** was concerned that the media in Zimbabwe practices selective reporting by covering stories of one political party.

The **ZCC** reported that they have met with the Minister of Information and Publicity on the issue of treatment of the media and have emphasised that as Government they should put out messages on the media that unite, rather than disunite, the country.

The delegation of the African Commission informed the **Speaker of the Parliament** that one of the strong allegations brought to the attention of the African Commission relates to the new legislation concerning access to information and protection of privacy. The Mission related concerns raised by press and media organisations that the press and the media in Zimbabwe is no longer free and is therefore unnecessarily controlled.

The Speaker of Parliament outlined the process that led to the enactment of the new legislation affecting the press and the media. He stated that between 1995 and 1996 all media practitioners were consulted when Government began the process of amending press and media laws. The process was democratic and the intention was to have freedom of expression well regulated. With the new laws there are levels regarding what can be published. The Speaker stated the new laws are somewhat liberal in so far as accessing information is concerned.

In relation to allegations of arrests, torture and harassment of journalists the Speaker stated that it was true that following the publication of certain information some journalists had been arrested and beaten. However, these arrests and beatings had been carried out by the armed forces as the journalists had reported false information about army officials. However, the Ministry of Justice intervened to insist that the stated journalists be put in the custody of police and charged appropriately.

In the meeting with the **President of Zimbabwe**, he informed the Mission that there are problems with the media in Zimbabwe. The laws relating to the practice of the media in the country have been amended because it is not proper for media practitioners to believe that they can have rights above those of other people. He noted that journalists recklessly disregard rights of other people especially when they publish false information. He stated that publishing false news is a crime because it is morally and ethically wrong to publish false news.

He informed the mission that it was true that journalists had been arrested and that the Government has had to take action in such cases. The President also stated that the accused journalists would have to be tried in accordance with the laws.

The **Commissioner of Police** informed the delegation that the media in Zimbabwe does not verify information before publishing it. His belief was that the press and the media in Zimbabwe do not practice their profession in an ethical way as they seem to want to make money at all costs.

During the meeting with the **Chief Justice and the Judge President**, the delegation was informed that the media in Zimbabwe does not practice balanced reporting. Some newspapers by the manner of their reporting demonstrate that they are writing in favour of ZANU PF and others for MDC. Therefore if one newspaper participates in one political rally and then goes on to cover another there is bound to be violence.

They informed the delegation that the **Zimbabwe Union of Journalists (ZUJ)** is usually concerned about the length of detention of journalists and usually urges the law enforcement agencies to bring them to court, whereas the Media Ethics Commission usually deals with matters relating to quality of reporting.

The Chief Justice was of the opinion that journalism in Zimbabwe has been highly politicised and as such even the ZUJ finds it difficult to hold the journalist society together.

## The Status of the Rule of Law in Zimbabwe

The African Commission received reports that there was a breakdown in the rule of law in Zimbabwe and further that militia and war veterans were being trained and were responsible for the violence in the country.

When the delegation met with the **group of senior lawyers** issues relating to the status of the rule of law were put to them. The senior lawyers were of the view that at some stage, the rule of law was compromised but certainly not to the extent that the Western media portrayed.

In relation to the selective application of the law, they stated that it is evident that meetings and demonstrations that are not organised by ZANU PF are not permitted. The police force is politicised and provides services for the protection of Government authorities and thus have allowed certain laws to be used against particular persons.

The **Executive Director of SAHRIT** was of the view that the police force in Zimbabwe appears to be under directions not to enforce the law. After the parliamentary elections in 2000, there were farm evictions and these were never condemned by the Government authorities, and nor were the persons that carried out the farm evictions brought before the courts of law. The excuse that was given by Government authorities was that the matter was political so it could not be dealt with by legal means.

Within the police, a small unit within the Criminal Investigations Department was created to handle matters relating to policing issues which were not taken through the normal police procedures. As a result, certain cases were taken through this unit and others through the normal police procedures, thereby creating a situation where there was selectivity in law enforcement and a likelihood of cases not being pursued.

He informed the delegation that there is a genuine problem of enforcement of the law. During the last 2 years, extortions, kidnaps and other crimes committed by the war veterans persisted while the police looked on.

Therefore, because of the poor enforcement of the law, people have lost confidence in the law enforcement system. Even NGOs relocated to neighbouring countries so they could carry on their activities safely.

The **ZCC** informed the delegation of the African Commission that on realising that there was selective imposition of justice, they sought a meeting with the Minister of Justice where this issue was discussed and proposals made to the Minister on how the matter could be resolved.

The **Law Society of Zimbabwe** informed the Mission that the Government by failing to distance itself from the illegal acts being committed by supporters of the ruling ZANU PF party gave the impression that they were encouraging these acts; inaction on part of the Government amounts to permitting the illegal acts and it is this attitude towards illegal acts that is of concern to the Law Society.

The President of the Law Society stated that the police force, officers from the Office of the Attorney General and the judiciary were not functioning as they should be. As such, justice cannot be dispensed without a proper functioning police force, judiciary and

Attorney General Chambers. The Law Society believes that the office of the Attorney General has a major role to play in ensuring respect for the rule of law.

In the meeting with **Ms Thorncroft**, she related her experiences with respect to her arrest by the CIO and in particular by a one Mwale. She stated that while in detention she had the opportunity to learn that a great number of police officers are professional in their work but that there are a few that are not professional. It is therefore these few unprofessional officers that have tarnished the image of the entire police force. She recounted that police officers complained that they are constrained by the fact that they do not have a body that they can reach or access to report any problems that they face in the course of their duties.

The **Minister of Information and Publicity** and the **Commissioner of Police** informed the delegation of the African Commission that allegations that there is selective law enforcement and prosecution are not true as ZANU PF supporters have been arrested and charged before courts of law. Therefore, as opposed to what is being reported, the police force, courts, prisons etc are functioning in Zimbabwe and as such there is rule of law.

The **Speaker of Parliament** however admitted that there was a period during which there was disorder but that it had subsided. The Speaker denied that there was a total breakdown in the rule of law during this period.

During the meeting with the **Attorney General**, the delegation was informed that the role of prosecutors from the office of the Attorney General is to prosecute and that does not include carrying out investigations.

The Constitution of Zimbabwe mandates the Attorney General with the power to direct investigations where it has been brought to their attention that crimes have been committed. Where the police do not carry out investigations, sanctions are non-existent.

He informed the delegation that there is polarisation in Zimbabwean society and, like in any society, this usually affects cooperation between the investigating arms of Government and the population.

During the period of mass farm invasions, parliamentary elections and presidential elections, acts of violence were carried out by supporters of both MDC and ZANU PF on a relatively big scale. The office of the Attorney General was thus overwhelmed by the increased number of cases that it had to deal with given the constraints of inadequate human resources. Consequently, there is a huge back log of cases because the total prosecution staff within the Directorate of Public Prosecutions is very low.

The Attorney General stated that there is no reluctance on part of his office to prosecute. In fact, where the police have handed to his office evidence to justify prosecution, his office has acted upon the cases. He informed the delegation that in certain matters, the Attorney General has directed the police force to carry out investigations but that the police have not regularly submitted the results of their investigations in order to enable the office to carry out prosecutions.

In some cases, the Director of Public Prosecutions has been in touch with the police in an effort to accelerate their investigations by submitting the police file to his office so prosecution may take place.

In order to improve the way they work, the Commissioner of Police and the office of the Attorney General are working on the idea of creating a committee to ensure that proper investigations are undertaken in cases and thus enable successful prosecutions.

The Attorney General assured the delegation that his office is open to the public to report cases that the police have failed to act upon when such matters have been brought to the attention of the police. In such cases the Attorney General has the mandate to direct that the matter be investigated and the file brought to his office for prosecution. The Attorney General however reported that his office has never been approached by any NGO with complaints that have not been dealt with by police.

## **Women**

Since independence the Government has enacted laws aimed at enhancing women's rights and countering certain traditional practices that discriminate against women. Generally women in Zimbabwe remain disadvantaged in society and are still vulnerable to entrenched customary practices. Illiteracy, economic dependency, and prevailing social norms prevent rural women, in particular, from combating societal discrimination.

The law recognises women's right to own property independently of their husbands or fathers. Although unmarried women may own property in their own names, women married under customary law are not allowed to own property jointly with their husbands. The Administration of Estates Amendment Act makes inheritance laws more favourable to widows. However, in 2000 the Supreme Court upheld a Magistrate Court decision that, under customary law, a man's claim to family inheritance takes precedence over a woman's, regardless of the woman's age or seniority in the family. The Court cited Section 23 of the Constitution, which allows discrimination against women under customary law. Divorce and maintenance laws are favourable to women, but women generally lack awareness of their rights under the law.

During the meeting with various NGOs, **Women Lawyers in Zimbabwe** informed the delegation of the African Commission that women in Zimbabwe have concerns that are specific to them. They informed the delegation that over the years women in Zimbabwe have been raped and that sexual violence has been used as a form of politically motivated torture. However, few cases of sexual violence have been reported because the women fear the stigma that they are likely to suffer within the local communities where they live.

Women form 52 percent of the population of the Zimbabwe and therefore play a key role in subsistence agriculture within the country. However, contrary to promises made by the Minister of Local Government to the effect that single women would be allocated 20 percent of land acquired by the Government and that there would be joint ownership of land by spouses, women in Zimbabwe are yet to see these promises fulfilled by Government. Furthermore, no legal or administrative framework has been put in place to ensure gender equality in the distribution of resettlement land. Women have therefore suffered discrimination and have been forgotten in Government's land resettlement program.



The Mission also held meetings with the **Zimbabwe Women's Coalition** which is an umbrella body of women's organisations and women. The Members of the Coalition reported that there is a systematic silencing of women in Zimbabwe, making them the unknown victims in all the problems besieging the country. Some Zimbabwean women were abused, violated and displaced during the elections because their husbands support the opposition – MDC.

They informed the delegation that what are referred to as militia are youth attending the National Youth Service (NYS). It is these youths from the NYS that are behaving like militia. Violence against women is being used as a political tool. Camps have been established where women are being sexually violated. When cases of sexual violence are reported, health officials are not very. This situation is compounded by the fact that women are not able to easily access legal or other processes mostly because they do not know that remedies may exist.

### **Conditions of Prisons and Places of Detention**

In a meeting with Ms Thorncroft, she informed the delegation that from her experience prisons and conditions of detention in Zimbabwe are horrible. She stated that there have been reports that some MDC members have had to sign admissions of guilt rather than spend nights in cells.

When the delegation met with the **Commissioner of Prisons** they raised issues relating to conditions of prisons and places of detention. He admitted that conditions of detention are poor; there is overcrowding and a lack of resources to maintain places of detention. Altogether prisons in Zimbabwe are supposed to take 16,000 people but currently there are 21,000 prisoners. With respect to prison visits, prisoners on remand are allowed visitors once a week and convicted prisoners once a fortnight.

In conclusion, the Commissioner of Prisons stated that the events of the recent times have polarised Zimbabwean society and have therefore put a lot of pressure on the criminal justice system.

### **Governmental Attitude Regarding International and Non-Governmental Organisations**

The Government permits local civic and human rights groups to operate. Most organisations generally work in the area of human rights and democracy, lobbying for the reform of discriminatory or bad legislation, women and children rights etc.

The delegation of the African Commission held meeting with various NGOs and the issue of the attitude of the Government and its authorities towards NGOs kept coming up. The NGO community felt that the Government was somewhat hostile towards them. It is believed by most that this could be due to the fact that MDC arose out of activists from the NGO community, which has been used against all NGOs. As such, the Government has shown that they are not interested in dialoguing with NGOs.

This attitude towards NGOs has also affected the quality of NGO work because some NGOs for fear of being persecuted have discontinued their work in Zimbabwe.

Regarding the relationship between the Government and the **Law Society of Zimbabwe**, the President of the Society informed the Mission that the relationship cannot be characterised as excellent. However, there are 2 Government officials sitting on the Law Society Council and therefore one could say that there is some sort of dialogue with the Government albeit not effective one.

The **Minister of Information and Publicity** informed the Mission that the Government works well with developmental NGOs. However he believes there is a need to interrogate the concept of NGOs in Zimbabwe. He stated that there are some new NGOs with whom the Government has never had a meeting of minds. So it is important to respect the differences between the two. The Minister was of the view that some Western countries are using NGOs as conduit of their foreign policies, particularly in the case of Zimbabwe.

## CONCLUSION

The delegation was in Zimbabwe on the mission for 5 working days and during that period was fortunate to have a full programme organised. The delegation endeavoured to meet with all the persons that expressed interest in putting their concerns to the delegation and where that was not possible gathered reports and documents for further study.

The delegation was conscious that a visit confined to the capital of Zimbabwe, Harare only did not give one a full picture of the situation in the country as a whole. We received invitations to visit some of the commercial farms that had been allocated to new settlers. It had also occurred to us that it was necessary to undertake a visit to one of the prisons and the Harare Central Police Station which featured very prominently in many allegations of torture. The Catholic Archbishop of Bulawayo also invited us to a ceremony in Bulawayo on the Saturday we were due to depart. We therefore acknowledge that our report must bear the inadequacy attendant to our inability to cover a greater part of the country.

We are satisfied, however, that while in Harare, we were able to meet the full spectrum of the social and political players in the country. We sincerely appreciate the manner in which the officials of the Government of the Republic of Zimbabwe received us and facilitated our mission. We never felt that the officials frustrated or undermined our mission in any manner. They responded to our requests with courtesy and consummate professionalism. As a result the prevailing atmosphere was one of openness. In this environment, those who appeared before us were free to express themselves, we never heard any reports of or reason to suspect that the witnesses and presenters who appeared before us were intimidated or under threat of any kind.

We would be less than candid, however, if we did not observe that the overall impression we went away with is one of Zimbabwe as a highly polarised society. Political opinions are very strongly held. The government spokespersons passionately defended their cause. They accused opponents of being under the influence of, funded by and acting as agents of European interests. It was not understood that there was genuine difference of views about national priorities and about the nature of the democracy Zimbabweans sought together. In many, but not in all, instances, some government spokespersons came across as intolerant of opposition and unable to handle a diversity of political opinion in a democracy. From the government side, the internationalisation of the Zimbabwean situation was unfortunate. The campaign for sanctions and the banning of Zimbabwean leaders, all of this orchestrated and supported by the political opposition and certain human rights NGOs, causes bitter feelings of lack of patriotism. Government believes that the human rights civil society has effectively undermined its own integrity and independence by being part of the opposition and will therefore be treated as the political opposition in the cut and thrust of politics.

Among the NGO community, we found that fear was prevalent. It was reported to us that within Zimbabwe a militarisation of society was developing with the establishment of a law and order unit within the police force assigned to investigate political crimes, the Central Intelligence Organisation had some operatives accused of violence and torture, the police and the military were accused of being partisan and there were youth militia readily deployed to attack alleged government opponents. The so-called War Veterans were much feared and it was alleged that they operated outside of the law. The picture

that was presented to us, therefore, is one where impunity was prevalent, that even well meaning, professional police officials were being subjected to political pressure and they were thus rendered powerless. Judges and magistrates were also being subjected to political pressure to the extent that the confidence levels in the independence of the judiciary were low.

At the centre of this was the land policy. None of the people that we met denied that land reform had become a policy imperative for Zimbabwe. That, of course, was expressed with different levels of intensity. Government believed that some judges had embroiled themselves in the politics of the land question and their judgements lacked credibility. There was belief that the land question would soon be resolved and that the political, economic and moral merit of the land reform policy could not be questioned. Government conceded that some excesses might have occurred around the implementation of the policy. These however were not part of the policy of the government. Government accepted that the political intensity around land was understandable; that the people of Zimbabwe had been patient for long enough and that government was determined to resolve this matter once and for all. The organised farming community accepted that land reform policy was necessary. The White commercial farmers believed that dialogue with government was necessary; that they were ready to contribute towards the resolution of the problem. They were participating in good faith in the government-led consultative forum. Their main concern is that in many respects the land invasions and illegal occupations were contrary to stated policy and that law and order had broken down, violence and even murders had become common. In many instances these practices were undertaken with racist motives and farm owners felt that their lives and property were under constant threat.

Representatives of civil society were equally divided. There were some who accused government of using the land issue as a political smokescreen to cover its own policy failings since independence. A matter that all Zimbabweans felt strongly about had become politicised in a manner that expresses the policy of the ruling party. What was considered paramount, however, was that the land question and the manner in which it was dealt with, is that human rights violations have come in the wake of it justifying invasions of human rights as part of the need to restore land to the people. Meanwhile, freedom of expression and the independence of the media, freedom of political association and a host of other civil liberties especially the prevalence of torture, political violence and the rule of law, were matters deserving of immediate attention.

## FINDINGS

1. We observe that Zimbabwean society is highly polarised. It is a divided society with deeply entrenched positions. The land question is not in itself the cause of division. It appears that at heart is a society in search of the means for change and divided about how best to achieve change after two decades of dominance by a political party that carried the hopes and aspirations of the people of Zimbabwe through the liberation struggle into independence.
2. There is no doubt that from the perspective of the fact-finding team, the land question is critical and that Zimbabweans, sooner or later, needed to address it. The team has consistently maintained that from a human rights perspective, land reform has to be the prerogative of the government of Zimbabwe. We noted that Article 14 of the African Charter states “The right to property shall be guaranteed. *It may only be encroached upon in the interest of public need or in the general*

*interest of the community and in accordance with the provisions of appropriate laws*". It appears to us that the Government of Zimbabwe has managed to bring this policy matter under the legal and constitutional system of the country. It now means that land reform and land distribution can now take place in a lawful and orderly fashion.

3. There was enough evidence placed before us to suggest that, at the very least during the period under review, human rights violations occurred in Zimbabwe. We were presented with testimony from witnesses who were victims of political violence and others victims of torture while in police custody. There was evidence that the system of arbitrary arrests took place. Especially alarming was the arrest of the President of the Law Society of Zimbabwe and journalists including Peta Thorncroft, Geoffrey Nyarota, among many others, the arrests and torture of opposition members of parliament and human rights lawyers like Gabriel Shumba.
4. On the evidence presented to us, however, we are not able to find definitively that the human rights violations that have occurred, in many instances at the hands of the agents of the State and ZANU PF party activists, were part of an orchestrated policy of the government of the Republic of Zimbabwe. There were enough assurances from the Head of State, Cabinet Ministers and the leadership of the ruling party that there has never been any plan or policy of violence, disruption or any form of human rights violations, for us to accept such assurances. There was also an acknowledgement that excesses have occurred for which we were made to believe that the available State machinery could address.
5. What we are prepared and able to rule, is that the Government cannot wash its hands from responsibility for all these happenings. It is evident that a highly charged atmosphere has been prevailing, many land activists undertook their illegal actions in the expectation that government was understanding and that police would not act against them – many of them, the War Veterans, purported to act as party veterans and activists. Some of the political leaders denounced the opposition activists and expressed understanding for some of the actions of ZANU (PF) loyalists. Government did not act soon enough and firmly enough against those guilty of gross criminal acts. By its statements and political rhetoric, and by its failure at critical moments to uphold the rule of law, the government failed to chart a path that signalled a commitment to the rule of law
6. There has been a flurry of new legislation and the revival of the old laws used under the Smith Rhodesian regime to control, manipulate public opinion and that limited civil liberties. Among these, our attention was drawn to the Public Order and Security Act, 2002 and the Access to Information and Protection of Privacy Act, 2002. These have been used to require registration of journalists and for prosecution of journalists for publishing "false information". All these, of course, would have a "chilling effect" on freedom of expression and introduce a cloud of fear in media circles. The Private Voluntary Organisations Act has been revived to legislate for the registration of NGOs and for the disclosure of their activities and funding sources.
7. There is no institution in Zimbabwe, except the Office of the Attorney General, entrusted with the responsibility of oversight over unlawful actions of the police, or to receive complaints against the police. The Office of the Ombudsman is an independent institution whose mandate was recently extended to include human rights protection and promotion. It was evident to us that the office was inadequately provided for such a task and that the prevailing mindset especially of the Ombudsman herself was not one which engendered the confidence of the

public. The Office was only about the time we visited, publishing an annual report five years after it was due. The Ombudsman claimed that her office had not received any reports of human rights violations. That did not surprise us seeing that in her press statement following our visit, and without undertaking any investigations into allegations levelled against them, the Ombudsman was defensive of allegations against the youth militia. If the Office of the Ombudsman is to serve effectively as an office that carries the trust of the public, it will have to be independent and the Ombudsman will have to earn the trust of the public. Its mandate will have to be extended, its independence guaranteed and accountability structures clarified.

8. It was a privilege to meet with the Chief Justice and the President of the High Court. We also met with the Attorney General and Senior Officers in his office. We were struck by the observation that the judiciary had been tainted and even under the new dispensation bears the distrust that comes from the prevailing political conditions. We were pleased to note that the Chief Justice was conscious of the responsibility to rebuild public trust. In that regard we were advised that a code of conduct for the judiciary was under consideration. The Office of the Attorney General has an important role to play in the defence and protection of human rights. In order to discharge that task effectively, the Office of the Attorney General must be able to enforce its orders and that the orders of the courts must be obeyed by the police and ultimately that the professional judgement of the Attorney General must be respected.
9. We have noted with appreciation the dynamic and diverse civil society formations in Zimbabwe. Civil society is very engaged in the developmental issues in society and enjoys a critical relationship with government. We sincerely believe that civil society is essential for the upholding of a responsible society and for holding government accountable. A healthy though critical relationship between government and civil society is essential for good governance and democracy.

#### RECOMMENDATIONS

In the light of our conclusions and findings, we offer the following recommendations -:

##### ***On National Dialogue and Reconciliation***

Further to our observations about the breakdown in trust between government and some civil society organisations especially those engaged in human rights advocacy, and noting the fact that Zimbabwe is a divided society, and noting further, however, that there is insignificant fundamental policy difference in relation to issues like land and national identity, Zimbabwe needs assistance to withdraw from the precipice. The country is in need of mediators and reconcilers who are dedicated to promoting dialogue and better understanding. Religious organisations are best placed to serve this function and the media needs to be freed from the shackles of control to voice opinions and reflect societal beliefs freely.

##### ***Creating an Environment Conducive to Democracy and Human Rights***

We believe that as a mark of goodwill, government should abide by the judgements of the Supreme Court and repeal sections of the Access to Information Act calculated to freeze the free expression of public opinion. The Public Order Act must also be reviewed. Legislation that inhibits public participation by NGOs in public education,

human rights counselling must be reviewed. The Private Voluntary Organisations Act should be repealed.

### ***Independent National Institutions***

Government is urged to establish independent and credible national institutions that monitor and prevent human rights violations, corruptions and maladministration. The Office of the Ombudsman should be reviewed and legislation which accords it the powers envisaged by the Paris Principles adopted. An independent office to receive and investigate complaints against the police should be considered unless the Ombudsman is given additional powers to investigate complaints against the police. Also important is an Independent Electoral Commission. Suspicions are rife that the Electoral Supervisory Commission has been severely compromised. Legislation granting it greater autonomy would add to its prestige and generate public confidence.

### ***The Independence of the Judiciary***

The judiciary has been under pressure in recent times. It appears that their conditions of service do not protect them from political pressure; appointments to the bench could be done in such a way that they could be insulated from the stigma of political patronage. Security at Magistrates' and High Court should ensure the protection of presiding officers. The independence of the judiciary should be assured in practice and judicial orders must be obeyed. Government and the media have a responsibility to ensure the high regard and esteem due to members of the judiciary by refraining from political attacks or the use of inciting language against judges and magistrates. A Code of Conduct for Judges could be adopted and administered by the judges themselves. We commend to the Government of the Republic of Zimbabwe for serious consideration and application of the *Principles and Guidelines on the Right to Fair Trial and Legal Assistance in Africa* adopted by the African Commission at its 33<sup>rd</sup> Ordinary Session in Niamey, Niger in May 2003.

### ***A Professional Police Service***

Every effort must be made to avoid any further politicisation of the police service. The police service must attract all Zimbabweans from whatever political persuasion or none to give service to the country with pride. The police should never be at the service of any political party but must at all times seek to abide by the values of the Constitution and enforce the law without any fear or favour. Recruitment to the service, conditions of service and in-service training must ensure the highest standards of professionalism in the service. Equally, there should be an independent mechanism for receiving complaints about police conduct. Activities of units within the ZRP like the law and order unit which seems to operate under political instructions and without accountability to the ZRP command structures should be disbanded. There were also reports that elements of the CIO were engaged in activities contrary to international practice of intelligence organisations. These should be brought under control. The activities of the youth militia trained in the youth camps have been brought to our attention. Reports suggest that these youth serve as party militia engaged in political violence. We propose that these youth camps be closed down and training centres be established under the ordinary education and employment system of the country. We commend for study and implementation the *Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa* (otherwise known as The Robben Island Guidelines) adopted by the African Commission at its 32<sup>nd</sup> Ordinary Session held in Banjul, The Gambia in October 2002.

***The Media***

A robust and critical media is essential for democracy. The government has expressed outrage at some unethical practices by journalists, and the Access to Information Act was passed in order to deal with some of these practices. The Media and Ethics Commission that has been established could do a great deal to advance journalistic practices, and assist with the professionalisation of media practitioners. The Media and Ethics Commission suffers from the mistrust on the part of those with whom it is intended to work. The Zimbabwe Union of Journalists could have a consultative status in the Media and Ethics Commission. Efforts should be made to create a climate conducive to freedom of expression in Zimbabwe. The POSA and Access to Information Act should be amended to meet international standards for freedom of expression. Any legislation that requires registration of journalists, or any mechanism that regulates access to broadcast media by an authority that is not independent and accountable to the public, creates a system of control and political patronage. We commend the consideration and application of the *Declaration on the Principles on Freedom of Expression in Africa* adopted by the 32<sup>nd</sup> Ordinary Session of the African Commission in Banjul, October 2002.

***Reporting Obligations to the African Commission***

The team notes that the Republic of Zimbabwe now has three overdue reports in order to fulfil its obligations in terms of Article 62 of the African Charter. Article 1 of the African Charter states that State Parties to the Charter shall “recognise the rights, duties and freedoms enshrined in the Charter and *shall undertake to adopt legislative or other measures to give effect to them.*” Article 62 of the African Charter provides that each State Party shall undertake to submit every two years “a report on the legislative or other measures taken, with a view to giving effect to the rights and freedoms recognised and guaranteed by the present Charter.” The fact-finding mission therefore reminds the Government of the Republic of Zimbabwe of this obligation and urges the government to take urgent steps to meet its reporting obligations. More pertinently, the mission hereby invites the Government of the Republic of Zimbabwe to report on the extent to which these recommendations have been considered and implemented.

**ACKNOWLEDGEMENTS**

The African Commission on Human and Peoples’ Rights acknowledges with gratitude the assistance of the Government and People of Zimbabwe especially the President of Zimbabwe, His Excellency, Mr Robert Gabriel Mugabe who showed the way by his open attitude that Zimbabwe had nothing to fear. He welcomed international scrutiny because Zimbabwe sincerely believed it was acting in the interests of her people and correcting the injustices of history. That set the tone for our visits to the Vice President John Msika, Ministers John Nkomo and Jonathan Moyo, the Speaker of the Assembly Mr Emmerson Mnangagwa; government officials like the Office of the Attorney General, the Ministry of Justice, Legal and Constitutional Affairs, the Zimbabwe Republic Police and the Prisons Service. The Chief Justice and the President of the High Court received us courteously and our exchanges, though full and frank at times, were conducted in a spirit of genuine enquiry.

We valued the trust and confidence placed in our mission by large numbers of the Zimbabwean civil society. We had a large number of NGOs, churches and professional bodies as well as political parties who were eager to share with us the story of Zimbabwe. Not all of them were opposed to government policies but many spoke passionately of their love for their country, of their pain about the deteriorating human rights situation



and the environment of intolerance which was not Zimbabwean. There were ordinary people too who came to testify to us about their experiences at the hands of the police. We were showed evidence of torture. Given that ours was not an investigation, we have refrained from making any specific findings about responsibility. Our hope is that this report will assist in a small way in affirming their trust in the future of Zimbabwe.

Our visit would never have been successful without the assistance of Mr D Mangota, the Permanent Secretary in the Ministry of Justice, Legal and Parliamentary Affairs. His staff rendered the highest professional service and support to the Fact-finding Mission. The Ministries of Foreign Affairs as well Information and Publicity did everything possible to help. The Attorney General, Mr Andrew Ranganayi Chigovera is a colleague and member of the African Commission on Human and Peoples' Rights. His quiet assurance and presence demonstrated to us that the honour and respect with which he was universally held in Zimbabwe, was much deserved. We thank them all most sincerely.

The Secretariat of the African Commission on Human and Peoples' Rights based in Banjul, The Gambia facilitated the visit. A special word of thanks, though, is due to Ms Fiona Adolu, the Legal Officer at the Secretariat who rendered technical assisted to the Fact-finding Mission.

**Mrs Jainaba Johm**  
**Vice Chairperson: African Commission on Human and Peoples' Rights**  
**Leader of the Fact-finding Mission to Zimbabwe**

**Prof Nyameko Barney Pityana**  
**Commissioner**

**Banjul, 29<sup>th</sup> April 2003**

**Annexure:**

**Officials Met by the Delegation**

1. **The President of the Republic of Zimbabwe**, H.E Robert Gabriel Mugabe  
**The Minister of Foreign Affairs**, The Hon. Dr S Mudenge, MP
2. **The Vice President of the Republic of Zimbabwe and Chairperson of the National Land Acquisition and Redistribution Committee**, Hon. J. Msika, MP
3. **Office of the Attorney General**
  - Attorney General of Zimbabwe, Mr. Andrew Ranganayi Chigovera
  - Deputy Attorney General of Zimbabwe, Mr Patel
  - Director of Public Prosecutions, Mr Musakwa
  - Director of Legal Advice, Ms Chatukuta
4. **Ministry Of Justice, Legal and Parliamentary Affairs**
  - Deputy Minister of Justice,
  - Permanent Secretary of the Ministry of Justice, Mr David Mangota
  - Registrar General,
5. **Ministry of Home Affairs**
  - Minister of Home Affairs, Hon. J. Nkomo
  - Minister in Charge of Security, Hon Gokye
6. **Ministry of Information and Publicity**
  - Minister of Publicity and Information, Hon Jonathan Moyo
7. **Prisons**
  - Deputy Commissioner of Prisons, Mr. W Chimboza
  - Deputy Commissioner of Prisons, Mr M. Siziba
  - Senior Assistant Commissioner of Prisons, Mr S. Maradzika
  - Senior Assistant Commissioner of Prisons, Mr. S. Matunhira
8. **Police**
  - Commissioner of Police, Mr Augustine Chihuri
  - Deputy Commissioner of Police, Mr Godwin Matanga
  - Deputy Commissioner of Police, Griffith M. Mpofu
  - Senior Assistant Commissioner of Police, Mr. Fortune Zengeni
  - Senior Assistant Commissioner of Police, Mr Clement Masango
  - Assistant Commissioner of Police, Mr Wayne Bvudzijena
  - Assistant Commissioner of Police, Ms Josephine Shambare
  - Assistant Commissioner of Police, Mr Stephen P. Museki
9. **Supreme Court**
  - The Chief Justice of Zimbabwe, Justice Godfrey Chidyausiku
  - Judge President of Zimbabwe

**10. Parliament**

- Speaker of Parliament, Hon. Emmerson Mnangagwa
- Clerk of Parliament, Mr. Austin M. Zvoma

**11. Office of the Inspector General of Government**

- Inspector General of Government, Mrs B. Chanetsa
- Law Officer, Mr. C. Chipere
- Senior Investigations Officers, Mr Mabwe

**12. University of Zimbabwe**

- Dean, Faculty of Law, Mr. Arthur J. Manase
- Lecturer of Sociology, Claude G. Mararike
- Professor in the Department of Agriculture, Prof. Sheunesu Mpeperekwi

**13. Opposition Parties**

*Movement for Democratic Change (MDC)*

- Secretary General, Prof. Welshman Ncube
- Director of Elections, Hon. Paul Themba Nyathi
- National Executive Member, Ms. Yvonne Mahlunge
- Information Officer, Mr. Nkanyiso Mageda
- Research and Policy Officer, Mr Denis Murira

**Democratic Party**

- President, Wurayai Zembe
- Peter Mutiswa

**14. Zimbabwe Council of Churches (ZCC)**

- Acting President of the Zimbabwe Council of Churches, Bishop Cephas Z. Mukandi
- Chairperson of the Head of Christian Denominations, Rev. Murombedzi C. Kuchera
- General Secretary of the Zimbabwe Council of Churches, Densen M. Mafinyani
- Treasurer of the Zimbabwe Council of Churches, Lazarus Sigauke

**15. Farmers' Organisations**

*Commercial Farmers Union*

- President, Mr Colin Cloete
- Dr. Grant

*Indigenous Commercial Farmers Union*

- President, Mr Thomas Nherera

*Zimbabwe Farmers' Union*

- President, Mr Hungwe

**16. Zimbabwe Congress of Trade Unions (ZCTU)**

- President, Mr Lovemore Matombo
- 1<sup>st</sup> Vice President, Mrs Lucia Gladys Matibenga
- Secretary General, Mr. Wellington Chibebe

**17. Non Governmental Organisations and Institutions**

*Law Society of Zimbabwe*

- President, Mr. Sternford Moyo
- Councillor, Ms Beatrice Mtetwa
- Councillor, Mr Colin Kuhuni
- Councillor, Mr Mordecai Mahlangu

*Human Rights Trust of Southern Africa*

- Executive Director, Mr Philliat Matsheza
- Deputy Director, Mr George Chiweshe

*Zimbabwe Lawyers for Human Rights*

- S. Jarvis
- Solomon Sawo

*Human Rights Forum*

- T. Hondora

*National Constitutional Assembly*

- Lovemore Madhuku
- Edna Zinyemba

*Zimbabwe Election Support Network*

- Reginald Matchaba-Hove
- Prisca Mulewengi
- Zachariah S. Godi
- T. Rhigunwe

*Transparency International – Zimbabwe Chapter*

- John Makumbe

*Legal Resources Foundation*

- Marko Chwaridzo
- Eileen Sawyer

*Amani Trust*

- Faith Ndebele
- Frances Lovemore
- Ephraim Chapwanya – victim of violence and torture

*Catholic Commission for Justice and Peace*

- Stella Mawawanyika

*Gays and Lesbians of Zimbabwe*

- Dumisani Dube

*ZIMRIGHTS*

- Arnold Tsunga
- Munyaradzi Bidi
- David Jamali

*Zimbabwe Women Lawyers Association*

- Ruvimbo Masunungure
- Revai Makanje

*Women's Coalition*

- Women in Parliament Support Unit, Janah Ncube
- Association of Women's Clubs, Shumirai Miriam Chakarisa
- Zimbabwe Women's Resource Centre and Network, Isabella Matambanadzo
- Teresa Mugadza

*Crisis in Zimbabwe Committee*

- Prof Brian Raftopoulos

**18. Individuals**

*Group of senior lawyers*

- Mr. S.J Chihambakwe
- Mr. V.S. Nyangulu

Nick Ndebele, Human Rights Activist  
Kerry Kay, HIV/AIDS & Human Rights Activist  
Peta Thorncroft

**19. Media Organisations**

- Media Monitoring Project, Sizanweza
- Zimbabwe Union of Journalists, Mathew Takaoma
- Media and Ethics Commission, Tafathona P. Mahoso
- Editor of the Sunday Mail, William Chikoto
- Editor of the Herald, Pikirayi Deketeke

**20. Business persons**

- Mutumwa Dziva Mawere, Employers Confederation of Zimbabwe
- Phillip Chiyangwa, Affirmative Action Group
- Enock Kamushinda, Indigenous Business Development Centre

**21. Press Conference**