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**FINDINGS ON THE HUMAN RIGHTS SITUATION IN ZIMBABWE BY
UNITED NATIONS AND REGIONAL HUMAN RIGHTS BODIES**

(2000-2005)

FINDINGS ON HUMAN RIGHTS IN ZIMBABWE BY UN AND REGIONAL BODIES

This document was prepared by the International Commission of Jurists to address the situation of human rights in Zimbabwe at the 61st Session of the United Nations Commission on Human Rights. It contains excerpts from the report of the fact-finding mission to Zimbabwe of the African Commission on Human and Peoples' Rights, special procedures of the UN Commission on Human Rights, United Nations press releases explicitly referring to the human rights situation in Zimbabwe published between 2000 and 2005 and a chart on the reporting status of Zimbabwe to the human rights treaty bodies.

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PART I. EXECUTIVE SUMMARY OF THE REPORT OF THE FACT-FINDING MISSION TO ZIMBABWE (24TH TO 28TH JUNE 2002) OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS¹

INTRODUCTION

Following widespread reports of human rights violations in Zimbabwe, the African Commission on Human and Peoples' Rights (African Commission) at its 29th Ordinary Session held in Tripoli from 23rd April to 7th May 2001 decided to undertake a fact-finding mission to the Republic of Zimbabwe from 24th to 28th June 2002.

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.

FINDINGS

1. The Mission observed 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. The Mission 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 the Mission

¹ See Decision Assembly / AU / Dec.56(IV) of the Assembly of the African Union, Fourth Ordinary Session, 30-31 January 2005, Abuja, Nigeria, adopting the 17th annual activity report of the African Commission on Human and Peoples' Rights and authorizing its publication.

- 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 the Mission to suggest that, at the very least during the period under review, human rights violations occurred in Zimbabwe. The Mission was 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. There were allegations that the human rights violations that occurred were in many instances at the hands of ZANU PF party activists. The Mission is however not able to find definitively that this was 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, orchestrated by the State. There was also an acknowledgement that excesses did occur.
 5. The Mission is prepared and able to rule, 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, the Mission's 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 the Mission 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 the Mission 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. The Mission was privileged to meet with the Chief Justice and the President of the High Court. The Mission Team also met with the Attorney General and Senior Officers in his office. The Mission was 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. The Mission was pleased to note that the Chief Justice was conscious of the responsibility to rebuild public trust. In that regard, he 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. The Mission 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. The Mission sincerely believes 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 the above findings, the African Commission offers the following recommendations:

On National Dialogue and Reconciliation

Further to the 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

The African Commission believes 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. The African Commission commends 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 33rd 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. The African Commission proposes that these youth camps be closed down and training centres be established under the ordinary education and employment system of the country. The African Commission commends 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 32nd 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. The African Commission commends the consideration and application of the *Declaration on the Principles on Freedom of Expression in Africa* adopted by the 32nd Ordinary Session of the African Commission in Banjul, October 2002.

Reporting Obligations to the African Commission

The African Commission 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 African Commission 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 African Commission hereby invites the Government of the Republic of Zimbabwe to report on the extent to which these recommendations have been considered and implemented.

PART II. SPECIAL PROCEDURES OF THE UN COMMISSION ON HUMAN RIGHTS

I/ SPECIAL REPRESENTATIVE ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS HUMAN RIGHTS DEFENDERS

Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, E/CN.4/2005/101, 13 December 2004

II. Trends in the situation of human right defenders

B. Moments of vulnerability

32. Peaceful public demonstrations, rallies and strikes to denounce violations continue to be moments of particular vulnerability. Defenders continue to be increasingly targeted in the run-up to demonstration and to suffer from the use of excessive force by authorities during peaceful protests. Communications sent in this respect in 2004 included a case where protesters were surrounded by 30 anti-riot police for three hours before being arrested and another where riot police allegedly fired tear gas into the crowd, wounding protestors. States have put undue limitations on the right to dissent, limiting the opportunity of peaceful protest, and used such limitations as a basis for arrests and arbitrary detentions before, during, and in the aftermath of such events. Communications have been sent in this respect to [...] **Zimbabwe.**

C. Types of violations allegedly committed against human rights defenders

40. Communications sent this year have continued to reflect the worrying trend noted last year of Governments' drafting and passing new restrictive legislation to regulate the creation and operation of NGOs, resulting in the criminalization of activities in the defence of human rights. Such laws provide the basis for charging, detaining and sentencing defenders and allow States to unduly monitor and interfere in NGO activities. Communications sent in 2004 also highlight the adverse impact of restrictive legislation on NGOs. In one case, an NGO was shut down by the Government owing to the refusal by the Ministry of Justice to renew its registration based on a 2003 presidential decree. Prior to the closure, members of staff received death threats and were subjected to other forms of intimidation. Communications were sent regarding such cases to [...] **Zimbabwe.**

60. In connection with the restrictive legislation regulating freedom of association in a growing number of countries, defenders have been harassed with regard to administrative requirements to register and legalize their organization. Governments have passed new laws requiring all NGOs to re-register, allowing them to selectively deny legal status to NGOs critical of government policies. Defenders have also seen their work hindered by burdensome administrative authorization and reporting requirements, not only for holding demonstrations and strikes but also for internal meetings. Human rights organizations have continued to be threatened with closure by local courts on complaints from government ministries for minor administrative irregularities. In one case, agents of the Ministry of Health entered the offices of a health and rehabilitation centre for victims of torture and domestic violence and confiscated patients' files. A complaint was filed against the centre, accusing it of using a clinic for "prohibited purposes", which could result in its closure. Human rights defenders have faced such difficulties in [...] **Zimbabwe**. The Special Representative is particularly concerned about defenders being prevented from forming and operating organizations and existing ones being closed down. Such practices and restrictive laws have forced defenders to continue their work without legal protection, to terminate their activities and, in some cases, even to flee their country.

Report submitted by Hina Jilani, Special Representative of the Secretary-General on the situation of human rights defenders, E/CN.4/2004/94, 15 January 2004

II. Trends in the situation of human rights defenders

A. Which defenders are being targeted, and where?

34. In the past year, communications sent attest that defenders working on strengthening the rule of law and against impunity have been targeted in [...] **Zimbabwe**.

35. Cases show that defenders have also been targeted in connection with their activities in the fight against torture and inhumane treatment in [...] **Zimbabwe**.

37. Those working on democratic rights have encountered serious obstacles in [...] **Zimbabwe**.

39. Communications from [...] **Zimbabwe** indicate that defenders have also been targeted for their activities in favour of labour rights.

C. What types of violations are allegedly being committed against human rights defenders, and where?

1. Using the law to violate human rights: arrest, detention, prosecution and imprisonment of human rights defenders

55. The Special Representative expresses her deep concern over the growing use by States of the legal system to harass human rights defenders and hinder their work. Such harassment has resulted in defenders' reputations being undermined and in their time and financial resources being diverted from their human rights work. She is particularly concerned where existing laws criminalize the activities of defenders in favour of the defence of human rights. During the reporting period, the Special Representative has sent several communications with regard to laws drafted and passed by Governments and parliaments that restrict the space in which human rights activities may be carried out. In particular, communications were sent regarding laws overly restricting the right to freedom of expression and freedom of association to the Governments of [...] **Zimbabwe**. Such laws raise serious concerns as they provide the basis for judicial authorities to legitimize the detention and conviction of defenders in connection with their human rights activities.

2. Violation of the rights of human rights defenders to life and mental and physical integrity

64. The Special Representative has also received allegations of such violations from defenders in [...] **Zimbabwe**.

3. Intimidation and harassment campaigns

66. Defenders have continued to be subjected to defamation campaigns in Government-run media in [...] **Zimbabwe**. Government officials, including in one case the chief of the national armed forces and the President, have made statements linking defenders to rebel groups, assimilating them to terrorists, labelling them as "enemies of the State" and "the people", and questioning their morals. Such slanderous attacks have aimed at discrediting the aims, work and integrity of defenders in order to undermine financial and public support for their activities. In certain instances, defenders have been framed. Examples include false accusations of sexual abuse against minors, and even of drunk driving. Lawyers, judges and doctors have faced disciplinary proceedings from their professional boards, been sanctioned, at times disbarred and their licences taken away, for offering legal counsel, investigating cases of human rights abuses and writing medical certificates attesting to ill-treatment. Some have lost their jobs in connection with their action in the defence of human rights.

68. Defenders' offices have been raided, vandalized and arbitrarily shut down. Their equipment, including computers, cameras and files, has been destroyed, stolen and seized. In one case, the bank account of a human rights organization was barred from receiving funds from the European Commission destined to finance its projects. Defenders have seen their travel documents, identity cards, clients' files and photographs confiscated and faced refusal to return them. Incidents of this nature have been reported in [...] **Zimbabwe**.

69. Defenders have been barred from travelling abroad by having their travel documents seized, being refused access to planes and detained at airports in order to prevent them from reporting about the situation inside their country to international forums and bodies, including the Commission on Human Rights. Some have been detained, searched and interrogated upon their return from travelling abroad. Others have been refused visas, barred from access to places of human rights abuses, denied renewal of their residence permits and even deported as retaliation for their human rights work. Defenders have encountered such obstacles in [...] **Zimbabwe**.

70. Defenders have faced increasing administrative harassment in connection with the registration and the status of their organization. Citing security needs, Governments have embarked on national campaigns to register all NGOs, during which well-established human rights organizations have seen their registration denied. Human rights defenders have faced difficulties registering their organization in [...] **Zimbabwe**. Defenders have also seen their work hindered by burdensome administrative authorization requirements, in particular for holding meetings, demonstrations and strikes. An emerging trend is the administrative closure of NGOs. In Belarus and the Russian Federation more than 20 NGOs received warnings and faced legal proceedings to be shut down. Human rights organizations have been closed by local courts on complaints from government ministries for minor administrative irregularities such as having a different street address from that registered, the absence of quotation marks surrounding their names on their letterheads, and undertaking activities deemed outside the scope of their charter. The use of such pretexts by Governments to close organizations has forced defenders to continue their work without registration. This has resulted in a criminalization of their activities, making them even more vulnerable to legal proceedings.

5. Perpetrators

75. The Special Representative notes with deep concern that, in numerical terms (103), communications concerning courts, including security and military courts, administrative bodies such as the Ministries of Social Affairs, the Interior and

Justice and, in some cases, the parliament, as perpetrators of violations appear to have taken precedence over those concerning military and paramilitary forces. This worrying trend suggests the institutionalization of acts against defenders. It is particularly noticeable in information from Belarus, the Russian Federation, Slovakia and Turkey, especially in connection with judicial harassment, registration issues, closure of NGOs and, in some cases, defamation campaigns. To a lesser extent, it is also visible in cases from [...] **Zimbabwe**.

77. Military, paramilitary and rebel armed forces continue to be responsible for abuses against defenders in many cases (38), in particular in regions facing open armed conflict or a growing rebellion. Armed forces are mainly responsible for killings, serious injuries, disappearances and incommunicado detentions. The Special Representative has received communications to that effect from [...] **Zimbabwe** [...].

Report submitted by Hina Jilani, Special Representative of the Secretary-General on the situation of human rights defenders, E/CN.4/2004/94/Add.3, 23 March 2004

Summary of cases transmitted to Governments and replies received

Zimbabwe

Communications sent

506. On 23 January 2003, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, transmitted an urgent appeal concerning the **Amani Trust**, a registered Zimbabwean non-governmental organization providing services for the rehabilitation of victims of human rights violations, particularly torture and institutionalized violence, and conducting human rights training and education programmes, particularly within health professions. It is part of the International Rehabilitation Council for Torture Victims. According to information received, allegations were reportedly made in the State media suggesting that the organization has participated in violent attacks in Kuwadzana. Information received also suggests that the Amani Trust offices may be the target of a firebombing or other form of attack in the near future.*

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

507. On 17 September 2003, the Special Representative, in conjunction with the Special Rapporteur on the question of torture, transmitted a letter of allegation regarding the following two cases.*

508. **Tawanda Hondora**, Chairman of Zimbabwe Lawyers for Human Rights (ZLHR), was reportedly assaulted by a large group of ZANU-PF supporters at Sadza Growth Point on 7 April 2001. Tawanda Hondora had been investigating allegations of intimidation and assault against witnesses in a court hearing challenging the results of the parliamentary election in Chikomba District, Mashonaland East Province. It is reported that after the alleged assault, he was taken to Sadza Police Station, where police officers allegedly beat him further, searched him and interrogated him about his political affiliation. It is also reported that when the other two lawyers arrived to file a complaint, all three were held for almost three hours while all police officers present pointed rifles loaded with live ammunition at the men. According to the information received, after the incident, Tawanda Hondora immediately filed a complaint at the Harare Central Police Station about being assaulted by police officers. Later in June 2001, he reportedly filed a civil suit against the **Zimbabwe** Republic Police. As far as the Special Rapporteur and the Special Representative have been informed, the police have taken no further action to discipline those officers allegedly involved in the assault.

509. **Gabriel Shumba**, former president of the Zimbabwe Congress of Student Unions, a lawyer and member of the Zimbabwean Human Rights NGO Forum, was reportedly arrested on 14 January 2003. He was allegedly denied access to legal representatives until a court order was issued during the night of 15 January 2003. It is alleged that the following day, when he appeared before a judge, it was claimed that he had been beaten, subjected to electric shocks and forced to swallow urine and another noxious liquid while being interrogated by the police about an arson attack on a government bus on 14 January 2003. On 17 January 2003, Gabriel Shumba reportedly gave further details in court of his own alleged subjection to electric shocks and other forms of physical ill-treatment at the hands of the police. Gabriel Shumba was allegedly forced while in detention falsely to confess to several crimes. He has reportedly been charged along with his co-detainees with attempting to overthrow the Government under section V of the Public Order and Security Act. Concern has been expressed that Gabriel Shumba may have been targeted because of his human rights activities. In particular, it is believed that he may have been targeted because of his past work as a student activist and because he reportedly provided legal counsel to a member of the opposition, Job Sikhala, at the time of his arrest.

510. By letter dated 26 September 2003, the Special Representative transmitted a further urgent appeal concerning the situation of **Amani Trust**, an NGO that provides medical and psychological services to victims of political violence and torture. The Special Representative sent an urgent appeal on 23 January 2003 on the situation of this NGO. According to the information received, on 13 November 2002, the Government reportedly published a list of NGOs alleged to pose a threat to national peace and security. Amani Trust is reported to be included in this list. On 13 November 2002, the Minister of Justice, Legal and Parliamentary Affairs, allegedly accused the Armani Trust of destabilizing the country. On the same day, the Minister of Public Service, Labour and Social Welfare reportedly told Parliament that organizations such as Amani Trust which are not registered under the Private Voluntary Organizations (PVO) Act would be forced to close their offices or face arrests.

511. By letter dated 26 September 2003, the Special Representative of the Secretary-General on the situation of human rights defenders, in conjunction with Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, transmitted an urgent appeal concerning **Jenni Williams**, leader of Women of Zimbabwe Arise (WOZA), a grass-roots organization dedicated to encouraging the empowerment of women towards leadership roles in society, and 47 other members of the same organization. According to the information received, on 24 July 2003, Jenni Williams and 47 other members of WOZA, having handed a letter of protest at the Public Order and Security Act (POSA) to the Senior Prosecutor for Bulawayo outside Tredgold Building, allegedly marched through Bulawayo. Jenni Williams had reportedly organized the protest. It is alleged that riot police arrested Jenni Williams, and that the 47 other women were arrested when they opted to be taken with Jenni Williams. While in detention for two days, the women were reportedly interrogated. During this time, they allegedly had limited access to food. The women were reportedly charged under POSA with "participating in an illegal gathering". In addition, Jenni Williams was allegedly charged, under section 17 of POSA on offences against public order, with organizing the march.*

512. By letter dated 26 September 2003, the Special Representative of the Secretary-General on the situation of human rights defenders, in conjunction with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, transmitted an urgent appeal concerning **Philimon Bulawayo**, a photographer for the *Daily News* newspaper, and **Gugulethu Moyo**, a lawyer and Corporate Affairs Director for Associated Newspapers of Zimbabwe. On 19 February 2003, it is alleged that while

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

preparing to take photographs of a food queue at a Harare supermarket, Philimon Bulawayo was assaulted by soldiers. He was then reportedly handcuffed and taken to the Harare central police station where he was allegedly beaten again by police officers. He was reportedly released the same day without charge and it is reported that his camera, which had allegedly been confiscated, was returned to him. On 18 March 2003, while covering a stay-away coordinated by MDC in Budiriro, Harare, Philimon Bulawayo was allegedly arrested again. Gugulethu Moyo was also allegedly arrested when she tried to secure his release from Glen View Police Station. Philimon Bulawayo and Gugulethu Moyo were allegedly severely beaten at the station by the wife of an army commander and a male colleague. The police allegedly stood by and watched. On 19 March 2003, Philimon Bulawayo and Gugulethu Moyo were reportedly transferred to Harare Police Station. According to the information received, they were reportedly not allowed access to medical treatment despite allegedly having been severely beaten, and were reportedly released without charge on 20 March 2003.*

513. By letter dated 7 October 2003, the Special Representative transmitted an urgent appeal concerning the arrest and torture of **Raymond Majongwe**, Secretary-General of the Progressive Teachers' Union of Zimbabwe (PTUZ). This case was already the subject of an urgent appeal on 18 October 2002 by the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right to education and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. According to the information received, on 9 October 2002, Raymond Majongwe was arrested under POSA for disrupting classes and threatening teachers for not participating in a strike for wage increases he had reportedly organized on 8 October 2002. During his alleged detention until 11 October 2002, Raymond Majongwe was allegedly physically maltreated. Raymond Majongwe was allegedly re-arrested on 16 October 2002 for attempting to force teachers at Harare schools to join the strike. He was reportedly taken to Harare Central Police Station, from there to Chitungwiza Police Station, and finally to a place outside the town, where he allegedly received electric shocks and police allegedly ordered him to end the strike, not to make any statement to the press and to disband PTUZ. On 21 October 2002, he was reportedly released, after the court allegedly found that the State had failed to make its case against him. He was reportedly summoned to reappear in court on 25 October, when his hearing was reportedly postponed to 8 January 2003.

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

514. By letter dated 9 October 2003, the Special Representative, in conjunction with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding the alleged arrest and detention of **Lovemore Matombo** and **Wellington Chibebe**, respectively President and Secretary-General of the Zimbabwe Congress of Trade Unions (ZCTU), and of **Raymond Majongwe**, Secretary-General of PTUZ, the alleged injury of **Thabitha Khumanko**, a member of ZCTU women's advisory council, and the alleged arrest of 41 demonstrators in Harare. According to the information received, on 8 October 2003, Lovemore Matombo and Wellington Chibebe were allegedly arrested along with at least 41 trade unionists during a national protest against high taxation, high cost of living, transport problems and violations of trade union rights. They were allegedly detained in an unknown location. Raymond Majongwe was allegedly detained separately from other demonstrators in Harare, in solitary confinement. Physical force was allegedly used against demonstrators in Central Harare and Bulawayo. Thabitha Khumanko was allegedly injured along with several ZCTU leaders during demonstrations in Bulawayo. In addition, according to the information received, of the 41 detainees in Harare, it is reported that 21 paid fines and were released on 8 October 2003, while the remaining 20 were released but reportedly refused to pay fines on the grounds that they were conducting legitimate trade union action. These 20 people were allegedly requested to report to the police at 10 a.m. on 9 October 2003, under a charge of breach of POSA. **Lovemore Matombo** and **Wellington Chibebe** were released the following day and required to pay a fine.*

515. On 17 October 2003, the Special Representative, in conjunction with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, transmitted an urgent appeal regarding an alleged attack against **Beatrice Mtetwa**, a council member of the Law Society of Zimbabwe, who frequently takes up human rights and press freedom cases. On 1 October 2003, an attempt was allegedly made to break into Beatrice Mtetwa's car. On 12 October 2003, Beatrice Mtetwa was allegedly attacked in her car and had a number of personal items stolen. On their arrival, the police allegedly accused her of driving while intoxicated with alcohol and reportedly took her to Borrowdale Police Station. On the way to the police station, Beatrice Mtetwa was allegedly beaten by the officers. For three hours while in custody at the police station, she was reportedly also continuously beaten, at one point, strangled. Despite the alleged accusation of intoxication, the police officers involved

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reportedly refused Beatrice Mtetwa's request that she be given a breathalyser test. She was reportedly refused medical treatment for her injuries. On 16 October 2003, Beatrice Mtetwa reportedly returned to the police station and presented her charge of assault against the police officer in charge. Concern has been expressed that Beatrice Mtetwa may have been targeted because of her human rights work.*

516. By letter dated 28 October 2003, the Special Representative, in conjunction with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, transmitted an urgent appeal concerning **Andrew Meldrum**, a US national, official resident in Zimbabwe, a journalist with the UK-based newspaper, *The Guardian*, and an active member of Amnesty International, who has worked at reporting on human rights abuses with numerous NGOs in Zimbabwe. His case was already the subject of an urgent appeal on 2 May 2002 by the Special Rapporteur on the promotion of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. According to the information received, on 15 June 2002, Andrew Meldrum was reportedly tried under section 80 of the Access to Information and Protection of Privacy Act (AIPPA) on charges of "abusing journalistic privilege by publishing a falsehood". The accusation was allegedly connected with his report regarding an alleged beheading of a woman by ZANU-PF supporters. A Harare court allegedly found him not guilty of "intending to publish falsehoods" and he was reportedly acquitted on 15 July 2002. On 17 July 2002, the High Court in Harare reportedly rejected an application by the Ministry of Home Affairs to deport Andrew Meldrum, and questioned the Supreme Court on the constitutionality of the Ministry's action. On 7 May 2003, Zimbabwean immigration officials reportedly raided Andrew Meldrum's house in Harare in his absence and allegedly refused to show any legal identification to Andrew Meldrum's wife or lawyer, who were present at the time. On 13 May 2003, Andrew Meldrum reportedly went to the offices of the Department of Immigration accompanied by his lawyer to find out the grounds of the reported raid. The authorities reportedly did not give a direct answer, and allegedly ordered Andrew Meldrum to surrender his passport. On 16 May 2003, Andrew Meldrum reportedly returned to the immigration offices. He was then allegedly told that he would remain in custody until he was out of the country in spite of the fact that his lawyer reportedly presented immigration officials with court orders against his deportation. Andrew Meldrum was then allegedly escorted out of the office by immigration officials and police, driven to the airport and detained for over 10 hours. He was then allegedly forcibly placed on an Air Zimbabwe flight to London. On 11 June 2003, his wife reportedly left

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Zimbabwe under an alleged threat of expulsion for being married to Andrew Meldrum, although her residence permit was reportedly independent of their marriage.*

517. On 27 October 2003, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding the reported arrest in Harare on 22 October 2003 of about 400 activists of the National Constitutional Assembly (NCA), a network of non-governmental organizations, including the Chairman of NCA, **Lovemore Madhuku**. According to information received, NCA organized a peaceful demonstration in Harare, calling for democracy and for a people-driven Constitution to replace the 1978 Constitution, which was drafted before Zimbabwe's independence. The demonstration was reportedly attacked by members of the police force, and it is alleged that the demonstrators were seriously beaten up by the police, arrested, and taken to the Harare Central Police Station, where they reportedly were denied access to their lawyers. It is also reported that during the demonstration, **Blessing Zulu** and **Newton Spicer**, respectively journalist with the *Zimbabwe Independent* and free-lancer, were arrested while they were covering the demonstration. Their lawyers were reportedly denied access to them, and it was alleged that they were also threatened with incarceration. It was reported that the majority of the NCA members who had been arrested were allegedly made to pay depository fines on 23 October 2003 under the Miscellaneous Offences Act (MOA) and thereafter reportedly released. The NCA leader, Dr. Lovemore Madhuku, reportedly refused to pay the fine, reportedly resulting in the police laying charges against him of contravening section 24 (6) of POSA, which criminalizes the organizing of a demonstration without notifying the police.*

518. On 6 November 2003, the Special Representative sent an allegation letter to the Government concerning following cases below.

519. According to the information received, on 13 September 2002, the Ministry of Public Service, Labour and Social Welfare reportedly published a notice in a newspaper. This notice reportedly warned NGOs that failure to register with the Ministry through the High Court in accordance with section 6 of the Private Voluntary Organizations (PVO) Act of 1967 meant they were at risk of prosecution, arrest and detention for up to two months under section 25 of the PVO Act. Concern was expressed that the requirement that organizations cease

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to operate if they are not registered under the PVO Act contradicts existing Zimbabwean law, under which it is reportedly legal to register and operate as a trust with the Registrar of Deeds without having to register with the High Court. Additional concerns have been expressed that the High Court does not have a legal mechanism to undertake such a registration. It has further been alleged that section 9 of the PVO Act sets out a lengthy and cumbersome registration process. Concern has been expressed that the timing of the decision by the Government to enforce the PVO Act may represent an attempt at controlling the activities of human rights NGOs.

520. The **Zimbabwe Association of Doctors for Human Rights (ZADHR)** and the **Amani Trust** have reportedly been the victims of a campaign to discredit their human rights work. According to the information received, on 20 June and 17 August 2003, two articles published in a reportedly government-controlled Zimbabwean press outlet allegedly stated that ZADHR had been working to misrepresent victims of common crimes as victims of government- and ZANU-PF-sponsored violence. The 17 August article reportedly claimed ZADHR was being used as an instrument for turning the Zimbabwe Medical Association (ZIMA) into an organ of opposition politics in Zimbabwe. ZADHR is an organization whose work focuses on documenting human rights abuses and their effects on victims, on advocating for human rights victims and on uncovering cases of doctors using their medical skills to assist in torture. On 20 June 2003, an article reportedly published by the same media outlet allegedly described the Amani Trust as an anti-Government NGO working to topple the current regime. The Amani Trust, a non-political organization, provides services for the rehabilitation of victims of human rights violations, particularly torture and institutionalized violence, and conducts human rights training and education programmes, particularly within the health professions. It is part of the International Rehabilitation Council for Torture Victims.

521. On 26 November 2003, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding reports that up to 100 trade union and human rights defenders had been arrested on 18 November 2003 throughout the country (approximately 50 in Harare), allegedly in order to prevent them from staging a protest against alleged human rights abuses and the economic crisis in Zimbabwe. According to information received, **Lovemore Matombo** and **Wellington Chibebe**, respectively President and Secretary-General of the Zimbabwe Congress of Trade Unions (ZCTU), were among those arrested. It was reported that Mr. Matombo and Chibebe remained in custody for two days, while most of those arrested in other parts of the country were released, and that they were charged under section 7 (b) of POSA. It was also reported that **Andrew Moyse**, director of the Media Monitoring Project of

Zimbabwe, and seven other leaders of civic organizations, were arrested during the 18 November demonstration organized by ZCTU, and were detained at the Harare Central Police Station, awaiting trial. Finally, reports indicated that during the demonstration, riot police apprehended **Shadreck Pongo**, a photojournalist with the newspaper *Standard*, while he was covering the demonstration, and severely beat him in a police truck. The police also reportedly destroyed his camera, and dumped the journalist at the city's periphery. He was then taken to the Harare Avenues Hospital.*

Communications received

522. By letter dated 13 October 2003, the Government responded to the communication sent on 9 October 2003 regarding the arrest of trade unionists. The Government confirmed that approximately **55 trade unionists**, including the ZCTU top leaders, had been arrested on 8 October 2003. It informed the Special Representative that they had appeared in court on 9 October 2003 and were released after paying fines for having breached POSA by calling for a demonstration without clearance from the relevant authorities.

523. By letters dated 29 October and 1 December 2003, the Government responded to the urgent appeal of 27 October 2003 regarding the arrest of **Dr. Lovemore Madhuku** and other NCA activists on 22 October 2003. The Government indicated that Mr. Madhuku was currently on bail. Contrary to reports, the Government informed that Mr. Madhuku was allowed access to his lawyers, that his detention was not arbitrary and that due process had been observed in the proceedings against him. Concerning the cases of **Blessing Zulu** and **Newton Star**, the Government considered that the characterization of POSA in the allegation as "repressive" is unjustified, unwarranted and objectionable. The Government stated that it is not a crime for the police to remind a person who breaks the law that he or she risks going to prison. The Government further questioned the habit of the Special Representative and the Special Rapporteur of sending communications on issues that fall under the responsibility of the Government of Zimbabwe and perceives the communications as harassment that prevents the Government from discharging its responsibilities. The Government also reiterated that the laws it applies were duly passed by Parliament for the simple purpose of maintaining peace, order and security to the benefit of every citizen. The Government also underlined that the Constitution allows peaceful demonstrations, which are subjected to certain limitations, as set out in POSA. In this case, NCA members had failed to notify the police of the march. The NCA activists arrested were charged with the lesser charge of contravening the

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Miscellaneous Offences Act. Out of the 200 activists arrested, all but one paid the fine imposed, and were released. Lovemore Madhuku refused to pay the fine, as he was contesting having committed an offence, and decided to go to court. He was released on bail, and the case was pending at the time the response was sent.

524. By letter dated 3 November 2003, the Government responded to a joint urgent appeal sent by the Special Representative on 28 October 2003 acknowledging the deportation of **Andrew Meldrum** from Zimbabwe by the Department of Immigration. The Government informed that Mr. Meldrum had conducted himself in a manner inconsistent with his residence permit by writing false articles clearly designed to cause panic and despondency among the citizens of Zimbabwe. The Government also reported that contrary to the reports received by the office, Mr. Muldrum's wife left Zimbabwe willingly to join her husband.*

525. By letter dated 5 November 2003, the Government responded to two joint urgent appeals one of which was sent on 17 September 2003 by the Special Representative and the other on 16 September 2003 regarding the alleged assault of **Tawanda Hondora** and the arrest of **Gabriel Shumba**. In a memorandum from the Zimbabwe Republic Police, the Government informed the Special Representative that it was difficult to respond to the document regarding Tawanda Hondora, since it did not specify the nature of the complaint and the location where the alleged harassment occurred. Concerning the arrest of Gabriel Shumba, the Government provided specific information stating that Gabriel Shumba was charged with inciting violence and seeking to overthrow the Government through unconstitutional means. Further details were provided in the memorandum from the Zimbabwe Republic Police, who stated that they had recovered a document authored by Gabriel Shumba encouraging the looting and destruction of property during the MDC mass action and that at the time of the arrest of Gabriel Shumba he was celebrating the torching of a bus valued at Z\$ 90 million by the MDC supporters.

526. By letter dated 12 November 2003, the Government responded to the communication sent by the Special Representative on 16 October 2003 regarding the case of **Beatrice Mtetwa**. In a communication from the Commissioner of the Zimbabwe Republic Police, details of the incident on 12 October 2003 were provided. According to the information, Beatrice Mtetwa had lost control of her vehicle, as a result of which she went off the road and landed in a gully. When the police arrived at the scene, she told them she had been about to be carjacked. However, witnesses of the accident suggested that her claim was false.

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According to the police, her behaviour had been hostile and abusive and she had appeared drunk and for this reason was taken to Harare Central Police Station for a breathalyser test, and as the breathalyser was not working, she had to be transferred to Borrowdale Police Station where she was put under observation for three hours. Regarding the alleged altercation with a police officer, the Government stated that Beatrice Mtetwa had bitten a police officer on the cheek on three different occasions during the incident and for this reason, a police officer was pressing charges against her. It also stated that Beatrice Mtetwa was pressing charges against one of the officers and that an internal investigation was under way to establish the circumstances and the manner in which the police officers had handled the matter.

527. By letter dated 18 November 2003, the Government responded to the communication sent on 12 November 2003 regarding the **Amani Trust**. The Government stated that the Amani Trust no longer operated in Zimbabwe because it had not registered in accordance with the PVO Act. The Government indicated that the PVO Act had been in existence since 1963, prior to the commencement of the activities of the Amani Trust in Zimbabwe and requires that all private voluntary organizations register with a board for accountability purposes. The Government stated that the aim of the registration procedure was to ensure that funds received by such organizations were used for the public benefit in accordance with the activities the organizations were registered to carry out. The Government stated that the Amani Trust had commenced its operations without registering despite the existence of clear legislation requiring registration. The Amani Trust had thus been operating illegally. The Government stated that as such the inclusion of the organization's name in any list was out of the question and that the justifiability of its closure could not be questioned. It further added that should the Amani Trust feel that the PVO Act was unconstitutional or infringed on certain rights, avenues existed in Zimbabwean law to challenge the validity of this Act.

528. By letter dated 25 November 2003, the Government responded to the communication sent by the Special Representative on the 6 November 2003. The Government stated that the PVO Act of 1967 was a valid statute under the Zimbabwean Constitution and that many NGOS had registered with the relevant authorities in fulfillment of the requirements stipulated and further, that no organization was exempt from registration. As regards ZADHR the Government stated that, contrary to the allegation made that it had been discredited by the authorities, the organization had effectively discredited itself by showing a video during the 2003 session of the Human Rights Commission of uniformed service officials in Zimbabwe committing human rights abuses which, according to the Government, had been stage-managed and purpose-produced by foreign news agencies in "secret" propaganda centres. Following the discovery of these

centres, they were closed down. As regards the **Amani Trust**, the Government stated that it had failed to register as required by law and, therefore, was no longer a legitimate NGO. It further stated that the organization had posed a serious danger to public order in Zimbabwe by misrepresenting all events of violence as deliberate actions of the Government of Zimbabwe. The Government further stated that Zimbabwe upheld internationally observed human rights conventions and that any offending government officials were prosecuted and punished as appropriate under law.

529. By letter dated 1 December 2003, the Government responded to a joint urgent appeal sent by the Special Representative and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 27 October 2003, regarding the arrest in Harare on 22 October 2003 of about 400 activists of the National Constitutional Assembly (NCA), including the NCA Chairman, **Lovemore Madhuku**. The Government stated that in order to fulfill its duty as the custodian of public order and security it was required to legislate and regulate how and when peaceful demonstrations may take place. For this reason, the Parliament had enacted POSA. The Government informed that, under this Act, the organizer or convenor of a public demonstration was required to give the police four days' advance notice and that failure to do so was a criminal offence. NCA had therefore committed a criminal offence. Despite this, the police had decided to bring against the NCA activists the lesser charge of contravening the Miscellaneous Offences Act, an act which deals with minor infractions of the law under which those charged may choose to pay a fine or appear before a magistrate's court. Of the 200 NCA members still arrested, all but one had opted to pay fines and were accordingly released. NCA Chairman, Lovemore Madhuku had refused to pay the fine and elected to go to court. He was eventually taken to court and released on bail. The case was still pending.

Observations

530. The Special Representative welcomes the spirit of cooperation shown by the Government in replying to her communications. While welcoming the Government's clarifications on cases sent, she would like to reaffirm her legitimate concern with allegations of provisions restrictive of freedom of assembly, expression and association contained in POSA and PVO Act. She is particularly concerned about allegations of their use to prevent human rights defenders and NGOs from carrying out their work. She notes that many NGOs which have been performing human rights activities for a long time have been rendered vulnerable by such overly restrictive legislation. The Special Representative is deeply concerned about allegations of arrests, detention and torture of human rights defenders, in particular lawyers, trade unionists and journalists. She calls on the Government to take all necessary measures to ensure

that the rights enshrined in the Declaration on human rights defenders are respected. She welcomes the willingness of the Government to discuss her renewed request for an invitation to conduct an official visit to the country.

Report submitted by Ms. Hina Jilani, Special Representative of the Secretary-General on human rights defenders in accordance with Commission on Human Rights resolution 2000/61, E/CN.4/2003/104, 3 January 2003

IV. Geographic focus - violations confronting human rights defenders and where they have occurred

69. According to the information received, defenders have been the victims of death threats and other threats and intimidation in: [...] **Zimbabwe.**

71. The Special Representative received information on numerous cases in which defenders were allegedly beaten by members of State security forces and by unidentified attackers. In some instances these beatings were accompanied by kidnapping, sometimes by unidentified persons but on a few occasions reportedly by members of the authorities. Incidents of these types reportedly occurred with regard to: [...] **Zimbabwe.**

72. According to the information available to the Special Representative arbitrary arrest and detention procedures were allegedly used against human rights defenders in a very large number of States, including with regard to: [...] **Zimbabwe.**

76. In a few cases, however, human rights defenders were the target of criminal or other charges leading sometimes to prosecution. According to the information available to the Special Representative, charges and in some instances actual prosecution, were pressed in [...] **Zimbabwe.** The various cases involved, inter alia, the application of national security legislation, a code on administrative offences and charges of “sabotage of the policy of national solidarity” and of “publishing or communicating false statements prejudicial to the State”.

77. In a number of States, defenders have been the victims of defamation or misrepresentation, being described as, inter alia, terrorists, rebels, troublemakers or members of an opposition political party. In some instances the Special Representative has witnessed a tendency by State authorities and even by certain media to assimilate defenders to the persons whose human rights they are seeking to protect. Thus, defenders who act to protect the human rights of persons from armed opposition groups are themselves described as being affiliated with those groups. Defamation can have a very damaging impact on

the situation of a defender living within a local community and may also have a subsequent negative influence on the defender's safety. According to the Special Representative's information such incidents occurred in [...] **Zimbabwe**.

Report submitted by Ms. Hina Jilani, Special Representative of the Secretary-General on human rights defenders, in accordance with Commission on Human Rights resolution 2000/61, E/CN.4/2003/104/Add.1, 20 February 2003

Communications to and from Governments

Zimbabwe

Communications sent

513. On 18 January 2002, the Special Representative sent an urgent appeal regarding the passage through the Zimbabwean Parliament of the Public Order and Security Bill (POSB). The POSB is designed to amend three existing statutes and to replace the Law and Order (Maintenance) Act. It renders the advocacy of, or engaging in peaceful acts of, civil disobedience a criminal offence, punishable by imprisonment for up to 20 years. It also criminalizes "coercing or attempting to coerce the Government", the word "coercing" being defined to include "constraining, compelling or restraining" through "civil disobedience or resistance to any law, whether such resistance is active or passive." It is also reported that anyone who engages in, advocates or organizes acts of civil disobedience, or threatens to do so, may be subject to prosecution under this clause. It also reportedly criminalizes "publishing or communicating false statements prejudicial to the State" and making a public statement with the intention to, or knowing there is a risk of, "undermining the authority of or insulting" the President. This prohibition includes statements likely to engender "feelings of hostility towards" the President, cause "hatred, contempt or ridicule" of the President, or any "abusive, indecent, obscene or false statement" about him personally, or his office. Fears have been expressed that human rights defenders who denounce human rights violations committed by government agents or officials might easily be considered as "undermining public confidence in the security forces," or "undermining the authority of the President". It is also alleged that the bill strictly regulates the organization and conduct of public gatherings.

514. On 4 October 2002, the Special Representative transmitted an allegation letter expressing her concerns regarding the fact that human rights activists had reportedly been the target of violent attacks, threats and acts of intimidation by the members and supporters of the ruling Zimbabwe African National Union-

Patriotic Front (ZANUPF). She also expressed her concerns regarding an alleged campaign of slander against several human rights organizations with the alleged purpose of portraying them as politically motivated and involved in political violence. The following cases were brought to the attention of the Government.

515. On April 7 2001, **Tawanda Hondora**, a lawyer and the chairperson of Zimbabwe Lawyers for Human Rights, was reportedly brutally attacked by members of the ZANU-PF and the Zimbabwe Republic Police. According to the information received, Tawanda Hondora and two other lawyers had planned on that day to go to a rural area in order to investigate allegations of police assaults against witnesses in the court case challenging the election result in the district. Upon arriving in the area, the lawyers observed an assault on one of the witnesses, Mr. Chivanga, by a group of 30 ZANU-PF supporters in full view of police officers standing near by. When the groups of assailants saw the lawyers, they started to chase them and caught Tawanda Hondora. They reportedly kicked, slapped and whipped him and hit him on the head with a stone. They then reportedly forced Tawanda Hondora to sing ZANU-PF slogans and brought him to the police station. At the police station, Tawanda Hondora and Mr. Chivanga were reportedly extensively searched and interrogated about their relationship to the Movement for Democratic Change (MDC). They were reportedly beaten by constables in the presence of the Assistant Inspector. Two other lawyers who came to the police station to secure Tawanda Hondora's release were reportedly detained as well. The Assistant Inspector then reportedly proceeded to lecture the lawyers about the evils of the MDC, threatening to call war veterans and the army to further assault the lawyers.*

516. **Johannes Mudzingwa**, a member of ZimRights, was reportedly assaulted in Gokwe North on 13 December 2001 by young ZANU-PF members and war veterans. According to the information received, Johannes Mudzingwa had just returned from a stay in Kwe Kwe when a group of young people besieged his house and asked him where he had been in November. When he answered that he had been in Kwe Kwe, the two youngsters reportedly ordered him to show his membership card of the Movement for Democratic Change (MDC). Johannes Mudzingwa allegedly replied that he was not a member of this party nor any other party but only a human rights activist. The ZANU-PF party members then reportedly took Johannes Mudzingwa to the bush near an area known as Farai Mongondo where they alerted the surrounding villages in order to attract more ZANU-PF members. Several reportedly came and questioned Johannes Mudzingwa, accusing him of supporting the MDC. The local Secretary of ZANU-PF, a war veteran, reportedly told the youngsters to "deal" with Mr.

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Mudzingwa and some 20 of them took turns in beating him with their fists, feet, chains, logs and other weapons for over four hours. Mr. Mudzingwa was reportedly released after having signed a document and paid a “protection fee” of Z\$ 1,500. Although the events were reported to the police, no investigation has reportedly been undertaken.

517. In January 2002, **Amani Trust**, a health professionals’ organization whose activities consist of providing medical and psychological support to victims of torture, was reportedly accused by several State-owned newspapers of funding covert operations against the ZANU-PF, of being financially linked to the MDC and of using shelters for victims of torture as torture chambers and MDC killer cells. According to the information received, Amani Trust has become a special target of the Government as a result of its efforts at monitoring and reporting on human rights violations in Zimbabwe. On 19 June 2002, during a meeting between senior officials from the Ministry of Health and Child Welfare and members of Amani Trust, the organization was reportedly threatened of closure should it continue to expose human rights violations.

518. On 29 August 2002, **Dr. Frances Lovemore (f)**, Medical Director of Amani Trust, was reportedly arrested in Harare by the officers of the Law and Order section, Harare Central Police Station, and charged with “publishing or communicating false statements prejudicial to the State.” According to the information received, Dr. Frances Lovemore’s charges stemmed from some statements made to foreign press in which she denounced politically motivated rape committed by supporters of the ruling party. Dr. Frances Lovemore was reportedly interviewed in the absence of her lawyer who was reportedly barred from the interview room. She was further reportedly moved from Harare Central Police Station to Warren Park Police Station whilst her lawyers were attempting to apply for her release. The latter were allegedly threatened with physical harm when they questioned Dr. Lovemore’s removal after 5 p.m. and insisted on remaining with her. Dr. Lovemore was reportedly released on 30 August 2002 after all charges were dropped.

Observations

519. The Special Representative regrets that, at the time of the finalization of the present report, no reply to the above communications had been received from the Government. She remains concerned by violent attacks reportedly suffered by human rights defenders and which appear to be part of a policy of repression. She will continue to watch the situation and seek the cooperation of the Government for the implementation of the Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

Report submitted by Ms. Hina Jilani, Special Representative of the Secretary-General on human rights defenders in accordance with Commission on Human Rights resolution 2000/61, E/CN.4/2002/106, 27 February 2002

Communication sent

414. On 19 November 2001, the Special Representative, together with the Special Rapporteur on freedom of opinion and expression, sent an urgent appeal regarding the cases of **Mr. David Coltart**, a prominent and well-respected human rights lawyer and Member of Parliament, **Mr. Morgan Tsvangirai**, leader of the main opposition party Movement for Democratic Change (MDC), and other members of the political opposition in Zimbabwe. It was reported that on 15 November 2001, Mr. Coltart was detained by the police in Harare and then released after two hours. Mr. Coltart has campaigned for many years to improve access to legal services and to uphold the basic rights of everyone in Zimbabwe. In addition, Vice-President Mr. Joseph Msika and other government officials reportedly appeared to be inciting violent action against members of the MDC. In November 2001, the ruling ZANU PF party allegedly accused MDC members of being responsible for the abduction and murder of **Mr. Cain Nkala**, chairman of the Bulawayo war veterans' association, an armed militia closely associated with the ZANU PF party. Members of the political opposition and human rights activists are reportedly the targets of threats, detention and physical attack as part of a crackdown on the political opposition in Zimbabwe prior to the elections scheduled for March 2002.*

II/ SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS

Report of the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, submitted in accordance with Commission on Human Rights resolution 2003/43, E/CN.4/2004/60/Add.1, 4 March 2004

Situations in specific countries or territories

Zimbabwe

Communications to the Government

124. On 17 October 2003 the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on the situation of human

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rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression regarding an alleged attack against **Beatrice Mtetwa**, a council member of the Law Society of Zimbabwe, who frequently takes up human rights cases, including some involving the freedom of the press. According to the information received, on 1 October 2003, an attempt was allegedly made to break into Ms. Mtetwa's car and on 12 October 2003, Ms. Mtetwa was allegedly attacked in her car and had a number of personal items stolen. She reportedly called the police about the robbery. On their arrival, the police allegedly accused her of driving while being intoxicated with alcohol and reportedly took her to Borrowdale Police Station. According to the information received, on the way to the police station Ms. Mtetwa was allegedly beaten by the officers. For three hours while in custody at the police station, she was reportedly also continuously beaten. On 16 October 2003, Ms. Mtetwa reportedly returned to the police station and presented her written statement relating to her charge of assault against the officer in charge. Concern has been expressed that Ms. Mtetwa may have been targeted on account of her human rights work.*

Communications from the Government

125. On 25 November 2003, the Government replied to the Special Rapporteur's communication of 17 October 2003 and advised that according to a letter written by the Police Commissioner, **Ms. Mtetwa** arrived at the police station alleging a potential car jacking but this was apparently not supported by other witnesses' statements. Further, the police claim that Ms. Mtetwa acted in a hostile and possibly intoxicated manner and allegedly assaulted a police officer. According to the police, this police officer pressed charges and an ongoing internal investigation was immediately conducted to establish the circumstances and manner in which the officer handled the matter. The Police Commissioner gave assurances that if a member of the police force has acted outside the bounds of the law there is the possibility of a criminal prosecution or an internal disciplinary trial, possibly resulting in a dismissal.

Press releases

126. On 19 February 2003 the Special Rapporteur issued a press release to express concern over the arrest and detention of another judge in Zimbabwe. On 17 February, Justice **Benjamin Paradza** was arrested and charged with an alleged obstruction of justice and released on bail. In January 2003, soon after Justice Paradza delivered his judgement on the Harare Mayor Elias Mudzuri case,

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

ordering his release, he was intimidated and threatened with reprisal by police intelligence officers. The Government is reported to have alleged that Justice Paradza had attempted to influence a fellow judge in a case involving an application for the release of a passport of an accused in a murder trial. Last September 2002, another judge, retired Judge Blackie was arrested and detained and subsequently charged with obstruction of justice. Prior to his retirement, Judge Blackie had convicted and sentenced the country's Minister of Justice to three months' imprisonment for contempt of court. The Government alleged that Judge Blackie had delivered a judgement quashing an appeal against a jail term imposed on a white woman without concurring with the other judge who sat on the appeal with him. What is common and so blatant about the alleged charges against Justice Paradza and retired Judge Blackie is that fellow judges are used as prime witnesses to prove those charges. While judges are not above the law, subjecting them to arrest and detention in such humiliating circumstances is tantamount to intimidation of the gravest kind. This leaves a chilling effect on the independence of the judiciary. This latest development is but one in a series of institutional and personal attacks on the judiciary and its independent judges over the past two years, which have resulted in the resignations of several senior judges and which have left Zimbabwe's rule of law in tatters. When judges can be set against one another, then intimidated with arrest, detention and criminal prosecution there is no hope for the rule of law, which is the cornerstone of democracy. It paves the way for governmental lawlessness.

127. On 3 July 2003, the Special Rapporteur issued a press release to welcome the withdrawal of all criminal charges against retired **Judge Fergus Blackie** by the Public Prosecutor in Zimbabwe. This is a step in the right direction towards respect for the independence of the judiciary and the rule of law in Zimbabwe. The Special Rapporteur urged the Public Prosecutor similarly to withdraw the criminal charge preferred against Justice Benjamin Paradza on 18 February 2003 for alleged obstruction of justice.

Report of the Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, submitted in accordance with Commission on Human Rights resolution 2002/43, E/CN.4/2003/65, 10 January 2003

Executive summary

[...]

With regard to **Zimbabwe**, there has been further deterioration of the rule of law and the Special Rapporteur urges the Commission to address this situation

appropriately. The same would apply to Swaziland if the situation does not improve by the time of the next session of the Commission.

II. Activities of the Special Rapporteur

C. Communications with governmental authorities

19. The Special Rapporteur transmitted 24 interventions to the authorities of the following States: [...] **Zimbabwe**. [...]

21. Replies to interventions were received from the Governments of: [...]. Other communications were received from the Government of **Zimbabwe**.

VII. Conclusions and recommendations

A. Conclusions

49. The Special Rapporteur continued to be concerned about developments in the African continent, in particular **Zimbabwe** and more recently in Swaziland.

B. Recommendations

59. With regard to **Zimbabwe**, the Special Rapporteur once again urges the Commission to consider and address appropriately its concerns about the deterioration in that country, inter alia with regard to the independence of the judiciary and its impact on the rule of law.

Report of the Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, submitted in accordance with Commission on Human Rights resolution 2002/43, E/CN.4/2003/65/Add.1, 25 February 2003

Situations In specific countries or territories

Zimbabwe

257. In his last report (E/CN.4/2002/72, annex, paras. 215-222) the Special Rapporteur referred to four communications sent to the Government, among them two urgent appeals. The Special Rapporteur also expressed his extreme concern over the deterioration of judicial independence and the rule of law in the country. None of the communications was responded to by the Government. During the year, and in view of the deterioration of the situation, the Special Rapporteur issued four press statements.

258. The Special Rapporteur also expressed regret that the Government had reneged on its previous agreement for him to conduct a mission.

259. The situation continued to deteriorate in 2002. The Special Rapporteur issued four press statements, on 7 March, 6 June, 2 September and 24 September, drawing attention to and expressing his concern about specific developments. They were:

a) President Robert Mugabe defied a Supreme Court order delivered on 27 February 2002 striking down electoral legislation enacted by Parliament. **Justice Ebrahim** who presided over the sitting of the Court, resigned. He was the last of the seven Supreme Court judges to step down since the early retirement, under pressure, of **Chief Justice Gubbay**;

b) The arrest and detention of the President of the Law Society of Zimbabwe and its Executive-Secretary in Harare on 3 June 2002 for alleged possession of “subversive” documents relating to the mass action allegedly planned by the Movement for Democratic Change (MDC);

c) The violent attack on **Magistrate Walter Chikwanha** in Chipinge, Manicaland. He was assaulted and dragged out of court by a group of “war veterans”, supporters of President Mugabe, because he refused to order custody of several individuals including five members of the opposition party. In the incident the group tried to attack the lawyer who acted for the accused and vandalized his car;

d) The arrest and detention and charges preferred against retired **High Court Judge Blackie** for alleged corruption and obstruction of justice. The manner in which Judge Blackie was arrested and taken into custody for such alleged offences was most disturbing. There was reasonable cause to believe that this was an act of vengeance by the Government for the earlier conviction for contempt of court and sentencing to imprisonment and a fine of the Minister of Justice on 17 July 2002 by Judge Blackie. The conviction and sentence were subsequently set aside by a Supreme Court Judge;

e) The ruling of the High Court, since affirmed by the Supreme Court, refusing the official opposition access to the voters’ roll in its electronic form to challenge the legality of the presidential elections in a pending court action;

f) That President Mugabe had threatened the shadow Minister of Justice, saying that the only place in Zimbabwe for the Minister was in prison.

Communication from the Government

260. In a four-page letter dated 27 September 2002 addressed to the High Commissioner, with copy to the Special Rapporteur, the Government expressed its concern and displeasure over the press statements. The Government, stated, *inter alia*, that the Special Rapporteur was biased in his assessment of the Zimbabwe courts; that he “pandered with abundance to the whims of those in the United Nations who continue to imagine Zimbabwe as an appendage to their countries”. The letter contained other derogatory remarks directed against the Special Rapporteur which he does not wish to enumerate here.

261. The Government in the same communication defended the charges against retired **Judge Blackie**. It stated that the charges arose from the judge’s quashing of an appeal against the jail term imposed on a white woman without the concurrence of the other judge who had also sat on the appeal. In terms of the rules of court, Judge Blackie had to seek the concurrence of the other judges before preparing and passing judgement. Justice Makarau, the other judge who had heard the appeal with Justice Blackie, did not even see the judgment prepared by her colleague until after it was handed down.

Response of the Special Rapporteur

262. The Special Rapporteur, in a written communication dated 4 October 2002, responded to the Government’s communication but not to the personal attacks against him. With regard to the charges against Judge Blackie, he said:

“With regard to the facts which your Government alleges as the grounds for the charges preferred against retired Judge Blackie, they obviously, if true, are grounds for discipline for judicial misconduct. It may be argued that as Mr. Blackie has retired as a judge he could not be subjected to judicial discipline. However, charging him for the criminal offence of obstructing the course of justice in addition to corruption smacks of selective prosecution.

“In August 2002 a group of so called “war veterans” charged into the court of Magistrate, Walter Chikwanha, in Chipinge, and assaulted him and thereafter chased the lawyer and vandalized his car. This incident was the subject of a press release I issued on 2 September 2002. To date, I have not heard of the so called “war veterans” or anyone else responsible for the assault on the Magistrate being charged for any offence. Was not the assault on a sitting Magistrate a grave act of obstruction of justice? Selecting retired Judge Blackie for prosecution for such an offence, on the alleged facts,

which if true, would amount to only judicial misconduct, clearly and must necessarily be perceived as an act of vendetta on the part of your Government.”

Observations

263. The trial of Judge Blackie is scheduled to commence on 30 June 2003. The Special Rapporteur reiterates his concern over the deterioration of the rule of law in **Zimbabwe** and urges the Commission to respond appropriately.

Report of the Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, submitted in accordance with Commission on Human Rights resolution 2001/39, E/CN.4/2002/72, 11 February 2002

Executive summary

[...] The developments in **Zimbabwe** with regard to the independence of the judiciary and the resultant impact on the rule of law are a source of grave concern to the Special Rapporteur.

[...]

Generally, the Special Rapporteur regrets that the situation of the independence of the judiciary and the rule of law remains delicate throughout the world. He is concerned in particular about repeated efforts by some Governments to interfere with the independence of the judiciary which may go as far as removing judges, as shown in his interventions concerning Eritrea, Guinea-Bissau, Haiti, Malawi, Tunisia and **Zimbabwe**. The security situation of judges, prosecutors and lawyers in some countries also remains a cause for concern. Through his interventions, the Special Rapporteur learned about the killings of five judges, five prosecutors and one lawyer. Many more were threatened. Among his recommendations, the Special Rapporteur calls upon Governments to take appropriate measures to protect the security of judges, prosecutors and lawyers, and to do everything in their power to apprehend the perpetrators of these acts and bring them to justice.

With regard to **Zimbabwe**, the Special Rapporteur urges the Commission to consider and address appropriately developments in that country, inter alia with regard to the independence of the judiciary and the impact of rule of law.

C. Communications with governmental authorities

14. During the period under review (30 November 2000 to 30 November 2001), the Special Rapporteur transmitted 13 urgent appeals to the Governments of the following States: [...] **Zimbabwe** (2).

16. The Special Rapporteur transmitted 33 communications to the authorities of the following: [...] Zimbabwe (2). [...]

VIII. Conclusions and recommendations

A. Conclusions

33. The developments in **Zimbabwe** with regard to the independence of the judiciary and the resultant impact on the rule of law are a source of grave concern.

39. The Special Rapporteur regrets that the situation of the independence of the judiciary and the rule of law remains delicate throughout the world. He is concerned in particular about repeated efforts by some Governments to interfere with the independence of the judiciary, sometimes to the extent of removing or dismissing judges, as shown in interventions concerning Eritrea, Guinea-Bissau, Haiti, Malawi, Tunisia and **Zimbabwe**. The security situation of judges, prosecutors and lawyers in some countries also remains a cause for concern. Through his interventions, the Special Rapporteur learned about the killings of five judges, five prosecutors and one lawyer. Many more were threatened.

B. Recommendations

42. With regard to **Zimbabwe**, the Special Rapporteur urges the Commission to consider and address appropriately concern about developments in that country, inter alia, with regard to the independence of the judiciary and the impact of the rule of law.

Annexe: Situation in specific countries or territories

Zimbabwe

Communications to the Government

215. On 6 December 2000, the Special Rapporteur sent a communication concerning developments surrounding the Government's "fast track" land acquisition programme. On 10 November 2000, the Supreme Court of

Zimbabwe ruled that the "fast track" programme violated sections 16 (1) and 17 (1) of the Constitution. It was alleged that since that decision the Government had not taken adequate steps to stop the illegal land acquisitions from taking place and was encouraging them to continue. The Special Rapporteur also expressed his concern about alleged attacks on the judiciary by the Minister of Justice and the President of Zimbabwe and about statements reportedly made by a leader of war veterans calling on the Chief Justice and a few other white judges to resign or be removed by force.

216. On 17 January 2001, the Special Rapporteur sent a communication concerning alleged statements made by the Acting President of Zimbabwe, Simon Muzenda, accusing white judges of favouring Whites over the majority black population and warning them that white judges could no longer expect the Government to stand by while they passed judgements that disadvantaged Blacks.

217. On 25 January 2001, the Special Rapporteur sent an urgent appeal regarding threats to the independence of the judiciary in **Zimbabwe**. According to information received, the judges of the Supreme Court had sought a meeting with the Government regarding intimidation of and threats against judges by members of groups illegally acquiring land. Reportedly, the judges had sought this meeting because they were fearful for their safety and the safety of their families, and they found it difficult to carry out their judicial duties when placed under pressure of this nature. The judges were also seeking assurances that the Government would intervene on their behalf to stop the intimidation. The Special Rapporteur emphasized that the Government had an obligation to extend protection to the judges and to ensure that they can perform their functions independently.

218. On 20 February 2001, the Special Rapporteur sent an urgent appeal regarding threats made by Mike Moyo, a member of the independent war veterans, against judges. It was alleged that he had stated that squads of veterans would invade the houses of judges who were refusing to resign and that they would harm judges and their families.

Observations

219. The Special Rapporteur has been extremely concerned about the developments regarding the independence of the judiciary in **Zimbabwe** for some time. The situation began to deteriorate in December 2000. The attacks on the judiciary, particularly the Supreme Court, and threats, harassment and intimidations against its judges, particularly the then Chief Justice, Anthony Gubbay, were serious. Taken in their entirety, in the charged environment they

amounted to an attack on the rule of law. In addition to the interventions which were not responded to by the Government, the Special Rapporteur issued four press statements from Geneva.

220. These attacks on the independent judges of the Supreme Court, in particular the white judges, and the Chief Justice resulted in the former Chief Justice Gubbay opting for early retirement pursuant to a written agreement he signed with the Government. Clause 1 of the agreement was most telling and acknowledged the Government's attacks on the Chief Justice.

It reads:

"Any public statements, pronouncements or other language whatsoever by the Minister or any members of the Government of Zimbabwe, privileged or otherwise, impugning, demeaning or otherwise putting in question the good name, reputation, honour and integrity of the Chief Justice either as Chief Justice or in his personal capacity, are hereby withdrawn without reservation. It is agreed that no further statements of this nature will be made."

221. The Special Rapporteur has studied the report of an independent mission of distinguished jurists organized and sent by the International Bar Association in March 2001 to Zimbabwe. In its report the mission concluded, inter alia that:

(a) The Zimbabwe Government's refusal to obey the courts' orders undermined the authority of the courts and encouraged a culture of lawlessness in that country;

(b) The independence of the judiciary is undermined by threats and intimidation of the judges;

(c) The independence of the judiciary was also undermined by the sustained campaign to force the resignation of a number of judges, including by threats of violence;

(d) The Law Society of Zimbabwe may be under increasing pressure to curtail its criticism of governmental actions with regard to the judiciary and the rule of law;

(e) There was a prevailing perception that selective prosecutions based on political allegiance were taking place in that country.

222. The findings of the mission confirm the concerns the Special Rapporteur expressed to the Government in his interventions and press statements. The Government by its failure to respond appears and continues to appear

impervious. The Government also appears to have reneged on its previous agreement to a mission by the Special Rapporteur.

Report of the Special Rapporteur on the independence of judges and lawyers Dato' Param Cumaraswamy, submitted in accordance with Commission resolution 2000/42, E/CN.4/2001/65, 1 February 2001

VII. Situations in specific countries or territories

Zimbabwe

243. The Special Rapporteur views with grave concern the attacks on the judiciary in **Zimbabwe**, in particular the Supreme Court and its judges, arising from recent judgements of the Court with respect to the Governments seizure of land owned by white farmers without the paying of compensation. Statements in the media attributed to high-ranking government officials, including ministers, about the Supreme Court, and particularly its white judges, are seen as threats to the independence of the judiciary.

244. The Special Rapporteur has communicated his concerns to the Government and will, as agreed with the Government, undertake a mission to **Zimbabwe** as soon as possible.

III/ SPECIAL RAPPORTEUR ON EXTRAJUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, E/CN.4/2005/7, 22 December 2004

19. The Special Rapporteur sent communications to the Governments of the following countries in relation to the situations specified: [...]

(d) Deaths due to the use of force by law enforcement officials or persons acting in direct or indirect compliance with the State, when the use of force is inconsistent with the criteria of absolute necessity and proportionality: [...]
Zimbabwe (1);

[...]

(g) Expulsion, refoulement, or return of persons to a country or a place where

their lives are in danger: [...] **Zimbabwe** (1);

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Asma Jahangir, E/CN.4/2004/7, 22 December 2003

II. Activities

B. Communications

15. During the period under review, the Special Rapporteur transmitted 97 urgent appeals on behalf of several hundred individuals to the following countries: [...] **Zimbabwe** (1). [...]

17. The Special Rapporteur further transmitted 61 letters of allegations, 35 of which were joint communications, regarding violations of the right to life of a large number of individuals and groups to the Governments of the following countries: [...] **Zimbabwe** (3).

18. During the period under review, the following Governments sent replies to urgent appeals or communications addressed to them by the Special Rapporteur during or prior to the reporting period: [...] **Zimbabwe**. The Special Rapporteur wishes to express her appreciation to those Governments which have provided comprehensive replies to her communications for their cooperation. Regrettably, some Governments have replied only in part or on an irregular basis to her enquiries.

III. Overview of situations involving violations of the right to life

C. Deaths in custody

33. During the period under review, a very large proportion of cases the Special Rapporteur has received relate to deaths in custody. In this regard the Special Rapporteur transmitted allegations to the Government of the following countries: [...] **Zimbabwe**.

D. Deaths due to the use of force by law enforcement officials or persons acting in direct or indirect compliance with the State, when the use of force is inconsistent with the criteria of absolute necessity and proportionality

38. During the period under review, the Special Rapporteur has received numerous accounts of excessive use of force by the police or by army soldiers, which has led to a number of deaths in connection with the repression of

peaceful demonstrations or killings as a result of shoot-outs with law enforcement agents. In this connection, the Special Rapporteur transmitted communications to the Governments of the following countries: [...] **Zimbabwe**.

Report of the Special Rapporteur, on extrajudicial, summary or arbitrary executions, Asma Jahangir, E/CN.4/2004/7/Add.1, 24 March 2004

Summary of cases transmitted to Governments and replies received

Zimbabwe

Urgent appeal

614. On 23 January 2003, the Special Rapporteur, jointly with the Special Rapporteur on torture and the Special Representative of the Secretary-General on human rights defenders, sent an urgent appeal to the Government of Zimbabwe in connection with information received indicating that allegations were made in State media against the **Amani Trust**, suggesting that the organization had participated in violent attacks in Kuwadzana. Concerns were expressed that the Amani Trust offices could be the target of firebombing or other form of attack in the near future. According to the information received, the Amani Trust is a registered Zimbabwean NGO providing services for the rehabilitation of victims of human rights violations, particularly torture and institutional violence, and conducting human rights training and education programmes, principally within the health professions. It was allegedly part of the International Rehabilitation Council for Torture Victims.*

Communications sent

615. On 29 July 2003, the Special Rapporteur sent a communication to the Government of **Zimbabwe** regarding the following individual cases.

616. **Tonderai Machiridza** was allegedly arrested by armed police in Chitungwiza, a Harare suburb, along with three other supporters of the Movement for Democratic Change (MDC), namely **David Chipunza**, **John Mazhambe** and **Lisbon Mtandwa**, on 13 April 2003. The four men were reportedly accused of harassing a police officer during the two-day "stay-away" organized by MDC on 18 and 19 March 2003. They were allegedly taken to St. Mary's Police Station where they were reportedly beaten by police with

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

truncheons and handcuffs and also kicked by policemen wearing boots. Tonderai Machiridza allegedly sustained severe head injuries: his head was reportedly swollen, and he had severe headaches and a bleeding nose. The three others were also reportedly badly injured. Soon after the assault, it is reported that the police took the four to Chitungwiza General Hospital for treatment. Tonderai Machiridza and John Mazhambe were allegedly kept chained to their beds in hospital and held under police guard. After a court application, the High Court reportedly ruled that Tonderai Machiridza should be released on bail so that he could receive better medical treatment. According to the information received, he was moved to a clinic in Harare where he died from his injuries on 18 April 2003.

617. On 16 September 2003, the Special Rapporteur and the Special Rapporteur on torture jointly sent a communication to the Government of Zimbabwe in connection with information received that **Shepherd Ngundu**, a teacher from the rural area of Mount Darwin, was beaten to death on 5 February 2002 by suspected Zimbabwe African National Union Patriotic Front (ZANU-PF) supporters, one month before the presidential elections, allegedly for possessing a copy of the *Daily News*. *

618. On 16 September 2003, the Special Rapporteur, jointly with the Special Rapporteur on torture, sent a communication to the Government of Zimbabwe regarding the following individual cases.

619. **David Stevens**, an opposition supporter and commercial farmer in Macheke, Mashonaland East Province who was reportedly abducted on 15 April 2000 from the police station in the town of Murehwa by "militia", who allegedly severely beat him before fatally shooting him at point-blank range. *

620. **John Rutherford**, a commercial farmer, **his wife** and **one of their farm workers** were reportedly assaulted by members of ZANU-PF on 15 March 2002 in the presence of a constable (whose name is known to the Special Rapporteurs). They were reportedly accused of ordering the destruction of farm workers' housing on the farm and giving a cell phone to a worker to inform MDC about illegal settlers. As a result of the alleged attack, the farm worker reportedly died and John Rutherford was admitted to Marondera Hospital. His wife was allegedly forced to witness the aggression and threatened with death at gunpoint. Two suspects were allegedly arrested and seven more were being sought by the police in connection with this case. *

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

621. **Tafireyinyika Gwaze**, an MDC polling agent was reportedly abducted on 12 March 2002 and taken to a camp run by ZANU-PF and Zimbabwe National Liberation War Veterans' Association (ZNLWVA) militia, where he was reportedly severely beaten overnight. He was allegedly released the following day, but died as a result of multiple injuries.

Communications received

622. On 30 January 2003, the Government of Zimbabwe responded to an urgent appeal sent by the Special Rapporteur jointly with the Special Rapporteur on torture and the Special Representative of the Secretary-General on human rights defenders. The Government informed the Special Rapporteurs that **Amani Trust** was not registered in Zimbabwe as a NGO, but as a Trust, and was not entitled to any privileged treatment, emphasizing that, even if it was registered as a NGO, it would still not be entitled to any special treatment besides that which the law accords to all NGOs. The Government stated that the media was therefore free to make any allegations against Amani Trust or any other trust and Amani Trust was in turn free to counter those allegations in any manner it deemed fit. The Government expressed that it found it rather strange that the Special Procedures stated that they would come to the defence of Amani Trust when, according to the State, the Trust was perfectly placed to defend itself. It considered equally strange the request to take action against the planned firebombing "or other form of attack" on the Amani Trust offices. The Government stated that it was unable to take action against would-be, unknown assailants, based on information supplied by Special Rapporteurs and a Special Representative from outside Zimbabwe and suggested that it would be useful if the information would be made available to the police in Zimbabwe to enable the appropriate action to be taken. The Government reported that the police cannot act on the basis of rumours and that if the Special Rapporteurs and the Special Representative were in Zimbabwe, they would be obliged by law to make this information available to the police.

623. Further, the Government expressed concerns that there was no reference in the communication to the bombing of the ZANU-PF offices in Kuwadzana by suspected opposition supporters that led to the destruction of the offices and the death of a ZANU-PF supporter. The Government wondered whether that failure to refer to that incident was deliberate and an indication that the Special Rapporteurs and Special Representative considered only the lives of opposition supporters as worthy of protection and that only the safety of anti-government trusts and organizations was worth ensuring. The Government further noted that it was fully aware of, and fully respected, the applicable international principles whose negotiation and adoption it prides itself as having participated in.

624. The Government of Zimbabwe concluded by expressing, once again, its deep disquiet with the working methods of the Special Procedures, especially the manner in which the communications are sent to the State. It stated that the issue would be raised in the appropriate forums as a systemic issue that needs to be addressed urgently.

625. On 5 November 2003, the Government of Zimbabwe responded to the communication sent on 16 September 2003 by the Special Rapporteur jointly with the Special Rapporteur on torture regarding the following individual cases.

626. **Shepherd Ngundu.** The Government informed that on 5 February 2003, a misunderstanding arose between Ngundu and ten other people during which he was assaulted and left lying unconscious. A report was made to the Dotito police who attended the scene and since then four accused persons appeared in court to face charges of murder. The Government stated that those accused were Noah Nyaguse, Bernard Charamba, Felix Gavanji and Perence Nyamupira. The Government further reported that the case was pending at court awaiting trial and that the case was investigated under Dotito CR16/02/02.

627. **Tonderai Machiridza.** The Government stated that on 13 April 2003, two police officers went to Richard Machiridzyís house in St. Mary's, Chitungwiza, intending to arrest him. They suspected him of having been involved in the burning of a bus that was carrying children to a local creche and the stoning of a Mhiripiri bus on 18 March 2003 during the mass action called by MDC. On arrival at the house, they found him in the company of three men. On seeing the police officers, he and his three accomplices started to attack the officers, who then called for help. The Government reported that eight members of the Neighbourhood Watch Committee arrived to give assistance. Upon attempting to arrest the accused a scuffle ensued; Tonderai Machiridza and David Chipunza were arrested, whereas the two other persons escaped. Tonderai Machiridza, who had been injured in the scuffle was then taken to Chitungwiza General Hospital and later to Avenues Clinic where he died on 18 April 2003. Finally, the Government stated that a "murder docket" was opened under St. Mary's CR 208/04/03 but that it was closed and a "sudden death docket" was opened as the post-mortem results allegedly revealed that death had been the result of tuberculosis.

628. **David Chipunza, John Mazhambe and Lisbon Mtandwa.** The Government reported that the police arrested David Chipunza in connection with the burning of a bus carrying pre-school children during the mass MDC protest of March 2003. When John Mazhambe, Lisbon Mtandwa and Tonderai Machiridza realized that their colleague was arrested, they attacked and assaulted the police officers. They managed to escape with David Chipunza who was still in handcuffs. The

Government stated that the police followed and finally arrested the four men. The handcuffs were recovered. At the time of the communication, David Chipunza, John Mazhambe and Lisbon Mtandwa were facing charges of public violence, assault occasioning grievous bodily harm and resisting arrest. The docket was at St. Mary's Police station (St. Mary's CR 199/04/2003 refers) and the courts had issued a warrant for the arrest of the three men.

629. **David Stevens:** According to the Government, on 15 April 2000, during the land reform programme, Mr. Stevens, who was a farmer in Macheke, mobilized his farm workers and attacked people who had been settled on his farm. The settlers retaliated by attacking Mr. Stevens, who fled to Murewa. He was later found dead. The Government reported that six people were arrested in connection with the case and that following investigations three of them, Banda Katsamudanga, Douglas Chitekuteku and Muyengwa Munyuki, stood trial. At the time of the communication, the accused persons were out on bail and the "docket" was with the Attorney-General's office.

630. **John Rutherford.** The Government reported that Mr. Rutherford was a farmer at Oxford farm prior to the land redistribution programme. On 15 March 2002, there was a land dispute at the farm during which he and his worker, Darlington Zikamveka, were assaulted. Mr. Rutherford did not make a report of the incident to the Police about the alleged assault. Mr. Zikamveka died on 16 March 2002 on his way to Marondera Hospital. A "murder docket" was opened for him, and two people, Obediah Makawa and Wonder Garu, were arrested in connection with his murder. At the time of the communication, the "docket" was with the Attorney-General's office.

631. **Tafireyinyika Gwaze.** The Government stated that the police had no record of a murder case in the name of Gwaze. There was however a report of a Nhamo Gwaze who had died on 16 May 2002, in Murewa, after being assaulted during a dispute. It was reported that three people, James Mukombwe, Amos Mafi and Earnest Kanenungo, were arrested for the murder and that they were on bail pending trial at the High Court in Harare.

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 2002/36, E/CN.4/2003/3, 13 January 2003

II. Activities

B. Communications

19. The Special Rapporteur further transmitted 56 letters of allegation regarding violations of the right to life of a large number of individuals and groups to the Governments of the following countries: [...] **Zimbabwe** (1). [...]

22. She is concerned that the Governments of [...] **Zimbabwe** did not reply to any of her communications and requests for information during the reporting period. [...]

III. Overview of situations involving violations of the right to life

K. Violations of the right to life of persons carrying out peaceful activities in defence of human rights and freedoms, and persons who have cooperated with representatives of United Nations human rights bodies

69. The Special Rapporteur addressed letters to the following Governments with regard to the situation of human rights defenders whose lives were threatened or who had been extrajudicially killed: [...] **Zimbabwe**.

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Asma Jahangir, submitted pursuant to Commission resolution 2002/36, E/CN.4/2003/3/Add.1, 12 February 2003

Summary of cases transmitted to Governments and replies received

Zimbabwe

Communication sent

562. On 18 September 2002, the Special Rapporteur sent an allegation to the Government of Zimbabwe relation to the following cases:

563. According to the information received, **Milton Chambati** was stabbed to death and his head was chopped off by a group of some 50 suspected members of the ZANU-PF youth brigade who had besieged Magunje town. It is alleged

that the police have refused to investigate the incident.

564. According to the information received, **Titus Nheya**, a veteran politician and trade unionist, was stabbed to death by ZANU-PF youth in Karoi. It is alleged that the police have not investigated the case.

565. According to the information received, **Rambisai Nyika** was killed allegedly by ZANU-PF supporters in Gokwe. It is alleged that no investigations have been carried out into the case.

566. According to the information received, **Laban Chiweta** was attacked by National Youth Service Members in Trojan Mine on 6 December 2002, and allegedly died from burns and head injuries at hospital. It is alleged that the attack took place in presence of police, who failed to intervene.

567. According to the information received, Mr. **Jena**, a school-teacher, was stabbed to death by a group of ZANU-PF Youth in Kamujariwa. It alleged that the police refused to intervene or to investigate the case.

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Ms. Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 2001/45, E/CN.4/2002/74, 9 January 2002

Communications

15. The Special Rapporteur further transmitted allegations regarding violations of the right to life of more than 700 individuals to the Governments of the following 41 countries: [...] **Zimbabwe** (2). [...] In more than 380 of these cases the Special Rapporteur intervened jointly with other mandate holders, in particular the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders.

F. Deaths due to acts of omission

41. The Special Rapporteur intervenes in cases where the authorities are reported to have failed to take effective or meaningful action in order to prevent extrajudicial killings from taking place. In this connection, allegations were sent to the Governments of Indonesia, Israel, Jamaica and **Zimbabwe**. [...]

D. Violations of the right to life of persons exercising their right to freedom of opinion and expression

57. The Special Rapporteur continues to receive reports of journalists who are being targeted for death threats and extrajudicial killings because of their work to uncover corruption, organized crime and human rights violations. During the period under review, the Special Rapporteur sent urgent appeals in relation to threats against persons exercising their right to freedom of expression, mostly journalists and participants in demonstrations, in the following countries: [...] **Zimbabwe**. [...]

58. [...] An urgent appeal was sent on 22 August 2001 to the Government of Zimbabwe, following reports that **five journalists** had received death threats and that their names appeared on a “hit list” allegedly drawn up by the State security services.*

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Ms. Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 2001/45, E/CN.4/2002/74/Add.2, 8 May 2002

Summary of cases transmitted to Governments and replies received

Zimbabwe

Urgent appeals

634. On 22 August 2001, the Special Rapporteur, jointly with the Special Rapporteur on the Right to Freedom of Opinion and Expression, transmitted an urgent appeal on behalf of **Mr. Basildou Peta**, the news editor of the weekly Financial Gazette and a stringer for the Independent of London and the Star of Johannesburg. According to the information received, Mr. Peta along with four other journalists was on a hit list compiled by the Law and Order section of the Zimbabwe police and the Central Intelligence Organization, which oversees internal security. The other journalists listed are reportedly: Mr. Geoff Nyarota, editor of the Zimbabwe Daily News, Mr. Iden Wetherell, editor of the Zimbabwe Independent, Mr. Mark Chavunduka and Mr. Cornelius Nduna, respectively editor and news editor of the Standard Newspapers. It was reported that in the

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

morning of the 21 August 2001, a group of police detectives visited the office of the Financial Gazette in Harare looking for Mr. Peta, who was out at that time.*

Communications sent

635. The Special Rapporteur transmitted an allegation concerning **Tichaona Chiminya** and **Talent Mabika**, who were reportedly killed when a petrol bomb was thrown into their car. Allegedly, the police officers present at the scene failed to intervene to save the lives of the two men. It was further reported that the authorities had not taken action to find the two culprits, despite having been informed of their names.

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Ms. Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 2000/31, E/CN.4/2001/9, 11 January 2001

II. Activities

B. Communications

12. During the period under review the Special Rapporteur transmitted 116 urgent appeals to the Governments of the following countries: [...] **Zimbabwe** (1). [...]

13. The urgent appeals transmitted concerned 339 individuals and the following groups of persons: [...] opposition leaders in **Zimbabwe**; [...].

15. The Governments of the following countries transmitted replies to urgent appeals or communications addressed to them by the Special Rapporteur during the period under review: [...] **Zimbabwe**. [...]

V. Areas of special focus

B. Deaths due to attacks or killings by security forces, paramilitary groups or private forces cooperating with or tolerated by the State

54. A cause for deepening concern for the Special Rapporteur is the increasing incidence of large-scale extrajudicial killings carried out by government security

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

forces and armed groups reported to be sponsored, supported or tolerated by Governments. During the period under review, the Special Rapporteur transmitted allegations on behalf of 288 individuals killed by security forces, paramilitary groups or private forces to the Governments of [...] **Zimbabwe**.

Report of the Special Rapporteur on disappearances and summary executions, Ms. Asma Jahanhir, submitted pursuant to Commission resolution 2000/31, E/CN.4/2001/9/Add.1, 17 January 2001

Summary of cases transmitted to Governments and replies received

Zimbabwe

Urgent appeals

434. On 27 April 2000, the Special Rapporteur transmitted an urgent appeal drawing the attention of the Government of Zimbabwe to serious concerns over the safety of opposition activists and supporters who had been intimidated and attacked in rural areas, allegedly by so-called “war veterans” and other supporters of the ruling party, the Zimbabwe African National Union-Patriotic Front (ZANU-PF), since February 2000. The Special Rapporteur also expressed her concern over continuing reports of attacks by former independence fighters and other supporters of ZANU-PF against commercial farmers and their employees. At least nine persons had reportedly been killed since the beginning of the hostilities. It was further reported that senior police officers had refused to comply with the High Court rulings of 17 March and 13 April that the “war veterans” and “squatters” should leave the farms they were occupying. There were reports that police had failed to intervene to prevent abuses or apprehend culprits at the scene. The Special Rapporteur urged the Government to ensure that the rule of law was upheld, in order not to encourage perpetrators to believe that they could commit human rights abuses with impunity. The Special Rapporteur also called on the Government to take immediate and effective measures to protect persons at risk from further violence and abuses.

Communications received

435. On 22 May 2000, the Government informed the Special Rapporteur about the occupation of farms by Zimbabwe’s war veterans. The Government stated that the “farm occupations” are in fact demonstrations on farms by the war veterans and did not target White-owned properties only. There had been no deliberate policy by the Government encouraging the demonstrations on the farms. The President of Zimbabwe called on both the war veterans and the

farmers to desist from violence and from provoking each other in the course of the demonstrations. The Government stated that all incidents were investigated by the police.

IV/ WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

Report of the Working Group on Enforced or Involuntary Disappearances, E/CN.4/2004/58, 21 January 2004

Zimbabwe

326. Of the 3 reported cases of disappearance, 2 occurred in 1986 and concerned a mother and her 2-month-old infant, who were allegedly abducted by persons believed to belong to the Zimbabwe African National Patriotic Front (ZANU-PF) and were last seen at the home of the Chairman of ZANU-PF. Another case occurred in 2000 and concerned a polling officer for the opposition Movement for Democratic Change who was allegedly abducted in Bulawayo.

327. During the period under review, the Government provided information on the 3 outstanding cases. In the 2 cases concerning the mother and child, the Government informed that concerted efforts were under way to locate the records pertaining to the investigation of the case. The present occupant at the address from where the two were allegedly kidnapped had said that she had no recollection of the missing persons having resided there. Moreover, the officers identified by the source as having been involved had no immediate recollection of the incident, which had occurred some 16 years ago. In respect of 1 other case, the Government informed that it had been established that the person concerned had been kidnapped and presumed dead. Four persons had been arrested in this connection, charged with murder and acquitted by the High Court.

328. In respect of the 3 outstanding cases, the Working Group is unable to report on the fate or whereabouts of the disappeared persons.

Report of the Working Group on Enforced or Involuntary Disappearances,
E/CN.4/2003/70, 21 January 2003

I. Activities of the Working Group on Enforced or Involuntary Disappearances in 2002

B. Communications

17. During the period under review, the Working Group transmitted 120 new cases of enforced or involuntary disappearance to the Governments of [...] **Zimbabwe**.

II. Information concerning enforced or involuntary disappearances in various countries, and the Palestinian Authority reviewed by the Working Group

Zimbabwe

315. During the period under review, the Working Group transmitted two new cases of disappearance to the Government of **Zimbabwe**.

316. The one case of disappearance reported in the past occurred in 2000 and concerns a polling officer for the opposition Movement for Democratic Change who was allegedly abducted in Bulawayo.

317. The two newly reported cases occurred in 1986 and concern a mother and her 2-month-old son who were allegedly abducted by persons believed to belong to the Zimbabwe African National Patriotic Front (ZANU-PF) and were last seen a week later at the home of the Chairman of ZANU-PF. Relatives and witnesses have allegedly been subject to threats, forms of intimidation and reprisals.

318. During the period under review, no new information was received from the Government in respect of the three outstanding cases. The Working Group is, therefore, unable to report on the fate and whereabouts of the persons concerned.

Report of the Working Group on Enforced or Involuntary Disappearances,
E/CN.4/2002/79, 18 January 2002

Zimbabwe

349. The only case of disappearance occurred in 2000 and concerns a polling officer for the opposition Movement for Democratic Change who was allegedly abducted in Bulawayo in the presence of his wife and children.

350. During the period under review, the Government requested relevant details about the outstanding case. The Working Group is still unable to report on the fate and whereabouts of the person concerned.

Report of the Working Group on Enforced or Involuntary Disappearances, E/CN.4/2001/68, 18 December 2000

Executive summary

The process of clarification of cases, especially cases which were transmitted more than 10 years ago, is becoming slower. In spite of cooperation with the Working Group from a large number of countries, the fact remains that the attitude of most Governments towards investigating and clarifying the outstanding cases has not improved. In 2000, out of 24 countries with unclarified cases, the countries which have not communicated at all with the Working Group are as follows: [...] **Zimbabwe**.

B. Communications

16. During the period under review, 4 December 1999 to 24 November 2000, the Working Group transmitted 487 new cases of enforced or involuntary disappearance to the Governments of [...] **Zimbabwe**. Of these, 95 cases were sent under the urgent action procedure.

17. Of the newly reported cases, 120 allegedly occurred in 2000 and relate to [...] **Zimbabwe**.

II. Countries with new cases of disappearances or clarifications

Zimbabwe

105. The Working Group transmitted one newly reported case of disappearance to the Government. It concerns a polling officer for the opposition Movement for Democratic Change who was abducted in June 2000 in Bulawayo in the presence of his wife and children. Since then, his whereabouts are unknown.

V/ WORKING GROUP ON ARBITRARY DETENTION

Report of the Working Group on Arbitrary Detention, E/CN.4/2003/8, 16 December 2002

Communications giving rise to urgent appeals

28. During the period under review, 87 urgent appeals were transmitted by the Working Group as follows (the number of persons concerned is given in parentheses): [...] 2 appeals to **Zimbabwe** (4 men).

29. Of these urgent appeals, 75 were appeals issued jointly by the Working Group and thematic or geographical special rapporteurs. These were addressed to the Governments of [...] **Zimbabwe**.

31. [...] In other cases (relating to [...] **Zimbabwe**), the Working Group was assured that the detainees concerned would receive fair trial guarantees.

VI/ SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Report of the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, Theo van Boven, E/CN.4/2004/56/Add.1, 23 March 2004

Summary of information, including individual cases, transmitted to Governments and replies received

Zimbabwe

1952. By letter sent jointly on 16 September 2003 with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letter dated 5 November 2003.

1953. **Tonderai Machiridza**, a member of the opposition Movement for Democratic Change (MDC) reportedly died five days after he was arrested on 13 April 2003 by the police in Chitungwiza, a Harare suburb, along with three other MDC supporters, namely **David Chipunza**, **John Mazhambe** and **Lisbon Mtandwa**. The four men were reportedly accused of harassing a police officer during the two day stay-away organized by MDC on 18 and 19 March 2003. They were allegedly taken to Saint Mary's Police Station, where they were reportedly

beaten by police with boots, truncheons and handcuffs. Tonderai Machiridza allegedly sustained severe head injuries: his head was reportedly swollen, and he had severe headaches and a bleeding nose. They were reportedly taken by the police to Chitungwiza General Hospital for treatment. Tonderai Machiridza and John Mazhambe were allegedly kept in hospital where they were held under police surveillance, chained to their beds. After a court application, the High Court reportedly ruled that Tonderai Machiridza should be released on bail so that he could receive better medical treatment. He was reportedly moved to a clinic in Harare where he died from his injuries on 18 April 2003.*

1954. The Government informed that Tonderai Machiridza and his three accomplices attacked two police officers who were about to arrest them on suspicion of being involved in the burning of a bus that was carrying children. Eight members of the Neighbourhood Watch Committee arrived to assist the attacked officers. During the scuffle, Tonderai Machiridza was injured and he was therefore taken to Chitungwiza General Hospital and later to Avenues Clinic, where he died on 18 April 2003. The Government further informed that a post-mortem examination revealed that his death was a result of tuberculosis. The Government also reported that, after their arrests David Chipunza, John Mazhambe and Lisbon Mtandwa filed a complaint against the police. This case was still under investigation.

1955. **David Stevens**, an opposition supporter and commercial farmer in Macheke, Mashonaland East Province, was reportedly abducted on 15 April 2000 from the police station in the town of Murehwa by a "militia", who allegedly severely beat him before fatally shooting him at point-blank range.*

1956. The Government reported that six people were arrested in connection with this case and that three of them stood for a trial. The accused persons were released on bail.

1957. **John Rutherford**, a commercial farmer, his wife and one of their farm workers were reportedly assaulted by members of ZANU-PF on 15 March 2002 in the presence of a constable. They were allegedly accused of ordering the destruction of farm occupiers' housing on the farm and giving a cell phone to a worker to tell MDC about illegal settlers. As a result of the alleged attack, the farm worker reportedly died and John Rutherford was admitted to Marondera Hospital. His wife was allegedly forced to witness the aggression and threatened

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

with death at gunpoint. Two suspects were allegedly arrested and seven more were being sought by the police in connection with this case.*

1958. The Government reported that John Rutherford did not make any report on the 15 March 2003 incident. However, two people were arrested in connection with the murder of the farm worker.

1959. **Tafireyinyika Gwaze**, an MDC polling agent, was reportedly abducted on 12 March 2002 and taken to a camp by ZANU-PF and ZNLWVA militia, where he was allegedly beaten severely overnight. He was reportedly released on the following day but died as a result of multiple injuries.*

1960. The Government reported that three persons were arrested in connection with this murder and that they were released on bail pending trial at the High Court in Harare.

1961. By letter sent on 16 September 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information according to which **Shepherd Ngundu**, a teacher from the rural area of Mount Darwin, was beaten to death on 5 February 2002 by suspected ZANU-PF supporters, one month before the presidential elections, allegedly for possessing a copy of the *Daily News*.*

1962. By letter dated 5 November 2003, the Government responded that a report was made to Dotito police who attended the scene and that four accused persons had appeared in court facing charges of murder. The case was pending.

1963. By letter dated 17 September 2003, sent jointly with the Special Representative on the situation of human rights defenders, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letter dated 5 November 2003.

1964. **Tawanda Hondora**, the chair of Zimbabwe Lawyers for Human Rights (ZLHR), was reportedly assaulted with stones, axes, “knobkerries” (wooden sticks with knobbed heads) and other weapons by a large group of ZANU-PF supporters at Sadza Growth Point on 7 April 2001. Tawanda Hondora had

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

reportedly been investigating allegations of intimidation and assault against witnesses in a court hearing challenging the results of the parliamentary election in Chikomba District, Mashonaland East province. After the alleged assault, Tawanda Hondora was reportedly taken to Sadza Police Station, where police officers allegedly beat him further, searched him and interrogated him about his political affiliation. Tawanda Hondora reportedly filed a complaint at Harare Central Police Station about his assault by police officers and sent a written notice to Police Commissioner Chihuri, asking to know what disciplinary action had been taken against the officers. In June 2001, he reportedly filed a civil suit against the Zimbabwe Republic Police, which asked for compensation for damages due to assault and unlawful detention. No further action to discipline those officers allegedly involved in the assault had reportedly been taken.*

1965. The Government reported that it was difficult to respond to this case as the communication of the Special Rapporteur and Special Representative did not specify the nature of the complaint and where the alleged facts occurred.

1966. **Gabriel Shumba**, a lawyer with the non-governmental organization Zimbabwe Human Rights NGO Forum, who had given advice and assistance to torture victims, was reportedly arrested on 15 January 2003, along with four other people, including an opposition Member of Parliament. When he appeared in court on 17 January 2003, medical evidence was presented reportedly supporting his claim that he had been subjected to electric shocks from electrodes placed on his tongue, feet and genitals.*

1967. The Government responded that, at the time of his arrest, Gabriel Shumba and others were celebrating the torching of a bus by MDC supporters. He was charged with inciting violence and seeking to overthrow the Government through unconstitutional means. The case was pending.

1968. By letter dated 17 September 2003, sent jointly with the Special Rapporteur on the promotion and protection of freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information on the following cases, to which the Government responded by letter dated 5 November 2003.

1969. **Philimon Bulawayo**, a photographer with the independent *Daily News* newspaper, was reportedly approached and beaten by soldiers on 19 February 2003, while preparing to take pictures of a food queue at a Harare supermarket.

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

He was reportedly handcuffed and taken to the Harare central police station where he was allegedly beaten again by police officers. He was reportedly released the same day without charge and his camera was returned to him. On 18 March 2003, he was reportedly arrested and assaulted again by police for attempting to cover the mass national stay-away organized by MDC on 18 and 19 March 2003. He was reportedly released again without charge. *

1970. The Government reported that he was arrested after having been identified among some perpetrators of violence who were stoning passing motor vehicles. His case was being investigated.

1971. **Fifteen women participating in an allegedly peaceful march to celebrate International Women's Day** were reportedly detained and several others beaten by Bulawayo police on 8 March 2003. Among those detained there were reportedly three MDC Members of Parliament and the wife of the MDC Vice-President. The 15 women were reportedly held in police custody for four hours, apparently in connection with holding a march without police clearance, and were released without charge.

1972. The Government reported that the demonstration turned political and that the women were arrested when they started marching towards Bulawayo High Court. They were charged with "conduct likely to provoke the breach of peace" and given fines.

1973. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002, 2001, 1999 and 1998 for which no response had been received.

Urgent appeals

1974. On 23 January 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative on the situation of human rights defenders concerning information received indicating that allegations had been made in State media against the **Amani Trust**, suggesting that the organization had participated in violent attacks in Kuwadzana. Concern was expressed over information received suggesting that the Amani Trust offices could be the target of a fire-bombing or other form of attack in the near future. The Amani Trust is a Zimbabwean non-governmental organization providing services for the rehabilitation of victims of human rights violations, particularly torture and institutionalized violence, and

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

it conducts human rights training and education programmes, particularly within health professions. It is part of the International Rehabilitation Council for Torture Victims.*

1975. By letter dated 30 January 2003, the Government responded that Amani Trust was not registered in Zimbabwe as a non-governmental organization, but as a trust, and that it was not entitled to any privileged treatment. The Government also stated that the media were therefore free to make any allegations against Amani Trust or any other trust and that Amani Trust was in turn allegedly free to counter those allegations in any manner it deemed fit. The Government also stated that the police could not act on the basis of rumours.

1976. On 1 April 2003, the Special Rapporteur sent an urgent appeal concerning **Austin Mupandawana**, a Member of Parliament for MDC, and **Calisto Tsvangirai**, **Francis Musiniwa** and **Tongai Ndemberembe**, three MDC activists, who were reportedly arrested along with a number of other activists on 19 March 2003 and charged under the Public Order and Security Act (POSA) with public violence and sabotage during the national two-day mass stay-aways of 18 and 19 March 2003. They were reportedly denied bail when they appeared in court on 25 March 2003 and they were believed to have to remain in detention until their next hearing, on 9 April 2003. Upon their arrest they were reportedly taken to Kadoma police station, where they were allegedly beaten with batons and kicked all over their bodies. Francis Musiniwa's head was allegedly held under water until he was close to suffocating and his genitals were allegedly pulled. Tongai Ndemberembe was allegedly set upon and bitten by a police dog. While some of the detainees were released on 24 March 2003, Austin Mupandawana and other activists were reportedly transferred to Kadoma Prison on 26 March 2003. They were reportedly denied medical treatment.

1977. By letters dated 28 April 2003 and 5 May 2003, the Government responded that the four above-named persons were released on bail on 4 April 2003. The Government also indicated that Austin Mupandawana and Tongai Ndemberembe received medical treatment while in custody and that Callisto Tsvangirayi and Francis Musiniwa did not request any medical care.

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

Summary of information, including individual cases, transmitted to Governments and replies received

Zimbabwe

1978. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information according to which members and supporters of the Zimbabwe African National Union Patriotic Front (ZANU-PF) as well as war veterans, sometimes accompanied by members of the law enforcement agencies, had attacked and threatened by persons believed to be members or supporters of the Movement for Democratic Change (MDC). It was reported that such attacks were taking place with the apparent acquiescence of state officials and perpetrators of abuse had reportedly not been brought to account to date. In the run-up to the June 2000 elections, ZANU-PF supporters reportedly set up bases in secret locations where assaults and torture occurred, and it was believed that this pattern had continued since. Furthermore, it was reported that opposition supporters and others have been assaulted in police stations where they had been held after being arrested, and that many victims of human rights violations did not report incidents to the police out of fear of being arrested and assaulted in their custody.

1979. In particular, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1980. **Mr. Mahoso**, the headmaster of Muchakata High School, near Macheke, and a human rights activist, was reportedly assaulted on 30 March 2000 during a school function by armed men, who allegedly beat him with stones, sticks, boots and fists, and berated the staff, pupils, parents and guests present for neglecting their national duty by not invading farms. The school was said to have been closed, with staff and pupils fearing for their lives. The police was believed to have not carried out any investigation.

1981. **Justin Mutendadzamera**, a Member of Parliament from Mabvuku, **Hilda Mutendadzamera**, his wife, and **Joseph Kandi**, their stepson, were reportedly assaulted on 18 October 2000 by about 50 assailants, among which police officers, who were surrounding the house belonging to Justin Mutendadzamera in Mabvuku and who started throwing stones onto the roof. The group of men reportedly jumped over the wall and started banging on the door. Justin Mutendadzamera and his wife were allegedly pulled outside and beaten. They

were reportedly forced to run about 100 metres down the road to a place where approx 12 youths were lying on the ground and being beaten by police. They allegedly received hospital treatment later that morning. Justin Mutendadzamera's request to identify the culprits was reportedly denied by the police.

1982. **Makundwei Motsi Muzavazi**, a man of the Musana communal lands area, was allegedly assaulted by ZANU-PF supporters armed with chains and sticks in mid-June 2001, because they believed he was an MDC supporter. It is reported that he required hospital treatment in Harare for injuries to his head.

1983. **Felix Mazava**, headmaster of a primary school, was said to have been abducted and beaten to death, allegedly by ZANU-PF supporters, on 14 September 2001.

1984. **Vusumuzi Mukweli**, a Democratic Change (MDC) activist, reportedly died in a Gokwe police station on 13 August 2001 after officers allegedly refused to provide him with anti-seizure medication he needed after a severe beating by the state-sponsored militia in 2000.

1985. **Zeke Chigagwe**, an activist for the opposition, was allegedly beaten to death by members of the ruling ZANU-PF party in June 2000.

1986. **Residents from the town of Ruwa**, east of Harare, **and from the smaller town of Mabvuku** outside of Harare, were allegedly beaten by more than a 100 members of the Border Gezi youth training centre in Mt Darwin on 28 December 2001. The latter are said to have rampaged again on 2 January 2002 in Ruwa, indiscriminately beating up residents for allegedly supporting the political opposition.

1987. **Abednico Bhebhe, Peter Nyoni, Joel Gabuza, all MDC Members of Parliament, and 33 other MDC supporters**, including **Gertrud Ntombeni**, a member of the National Executive, were reportedly ambushed by military personnel and ZANU-PF militia on 6 February 2002. Those inside the cars were allegedly dragged out and beaten before being taken to the local police station. Thirty men were allegedly locked up in one cell and six women in another in very harsh conditions. It was reported that they had initially been denied food and drink, despite the hot weather conditions. They were reportedly also denied access to medical treatment despite reports that some were suffering from serious wounds.

1988. **Michael Shane Kidd** was reportedly arrested on 6 April 2002 and taken to the Central Intelligence Organisation (CIO) offices in Chimanimani, in the

eastern province of Manicaland, which are in the same building as the Chimanimani police station. At the station he was allegedly beaten with clenched fists by the senior officer in overall command of the station. Although he later tried to report the assault, the desk officer at the station was said to have ignored him. Instead the senior officer who had allegedly beaten him lodged a report that Michael Shane Kidd had assaulted him, and the latter was taken into a cell. Shortly afterwards approximately seven people, including the senior police officer and the senior CIO agent in Chimanimani came into his cell and allegedly assaulted him again. He was reportedly denied access to his lawyer until the following day. On 8 April 2002, a court reportedly ordered that he be released. A subsequent medical examination allegedly confirmed that his eardrum was ruptured. Following a complaint lodged by his lawyer at a different police station, the senior officer in charge of Chimanimani police station was charged with assault, but he had not been suspended from duty.

1989. On 13 November 2001, statements by **Khethani Sibanda** and **Sazini Mpofu** were apparently broadcast on Zimbabwe state television in which they implicated themselves and others in the abduction and subsequent murder of Cain Nkala. They had reportedly since then retracted these confessions, stating that the statements were made under duress. On 27 November 2001, Khetani Sibanda and Remember Moyo were said to have appeared before the High Court and to have testified that they had been tortured and forced to make their confessions. The High Court was believed to have ordered a medical examination to verify their injuries.

1990. **Khethani Sibanda** reportedly stated before a court of law that he had been kicked, slapped, punched and threatened at Gweru Police Station after his arrest on 11 November 2001. He reportedly further stated that at one stage on 12 November, the senior investigating officer pulled out a gun and threatened to shoot him.

1991. **Sazini Mpofu** was reportedly arrested late on 12 November 2001 and slapped, punched, kicked and assaulted with a gun butt by the arresting officers. A friend present at the time of the arrest was also said to have been assaulted. He was reportedly taken to his home, which was searched, and later to Nkulumane Police Station. He was believed to have been further assaulted during the transfer. It was reported that he had later stated that he had been stamped upon and trodden upon and told to make false confessions and implicate certain individuals. Medical evidence was said to corroborate his allegations.

1992. **Remember Moyo** was reportedly arrested in Gweru on 11 November 2001, together with **Khethani Sibanda**. It was alleged that the police stopped in a lay-by on the road to Bulawayo and that police officers assaulted him with kicks,

punches and slaps. They reportedly struck him on the head and ribs, placed him in leg-irons, and suspended him in the air by the feet, for further ill-treatment. It was reported that he had been held by the head under the wheel of the vehicle, which caused injuries to his jaw. He was reportedly taken to Mbembesi Police Station where he was held for three nights handcuffed, chained to a ring in the cell, and denied blankets. On three successive nights, police officers allegedly assaulted him. The police officers are reported to have repeatedly told him to implicate certain individuals.

1993. **Gilbert Moyo** was reportedly arrested and assaulted on 12 November 2001. He was allegedly taken to Nkulumane Police Station, where his head was reportedly placed in the toilet bowl and the toilet was flushed a number of times. He was allegedly choked. He was also reportedly threatened by police officers and told to confess to crimes and to implicate certain other individuals.

1994. Furthermore, the Special Rapporteur had received information according to which thousands of farm workers have been assaulted, their homes razed and then forced to leave the area by war veterans, ruling party supporters and those who have taken over white-owned farms. It was estimated up to 70,000 farm workers had been forced to leave their homes since those farms were forcibly occupied. In particular, the Special Rapporteur has received information on the following individual cases.

1995. **Farai Sandikonda**, a game warden, was said to have had his arm broken and to have received a serious cut on his head, as he was trying to protect his farm manager's house, near Mvurwi, north of Harare, on 3 April 2000, by 20 alleged ZANU-PF supporters.

1996. **Zondiwa Dumukani**, a farm worker in Waterfalls, near Harare, was allegedly beaten to death on 12 June 2001 by war veterans. It appeared that nearby police officers and journalists with the state-controlled Zimbabwe Broadcasting Corporation television crew ignored the killing at the time.

1997. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998, 1999 and 2001 regarding which no reply had been received.

Urgent appeals

1998. On 8 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression and the Chairman-Rapporteur of the Working Group arbitrary detention on behalf of **Gertrud Ntombemi (f)**, a National Executive member of the Movement for Democratic

Change (MDC), **Abednico Bhebe** and **Peter Nyoni**, both MDC Members of Parliament and **33 MDC supporters** who were reportedly being held incommunicado without charge at a local police station in Nkayi district, Matabeleland North. They were reportedly ambushed by military personnel and ZANU-PF militia on 6 February 2002. At the time of arrest, they were allegedly dragged out and beaten before being taken to the local police station. They were allegedly initially denied food and drink, despite the hot weather conditions. It is said that they are being denied access to medical treatment despite reports that some are suffering from serious wounds, including Abednico Bhebe who is reportedly in a critically condition as a result of a head wound.*

1999. On 18 October 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the right to freedom of opinion and expression and on the right to education on behalf of 627 teachers who had reportedly been dismissed on 14 October 2002 by the Public Service Commission. The teachers had reportedly been on strike asking for a long-awaited wage increase. **Raymond Majongwe**, the Secretary General of the Progressive Teachers' Union of Zimbabwe (PTUZ), was reportedly arrested for his picket action and was injured during his 48-hours in police custody. On 16 September, he was reportedly arrested for the second time along with PTUZ leaders, **Innocent Moyo** and **Enock Paradzayi**, on public order charges. They were believed to be held incommunicado.*

Observations

2000. The Special Rapporteur notes with concern that no response has been provided to a number of cases brought to the attention of the Government since 1998.

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2001/62, E/CN.4/2002/76, 27 December 2001

10. During the period under review, the Special Rapporteur sent 114 letters to 73 countries on behalf of about 1,990 individuals and 33 groups involving about 6,000 persons, about 315 of whom were known to be women and 590 known to be minors. Together with individual cases, the Special Rapporteur also

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transmitted to Governments 22 allegations of a more general nature. The Special Rapporteur also sent 32 letters reminding the Governments of the following countries of a number of cases that had been transmitted in previous years: [...] **Zimbabwe** (1999), [...]. In addition, the Special Rapporteur sent 15 letters reminding Governments of a number of cases transmitted in 2000 with respect to which no reply had been received. The Special Rapporteur sent 186 urgent appeals to 58 Governments on behalf of about 581 individuals (of whom about 147 were known to be women and 12 to be minors) and 13 groups involving about 1,500 persons (of whom some 500 were known to be minors) with regard to whom fears that they might be subjected to torture and other forms of ill-treatment had been expressed. Thirty-seven Governments provided the Special Rapporteur with replies on some 800 cases submitted during the year under review, whereas 37 did so with respect to cases submitted in previous years.

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2001/62, E/CN.4/2002/76/Add.1, 14 March 2002

Summary of cases transmitted to Governments and replies received

Zimbabwe

1802. By letter dated 1 October 2001, the Special Rapporteur advised the Government that he had received information on the following individual case.

1803. **Blessing Chebundo**, the Movement for Democratic Change (MDC) candidate for Kwekwe constituency, was reportedly doused with petrol at a bus station on 9 May 2000. Kwekwe police officers were reportedly given the name and address of one of the alleged attackers, and interviewed three witnesses, but made no arrests. On 15 May 2000, he was reportedly attacked again at home, when petrol bombs were thrown into his house. He telephoned the police, while the attackers were still outside, but the police, who are believed to have been stationed only 500 metres away, only arrived 20 minutes after the attackers had been chased away by MDC youths.

1804. By the same letter, the Special Rapporteur reminded the Government of a number of cases sent in 1999 regarding which no reply had been received.

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/43, E/CN.4/2001/66, 25 January 2001

III. Information reviewed by the Special Rapporteur with respect to various countries

16. During the period under review, the Special Rapporteur sent 66 letters to 60 countries on behalf of about 650 individuals and 28 groups involving about 2,250 persons. About 125 were known to be women and 50 were known to be minors. Together with individual cases, the Special Rapporteur also transmitted to Governments 19 allegations of a more general nature. The Special Rapporteur also sent 35 letters reminding the Governments of the following countries of a number of cases that had been transmitted in previous years: [...] **Zimbabwe** (1998), [...]. [...]

Zimbabwe

1289. By letter dated 6 November 2000, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Urgent appeals

1290. On 2 November 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning a clemency order issued by the President, entitled Clemency Order No. 1 of 2000 General Amnesty for Politically-Motivated Crimes. The order grants total amnesty to every person liable for criminal prosecution for any politically-motivated crime committed during the period of 1 January 2000 to 31 July 2000 and provides for a remission of any term of imprisonment imposed for such crimes (para. 3). A politically-motivated offence has been defined in paragraph 4 (a) as any offence motivated by the object of supporting or opposing any political purpose and committed in connection with (i) the Constitutional Referendum held on 12 and 13 February 2000; or (ii) the general Parliamentary elections held on 24 and 25 June 2000 whether committed before, during or after the said referendum or elections. This amnesty does not extend to persons having committed a specified offence namely murder, robbery, rape, indecent assault, statutory rape, theft, possession of arms and any offence involving fraud or dishonesty (and any attempt, conspiracy or incitement to commit the above offences, as well as acting as an accessory to such offences after the fact). The Special Rapporteurs expressed their concerns to the Government that Clemency Order No. 1 of 2000 could lead to the granting of amnesty for serious offences

against the person, inter alia for common assault, assault occasioning actual bodily harm, grievous bodily harm, manslaughter, kidnapping, abduction and disappearance where committed with a political motive or within the context of a politically motivated crime during that period.*

Follow-up to previously transmitted communications

1291. By letter dated 10 November 2000, the Government responded to a letter transmitted in September 1998 concerning **Kevin John Woods, Philip Masiza Conjwayo, Michael Antony Smith, Barry Desmond Bawden and Dennis Bawden**, (E/CN.4/1999/61, para. 812). They had been imprisoned not only for blowing up the premises of the African National Congress but also for causing serious injury and loss of life. If the cells were indeed overcrowded and unsanitary, these prison conditions equally affected all prisoners in Zimbabwe.

Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 1999/32, E/CN.4/2000/9, 2 February 2000

III. Information reviewed by the Special Rapporteur with respect to various countries

Zimbabwe

Regular communications and replies received

1199. By letter dated 6 October 1999 sent with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information on the following cases.

1200. **Mark Chavunduka**, editor of the independent Sunday newspaper, The Standard, was reportedly arrested on 12 January 1999 by the military police in Harare and detained incommunicado for six days at Cranborne military barracks. **Ray Choto**, chief reporter for the same newspaper, was reportedly arrested on 19 January 1999 by the police. It is alleged that they were arrested in connection with an article published on 10 January 1999 regarding the arrest of 23 military officers for plotting a coup in December 1998. Both journalists have reportedly sustained serious injuries as a result of torture suffered during their detention at the military police station. They were allegedly beaten with fists,

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

wooden planks and rubber batons, and subjected to electric shocks. Both were reportedly released on 21 January 1999.*

Urgent appeals and replies received

1201. On 9 February 1999, the Special Rapporteur sent an urgent appeal on behalf of **Grace Kwinjeh**, a journalist, and **Dr. Ibbo Mandaza**, publisher of the Zimbabwe Mirror newspaper. They had reportedly been arrested on 8 February 1999 by the Criminal Investigation Division (CID) of the Zimbabwe Republic Police. Both, as well as **Fernando Goncalves**, an editor, and **Ferai Mungazi**, a former editor, were said to have been charged with allegedly publishing a false report "likely to cause fear, alarm or despondency among the public". The charges are in connection with an article published in the Zimbabwe Mirror on 30 October 1998 which reported that a Zimbabwean family had received just the head of their son, a soldier in the Zimbabwe National Army killed in the Democratic Republic of Congo, where the army is deployed.

VII/ SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION

Report of the Special Rapporteur on the right to freedom of opinion and expression, Ambeyi Ligabo, submitted in accordance with Commission resolution 2003/42, E/CN.4/2004/62/Add.1, 26 March 2004

Summary of cases transmitted to Governments and replies received

Zimbabwe

Communications sent

856. On 2 June 2003, the Special Rapporteur sent with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention an urgent appeal concerning **Morgan Tsvangirai**, leader of the opposition party Movement for Democratic Change (MDC), **Welshman Ncube**, Secretary-General of MDC, **Pearson Mungofa**, Harare MP, **Richard Beatie**, President of the NGO Zim Rights and **Gibson Sibanda**, MDC Vice-President. According to information received, Morgan Tsvangirai's residence was allegedly raided late at night on 1 June 2003. It was alleged that he was not at home at the time but was reportedly arrested at 8:30 a.m. the next morning and taken to Harare Central police station. Welshman

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

Ncube's home was allegedly raided at 1 a.m. on 2 June 2003 and his family was reportedly subjected to physical abuse. It has been reported that Welshman Ncube was not present at the time of the alleged raid but that he reported to the police later in the morning. It has been said that the charges against both men are unknown and that a planned court hearing has been postponed. It is alleged that both men have been released but that they are allegedly required to return to the police station.*

857. Other alleged arrests include **Pearson Mungofa** and **Richard Beatie**. Gibson Sibanda allegedly reported to the police the next morning but no arrest was reportedly made. The alleged raids and arrests of opposition leaders are allegedly linked to the start of a week of political demonstrations against the Government. According to the reports received, other opposition leaders, including members of the Parliament, have also been arrested or have gone into hiding.

858. On 15 September 2003, the Special Rapporteurs sent a communication concerning **Shepherd Ngundu**, a teacher from the rural area of Mount Darwin, who was reportedly beaten to death on 5 February 2002 by suspected Zimbabwe African National Union Patriotic Front (ZANU-PF) supporters, allegedly for possessing a copy of the *Daily News*.

859. On 17 September 2003, the Special Rapporteur and the Special Rapporteur on torture sent jointly a letter to the Government of Zimbabwe concerning the following individual cases*:

(a) **Philimon Bulawayo**, a photographer with the independent *Daily News* newspaper, was reportedly approached and beaten by soldiers on 19 February 2003 while preparing to take pictures of people queueing for food at a Harare supermarket. It is alleged that his camera was confiscated and that he was handcuffed and taken to the Harare central police station where he was again beaten by police officers. It is reported that he was released the same day without charge and his camera was returned to him. On 18 March 2003, he was reportedly arrested and assaulted again by police for attempting to cover the mass national "stay-away" organized by MDC on 18 and 19 March 2003. He is said to have been again released without charge.*

(b) **Fifteen women participating in an alleged peaceful march to celebrate International Women's Day** were reportedly detained and several others beaten

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by Bulawayo police on 8 March 2003. It is alleged that among those detained were three MDC MPs and the wife of the MDC Vice-president. The 15 women were reportedly held in police custody for four hours, apparently in connection with holding a march without police clearance, and were released without charge.*

860. On 18 September 2003, the Special Rapporteur sent an urgent appeal to the Government of Zimbabwe concerning the reported closure of the *Daily News* newspaper. According to information received, the closure followed an 11 September 2003 Supreme Court ruling declaring that the newspaper was operating illegally under section 66 of the 2002 Access to Information and Protection of Privacy Act, which requires all media companies to register with the Media and Information Commission in order to operate. It is reported that the registration application requires information such as the curriculum vitae and political affiliations of the companies' directors. On this basis, the Associated Newspapers of Zimbabwe (ANZ, the company owning the *Daily News*), allegedly challenged the legislation as unconstitutional and did not register with the Commission, pending a decision thereon. In the Supreme Court ruling of 11 September, Chief Justice Godfrey Chidyausiku reportedly indicated that because ANZ had not registered with the Commission, it was "operating outside the law" and the court would hear the company's constitutional challenge only once ANZ had "submitted itself to the law" by registering. It is reported that ANZ therefore submitted the newspaper's registration forms to the Commission, in order to be able to resume operations and file suit again to challenge the legislation, but that the Chairperson of the Media and Information Commission, Tafataona Mahoso, said in an interview with the State-owned *Sunday Mail* that the *Daily News* would remain closed indefinitely and that "arriving at the door [of the Media and Information Commission] does not mean that they will be registered".

861. It is reported that on 12 September in the evening, approximately 20 police officers, some reportedly armed with rifles, arrived at the *Daily News* offices in Harare and ordered all the staff members out of the office. They reportedly arrested the newspaper's editor **Nqobile Nyathi** and the operations manager **Simon Ngena**, took them to the Harare Central police station and released them later without charges. The police allegedly guarded the newspaper's offices on Saturday 13 September, and allowed staff members inside only to collect personal belongings.

862. In addition, it is reported that on 13 September, **Sam Siphepha Nkomo**, the chief executive officer of the *Daily News* was formally charged with operating an

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unregistered publishing house; he was reportedly released after his statement was registered, but ordered to appear in court on 15 September. Further reports indicate that on 16 September, police confiscated computers and other equipment from the offices of the *Daily News*, allegedly to use them as exhibits in court, although it was alleged that no court had ordered the seizure of the equipment.

863. On 26 September 2003, the Special Rapporteur sent a letter of allegation, jointly with the Special Representative of the Secretary-General on human rights defenders, concerning **Jenni Williams**, leader of Women of Zimbabwe Arise (WOZA), a grass-roots organization dedicated to encouraging the empowerment of women towards leadership roles in society, and **47 other members of the same organization**. According to the information received, on 24 July 2003, Jenni Williams and 47 other members of WOZA, having handed a letter of protest against the Public Order and Security Act (POSA) to the Senior Prosecutor for Bulawayo outside Tredgold Building, marched through Bulawayo. Jenni Williams had reportedly organized the protest. It is alleged that riot police arrested Jenni Williams, and that the 47 other women were arrested when they opted to be taken with Jenni Williams. While in detention for two days, the women were reportedly interrogated. During this time, they allegedly had limited access to food. The women were reportedly charged under POSA for participating in an “illegal gathering”. In addition, Jenni Williams was allegedly charged with organizing the march under section 17 of POSA on offences against public order.*

864. In the same communication, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders referred to additional information in relation to the case of **Philimon Bulawayo**, a photographer for the *Daily News* newspaper, and **Gugulethu Moyo**, a lawyer and Corporate Affairs Director for Associated Newspapers of Zimbabwe. On 19 February 2003, it is alleged that while preparing to take photographs of people queueing for food at a Harare supermarket, Philimon Bulawayo was assaulted by soldiers. He was then reportedly handcuffed and taken to the Harare central police station where he was allegedly again beaten by police officers. He was reportedly released the same day without charge and it is reported that his camera, which had allegedly been confiscated, was returned to him. On 18 March 2003, while covering a “stay-away” coordinated by MDC in Budiriro, Harare, Philimon Bulawayo was allegedly again arrested. Gugulethu Moyo was also allegedly arrested when she tried to secure his release from Glen View police station. Philimon Bulawayo and Gugulethu Moyo were allegedly severely beaten

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at the station by the wife of an army commander and a male colleague. The police allegedly stood by and watched. On 19 March 2003, Philimon Bulawayo and Gugulethu Moyo were reportedly transferred to Harare police station. According to the information received, they were reportedly not allowed access to medical treatment despite allegedly having been severely beaten, and were reportedly released without charge on 20 March 2003.*

865. On 26 September 2003, the Special Rapporteur also sent an urgent appeal, in follow-up to his communication of 18 September with respect to the ruling of the Supreme Court declaring that the **Daily News** newspaper was operating illegally under the "Access to Information and Protection of Privacy Act". On 19 September 2003, the Media and Information Commission (MIC) reportedly refused to grant the registration of the newspaper, submitted on 15 September, on the grounds that the application for registration came later than the deadline for registration. It is feared that this decision might be biased, on the basis of a reported statement in the press of the Chairperson of MIC, Tafataona Mahoso, on 15 September who reportedly indicated that the *Daily News* would remain closed indefinitely as MIC would refuse to grant its registration, even before MIC had had a chance to examine the case. Reports indicate that ANZ (owner of the *Daily News*) filed an application with the Administrative Court challenging the MIC decision not to grant them an operating licence.

866. Furthermore, reports indicated that on 22 September 2003, **Sam Sipepa Nkomo**, ANZ Chief Executive, **Brian Mutsau**, **Rachel Kupara** and **Stuart Mattinson**, directors of ANZ, were summoned to the Central police station in Harare and notified that they were under arrest for publishing a newspaper without a licence; they were reportedly released under the condition that they would report to the police station the following day for questioning, during which they were reportedly asked to provide the police with a list of all employees of the *Daily News*.

867. On 9 October 2003, the Special Rapporteur, the Chairperson– Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary–General on human rights defenders, sent jointly an urgent appeal concerning the alleged arrest and detention of **Lovemore Matombo** and **Wellington Chibebe**, respectively President and Secretary-General of the Zimbabwe Congress of Trade Unions (ZCTU), and **Raymond Majongwe**, Secretary-General of the Progressive Teachers' Union of Zimbabwe (PTUZ), as well as the alleged injury of **Thabitha Khumanko**, a member of the ZCTU women's advisory council, and the alleged arrest of **41 demonstrators** in Harare.

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According to the information received, on 8 October 2003, Lovemore Matombo and Wellington Chibebe were allegedly arrested along with at least 41 trade unionists during a national protest against high taxation, high cost of living, transport problems and violations of trade union rights. They were allegedly detained in an unknown place. Raymond Majongwe was allegedly detained separately from other demonstrators in Harare, in solitary confinement. Physical force was allegedly used against demonstrators in Central Harare and Bulawayo. Thabitha Khumanko was allegedly injured along with several ZCTU leaders during demonstrations in Bulawayo. In addition, according to the information received, of the 41 detainees in Harare, it is reported that 21 paid fines and were released on 8 October 2003, while the remaining 20 were reportedly released but reportedly refused to pay fines on the grounds that they were conducting legitimate trade union action. These 20 were allegedly requested to report to the police at 10 a.m. on 9 October 2003, under a charge of breach of POSA.*

868. Concern has been expressed that these persons have been targeted owing to their trade union human rights work. In particular, Raymond Majongwe has in the past been the subject of urgent appeals related to his work as a trade unionist (reference was made to an urgent appeal sent by the Special Rapporteur, the Special Rapporteur on the question of torture, the Special Rapporteur on the right to education and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 18 October 2002, and an allegation letter sent by the Special Representative of the Secretary-General on human rights defenders on 7 October 2003).

869. On 17 October 2003, the Special Rapporteur, the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers, jointly sent an urgent appeal concerning an alleged attack against **Beatrice Mtetwa**, a council member of the Law Society of Zimbabwe, who frequently accepts human rights cases, including some involving the freedom of the press. According to the information received, on 1 October 2003, an attempt was allegedly made to break into Beatrice Mtetwa's car. On 12 October 2003, she was allegedly attacked in her car and had a number of personal items stolen. She reportedly called the police about the robbery. Upon arrival, the police allegedly accused her of driving while being intoxicated with alcohol and reportedly took her to Borrowdale police station. According to the information received, on the way to the police station, Beatrice Mtetwa was allegedly beaten by the officers. During three hours in custody at the police station, she was allegedly tortured, including by strangulation. Despite the alleged accusation of intoxication, the police officers involved reportedly refused

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Beatrice Mtetwa's request that she be given a blood alcohol content test. She was reportedly refused medical treatment for her injuries. On 16 October 2003, Beatrice Mtetwa reportedly returned to the police station and presented her written statement relating to her charge of assault against the officer in charge. Concern was expressed that Beatrice Mtetwa may have been targeted due to her human rights work.*

870. On 21 October 2003, the Special Rapporteur sent a letter of allegation concerning the cases summarized below:

(a) The Special Rapporteur received information according to which, after the registration application from the **Associated Newspapers of Zimbabwe (ANZ)**, the publishing house for the *Daily News*, was rejected by the Media and Information Commission (reference was made to two communications sent on 18 and 26 September 2003), **19 Daily News journalists** have reportedly been arrested under the Access to Information and Protection of Privacy Law (AIPPA) and charged with violating article 80(1) (3) of the Law, which requires every practising journalist to be accredited by the Media and Information Commission. The 19 journalists are: **Chris Gande, Oscar Nkala, Saul Gwakuba Ndlovu, Grey Chitika, Philemon Bulawayo, Margaret Chinowaita, Kelvin Jakachira, Sydnex Saize, George Muzimba, Lawrence Chikuvira, Luke Tamborinyoka, Pedzisai Ruhanya, Fanuel Jongwe, Precious Shumba, Chengetai Zvauya, Conelias Mabasa, Conway Tutani, Gladwin Puparutsa, Darlington Makoni and Francis Mdlongwa**. It is reported that the police obtained “warned and cautioned” statements from the above-named journalists, and indicated that they will proceed by way of summons. It is further reported that most journalists did apply for accreditation within the deadline set after the entry into force of the AIPPA, but their accreditation was refused on the grounds that they were working for an unregistered publication.

(b) After the closure of the *Daily News*, the Minister of State Information and Publicity, Jonathan Moyo and the Chairman of the Media and Information Commission Tafataona Mahoso, reportedly threatened to close down the ***Zimbabwe Independent*** and ***The Standard*** newspapers on the grounds that they were critical of the Government, attacking the national leadership, and promoting “western interests” in the country. According to information received, Minister Moyo would have said that the two newspapers would “face the same demise that befell the *Daily News*” and that they “should be shut down because they are trash and injure (the) national interest”.

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(c) The Special Rapporteur received information of attacks against journalists by groups of young people reportedly linked to the ruling ZANU-PF. In one case, it is reported that on 3 October 2003, **Cyril Zenda**, a senior journalist with the *Financial Gazette* newspaper, was attacked by a vigilante group known as Chipangano, which is allegedly associated with ZANU-PF. He was reportedly disembarking from a bus at Harare's main bus terminal when members of the group reportedly pulled him to a secluded area and interrogated him about a message on the T-shirt he was wearing "Free my Voice: Free the Airwaves", by the Media Institute for Southern Africa (MISA) Zimbabwe Chapter. The group was reportedly upset that he was wearing a T-shirt bearing an "anti-government" slogan, and therefore took the T-shirt from him and burnt it; they also reportedly robbed him.

(d) On another occasion, it is reported that **Flata Kavinga**, a reporter for the *Midlands Observer*, was reportedly attacked on 8 August 2003 outside a nightclub in Kwekwe. The attackers reportedly accused the *Midlands Observer* of supporting the opposition MDC, and accused Mr. Kavinga of being against the Government because he was wearing a MISA-Zimbabwe T-shirt with the inscription "Free my Voice: Free the Airwaves". They then reportedly dragged him to an alley behind the nightclub and beat him with wooden planks, after which he sustained head injuries and had to be taken to the hospital. It is reported that Mr. Kavinga had to go into hiding for fear of further reprisals.

(e) On 9 December 2002, during the ZCTU annual review symposium, the police reportedly arrested nine trade unionists, namely **Wellington Chibebe**, **Tambaoga Nyazika**, **Timothy Kondo**, **Settlement Chikwinya**, **David Shambare**, **Patience Mandozana**, **Thomas Nyamanza**, **Gideon Shoko** and **Hwinya Matambo**. According to information received, these arrests could be linked to a national strike called by a coalition of civic groups and supported by ZCTU on 10 December.

(f) In November 2002 the Ministry of Information reportedly refused to renew the work permit of the Agence France-Presse (AFP) bureau chief in Harare, **Stéphane Barbier**, allegedly without giving any official explanation. It is reported that during the summer, the Ministry had let AFP know that no foreign journalist would be allowed to reside and work in Zimbabwe under the Law on Access to Information and Protection of Privacy, according to which foreign journalists will only be allowed to visit Zimbabwe for limited periods, and after having received the Ministry's approval.

(g) *Daily News* editor **Geoff Nyarota** was reportedly charged on 23 October 2002 with "undermining confidence in the police" by publishing allegations of police torture allegedly given by an opposition activist in court. This accusation would

be connected, according to the information received, with the publication in the *Daily News* of a story about a young man who testified that the police tortured him a month before with beatings and electric shocks. According to the information received, if convicted, Mr. Nyarota could face a sentence of ten years' imprisonment.

(h) On 21 October 2002, a three-person crew of the *Daily News* – reporter **Henry Makiwa**, photographer **Aaron Ufumeli** and driver **Trust Maswela** – was reportedly arrested for allegedly inciting students to protest while covering a demonstration by secondary school students in Mabvuku, a suburb of Harare. According to the information received, they were taken to Mabbvuku police station but they were not charged. It is alleged however that the police confiscated a film of the students. It is also alleged that State media journalists, including a Zimbabwe Broadcasting Corporation crew, were not interrupted in their coverage of the demonstration.

871. On 27 October 2003, the Special Rapporteur, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders, jointly sent a letter to the Government of Zimbabwe regarding the reported arrest in Harare on 22 October 2003 of about **400 activists of the National Constitutional Assembly (NCA)**, a network of NGOs, including the Chairman of NCA, **Lovemore Madhuku**. According to information received, NCA organized a peaceful demonstration in Harare, to call for democracy and for a people-driven Constitution to replace the 1978 Constitution which was drafted before Zimbabwe's independence. Participants in the demonstration was reportedly attacked by members of the police force, and it is alleged that the demonstrators were seriously beaten by the police, arrested, and taken to the Harare Central police station, where they reportedly were denied access to their lawyers. It is also reported that during the demonstration, **Blessing Zulu** and **Newton Spicer**, journalist with the *Zimbabwe Independent* and a freelancer respectively, were arrested while they were covering the demonstration. Their lawyers were reportedly denied access to them, and it is alleged that they were also threatened with incarceration.*

872. It is reported that the majority of NCA members who had been arrested were allegedly made to pay depository fines on 23 October 2003 under the Miscellaneous Offences Act (MOA) and thereafter reportedly released. NCA leader Lovemore Madhuku reportedly refused to pay the fine, which reportedly resulted in the police laying charges against him of contravening section 24 (6) of

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the POSA, which criminalizes the organizing of a demonstration without the notifying the police.

873. Concerns have been expressed that the provisions of the MOA have complemented the repressive provisions of the POSA. Fears were also expressed that the police may be developing a habit of using the provisions of the MOA to justify arbitrary arrests while simultaneously making release of human rights defenders conditional on paying fines.

874. On 28 October 2003, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders sent jointly a letter to the Government of Zimbabwe concerning **Andrew Meldrum**, a United States national officially resident in Zimbabwe, a journalist with United Kingdom-based newspaper *The Guardian*, and an active member of Amnesty International, who has worked closely with Amani Trust, the Human Rights NGO Forum, Zimbabwe Lawyers for Human Rights and the Zimbabwe Association of Doctors for Human Rights. His case was already the subject of an urgent appeal on 2 May 2002 by the Special Rapporteur and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. According to the information received, on 15 June 2002, Andrew Meldrum's trial reportedly began under section 80 of the AIPPA on charges of "abusing journalistic privilege by publishing a falsehood". This accusation was allegedly connected with his report regarding an alleged beheading of a woman by ZANUPF supporters. A Harare court allegedly found him not guilty of "intending to publish falsehoods" and he was reportedly acquitted on 15 July 2002. On 17 July 2002, the High Court in Harare reportedly rejected an application by the Ministry of Home Affairs to deport Andrew Meldrum, reportedly asking the Supreme Court to rule on whether the Ministry's action was constitutional.*

875. On 7 May 2003, Zimbabwe immigration officials reportedly raided Andrew Meldrum's house in Harare in his absence. They allegedly refused to talk to Andrew Meldrum's wife or lawyer, or show any legal identification to them. On 13 May 2003, Andrew Meldrum reportedly went to the offices of the Department of Immigration accompanied by his lawyer to find out what they had wanted on 7 May 2003. The authorities reportedly did not give a direct answer, and allegedly ordered Andrew Meldrum to surrender his passport. On 16 May 2003, Andrew Meldrum reportedly returned to the immigration offices where he was allegedly told by one of the officials that he would be in the custody of government officials until he was out of the country. This official allegedly ignored the court orders against the deportation which Andrew Meldrum's

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lawyer reportedly showed him. Andrew Meldrum allegedly left the offices surrounded by immigration officials and police officers, who reportedly drove him in an unmarked car to the airport and detained him there for more than ten hours. He was then allegedly forcibly placed on an Air Zimbabwe flight to London. On 11 June 2003, his wife reportedly left Zimbabwe under an alleged threat of expulsion for being married to Andrew Meldrum, although her residence permit was reportedly independent of their marriage.

876. On 28 October 2003, the Special Rapporteur and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent jointly a letter to the Government of Zimbabwe concerning the reported arrest of **Washington Sansole**, one of the nine directors of the newspaper *The Daily News*. According to information received, the *Daily News*, which was closed down on 11 September 2003 and denied registration on 19 September (please refer to the Special Rapporteur's communications dated 18 and 26 September 2003), was reportedly granted on 24 October 2003 an operating licence on the order of Harare's Administrative Court, which ruled that the Media and Information Commission, which denied the registration, was "improperly constituted in terms of law and was accordingly unable to lawfully make the decision it made". The Administrative Court also reportedly ruled that the *Daily News* should be granted a licence as soon as possible, and that by 30 November 2003, a licence would be deemed to have been issued. It is reported that following this ruling, on 25 October, an eight-page edition of the *Daily News* headlined "We Are Back" was published, and that a few hours later, the police took control of ANZ offices and arrested **18 journalists and other workers**. Those 18 people were reportedly later released without charge, after they were reportedly made to sign a statement that they work for the *Daily News* and warned not to return to work. On 26 October, it is reported that Mr. Sansole was arrested in Bulawayo for allegedly ignoring the Administrative Court ruling and giving a directive to publish without a licence. It is alleged that the police has said that Mr. Sansole would be detained until all directors of the newspaper presented themselves to the police. It is further reported that the police would still be occupying the premises of the newspaper.*

877. Finally, it is alleged that on 25 October, **Tulepi Nkomo**, the niece of the director of the *Daily News*, Samuel Nkomo, was arrested at her uncle's house, and that there has been no news from her since her arrest. Fears have been expressed that her arrest might be used to coerce her uncle to present himself to the police.

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878. On 26 November 2003, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders sent joint urgent appeal regarding reports that of up to **100 trade union and human rights defenders** were arrested on 18 November 2003 throughout the country (approximately 50 in Harare), allegedly in order to prevent them from staging a protest against alleged human rights abuses and the economic crisis in Zimbabwe. According to information received, **Lovemore Matombo** and **Wellington Chibebe**, respectively President and Secretary-General of ZCTU, with respect to whom an urgent appeal was sent on 9 October 2003 on behalf of the Special Rapporteur, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders, were among those arrested. It is reported that Messrs. Matombo and Chibebe remained in custody for two days, while most of those arrested in other parts of the country were released, and that they were charged under section 7 (b) of the POSA.*

879. It is also reported that **Andrew Moyse**, the director of the Media Monitoring Project of Zimbabwe, and seven other leaders of civic organizations, were arrested during the 18 November demonstration organized by ZCTU, and were detained at the Harare central police station, awaiting their trial.

880. Finally, reports indicate that during the demonstration, riot police apprehended **Shadreck Pongo**, a photojournalist with the newspaper *Standard*, while he was covering the demonstration, and severely beat him in a police truck. The police also reportedly destroyed his camera, and dumped the journalist at the city's periphery. He was then taken to the Harare's Avenues hospital.

Communications received

881. On 19 September 2003, the Government of Zimbabwe replied to the communication of 18 September 2003 concerning the case of the **Daily News newspaper** and indicated that this matter was sub judice and therefore any further comment would be inappropriate. The press statement from the Media Information Commission was attached to the response for information.

882. By letter dated 13 October 2003, the Government responded to the communication sent on 9 October regarding the arrest of trade unionists. The Government confirmed that approximately 55 trade unionists including the top leaders of ZCTU had been arrested on 8 October 2003. It informed the Special

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Representative that they had appeared in court on 9 October 2003 and were released after paying fines for having breached the Public Order Security Act by calling for a demonstration without clearance from the relevant authorities.

883. By letters dated 29 October and 1 December 2003, the Government responded to the urgent appeal of 27 October 2003 regarding the arrest of **Lovemore Madhuku** and **other NCA activists** on 22 October 2003. The Government indicated that Mr. Madhuku was currently on bail. Contrary to reports, the Government stated that Mr. Madhuku was allowed access to his lawyers and that his detention was not arbitrary and that due process has been observed in the proceedings against him. Concerning the cases of **Blessing Zulu** and **Newton Star**, the Government considered that the characterization of the Public Order and Security Act of Zimbabwe in the allegation as “repressive”, is unjustified, unwarranted and objectionable. The Government stated that it is not a crime for the police to remind a person who breaks the law risks going to prison. The Government further questioned the habit of the Special Representative and the Special Rapporteur of sending communications on issues that fall under the responsibility of the Government of Zimbabwe and perceives the communications as harassment that prevents the Government from discharging its responsibilities. The Government also reiterated that the laws it applies were duly passed by the Parliament for the simple purpose of maintaining peace, order and security to the benefit of every citizen. The Government also underlined that the Constitution allows peaceful demonstration, but subject to certain limitations, as listed in the Public Order and Security Act. In this case, NCA members had failed to notify the police of the march. The NCA activists arrested were charged with the lesser charge of contravening to the Miscellaneous Offences Act (MOA). Out of the 200 activists arrested, all but one paid the fine imposed, and were released. Mr. Madhuku refused to pay the fine, as he was contesting having committed an offence, and decided to go to court. He was released on bail, and the case was pending at the time the response was sent.

884. On 3 November 2003, the Government of Zimbabwe replied to the communication dated 28 October 2003 concerning **Andrew Meldrum**, and indicated that he was deported from Zimbabwe by the Department of Immigration after conducting himself in a manner inconsistent with his residence permit, in that he wrote false articles clearly designed to create panic among the population and making Zimbabwe ungovernable. His wife willingly joined him in family reunion.

885. In a letter dated 5 November 2003, the Government of Zimbabwe sent a memorandum issued by the Zimbabwe Republic Police concerning the followings persons:

(a) Pertaining to the arrest of **Philemon Bulawayo** (see communication sent on 17 September 2003) on 18 March 2003, the Government confirmed that the aforementioned is a photographer with the *Daily News* and was arrested after being identified among some perpetrators of violence who were throwing stones at passing motor vehicles. He was charged under the POSA and the case is still to be finalized. The case is being investigated under Harare Law and Order reference DR14/05/03.

(b) Pertaining to the communication of 17 September and the arrest of **15 women participating in a peaceful march**, the Government indicated that these women (belonging to WOSA – Women of Zimbabwe Arise) were arrested because they transformed the demonstration of Mother’s day into a political issue. Forty-six women were charged under section 7(b) of the Miscellaneous Offences Act. They paid a fine of \$5,000 each at Bulawayo central police.

(c) Pertaining to communication of 15 September 2003 raising the case of **Sherpherd Ngundu**, who was beaten to death by 10 other people, the Government said that the case is pending at court awaiting trial date and the case is being investigated under Dotito CR16/02/02.

886. In a letter dated 25 november 2003, the Government replied to the Special Rapporteur’s communication of 17 October 2003 concerning **Beatrice Mtetwa**, and indicated that on the night of 12 October 2003, Ms. Mtetwa was driving along Edinburgh Drive in Vainona, Harare and lost control of her vehicle. On arrival of the police at the scene, she told them that she was about to be carjacked and alleged that the would-be carjackers had stolen her keys and cellular telephone. Statements from witnesses suggest that this was false. The police on the scene described her as hostile, abusive and drunk. She was then taken to Harare Central police station for a blood alcohol content or breathalyser test. However, as the machine was not working, Ms. Mtetwa was taken to Borrowdale police station, where she was put under observation for three hours. It seems that while at Harare Central police station, Ms. Mtetwa had an altercation with a police officer and bit him on the cheek. There was another altercation at Borrowdale police station. As a result, three criminal cases were under investigation as the officers concerned had pressed charges against Ms. Mtwetwa. In parallel, an investigation into the way the police handled the case is also under way.

Observations

887. The Special Rapporteur thanks the Government of Zimbabwe for its replies. He further awaits replies to his communications of 26 September, 9 and 21 October and 26 November 2003.

888. The Special Rapporteur would like to reiterate his request to undertake an official visit in this country as expressed in his letter dated 8 December 2003.

Report of the Special Rapporteur on the right to freedom of opinion and expression, Mr. Ambeyi Ligabo, submitted in accordance with Commission resolution 2002/48, E/CN.4/2003/67/Add.1, 20 February 2003

Summary of cases transmitted to Governments and replies received

Zimbabwe

Communications sent

663. On 7 February 2002, the Special Rapporteur sent an urgent appeal concerning **Sally Sara**, an Australian journalist who was allegedly denied entry to the country as a journalist. This decision was reportedly taken after the passage by the Zimbabwe Parliament of the Access to Information and Protection of Privacy Bill. The bill denies foreign journalists accreditation for long periods and non-specific events. It was further reported that on 23 January 2002, the Department of Information and Publicity Permanent Secretary George Charamba had reportedly said in the State-owned newspaper, *The Herald*, that the request by the Australian Broadcasting Corporation to send a reporter to Zimbabwe was not genuine.

664. On 8 February 2002, The Special Rapporteur, jointly with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning **Gertrud Ntombemi**, a member of the Movement for Democratic Change (MDC), **Abednico Bhebhe** and **Peter Nyoni**, both MDC members of Parliament, and **33 MDC supporters** who are reportedly being held incommunicado without charge at a local police station in Nkayi district, Matabeleland North. On 6 February 2002, according to the information received, they were in a road convoy on their way to a rally prior to the presidential elections on 9 and 10 March, when they found the road blocked by boulders. Those inside the cars were then allegedly dragged out and beaten before being taken to the local police station. Thirty men were locked up in one cell and six women in another, in conditions which are

said to amount to cruel and degrading treatment. They were allegedly initially denied food and drink, despite the hot weather. It is said that they are being denied access to medical treatment despite reports that some are suffering from serious wounds, including Mr. Bhebhe who is reportedly in critical condition as a result of a head wound. In view of the incommunicado nature of their detention and the fact that some have allegedly been ill-treated upon arrest and need medical attention, fears have been expressed that the persons referred to above may continue to be at risk of torture or other forms of ill-treatment while in detention.*

665. On 28 March 2002, the Special Rapporteur sent an urgent appeal concerning **Sikumbuzo Dube**, a 25-year-old Zimbabwean poet reportedly facing a one-year prison sentence and a Z\$ 20,000 fine for writing and reciting a poem ridiculing President Robert Mugabe, which is a crime under the Public Order and Security Act, signed into law by President Mugabe shortly before the March 2002 presidential elections. Mr. Dube was reportedly remanded in custody for his trial scheduled on 3 April.

666. On 4 April 2002, the Special Rapporteur sent an urgent appeal concerning **Geoffrey Nyarota**, journalist and editor of the newspaper *Daily News*, who has reportedly been threatened by the Minister of State for Information and Publicity with prosecution under the new Access to Information and Protection of Privacy Act, in connection with a 22 March article reporting that the joint African, Caribbean, Pacific and European Union (ACP-EU) Parliamentary Assembly passed a resolution calling for a fresh presidential election in Zimbabwe at a meeting held in South Africa on 21 March. It is reported that in a letter to Mr. Nyarota, the Minister asked that the newspaper make an apology for the "deliberate falsehood" or face legal action under the terms of section 80(1) (a) (b) of the above-mentioned Act, dealing with the abuse of "journalistic privilege".

667. On 18 April 2002, the Special Rapporteur sent an urgent appeal concerning **Dumisani Muleya** and **Iden Wetherell**, respectively journalist and news editor at the *Zimbabwe Independent*. Mr. Muleya was reportedly arrested on 15 April and released later the same day, after being charged with criminal libel for a 12 April article alleging that the brother of the First Lady, Grace Mugabe, had asked his sister to intervene to resolve a labour dispute in which he was involved. It is reported that Mr. Muleya was additionally charged on 16 April of abusing "journalistic privilege" and publishing "falsehoods" under section 80 (b) of the Access to Information and Protection of Privacy Act, which prescribes a fine or jail sentence of up to two years. Mr. Wetherell was reportedly arrested on 17

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April charges of having published the abovementioned article, which was dismissed as untrue by the Department of Information and Publicity.

668. On 19 April 2002, the Special Rapporteur sent another urgent appeal concerning **Geoffrey Nyarota**, who was reportedly arrested on 15 April 2002 in the *Daily News* offices, for an article claiming that the Government has rigged President Mugabe's victory in the disputed presidential election the previous month and accusing the registrar general, Tobaiwa Mudede, of manipulating the results of the election in favour of Mr. Mugabe. Mr. Nyarota was reportedly released three hours after his arrest, after being charged under the Access to Information and Protection of Privacy Act, which prescribes fine or jail sentence of up to two years for journalists who "fabricate" or "manufacture" news or "abuse journalistic privilege".

669. On 3 May 2002, the Special Rapporteur and the Chairman-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal concerning the arrest of **Lloyd Mudiwa** and **Collin Chiwanza**, journalists with the *Daily News*, and **Andrew Meldrum**, correspondent for *The Guardian* newspaper in United Kingdom. According to the information the Special Rapporteur received, Mr. Meldrum, a United States national who is a permanent resident of Zimbabwe, was arrested on 1 May 2002. Mr. Mudiwa and Mr. Chiwanza were reportedly arrested on 30 April and were to appear in court on 2 May. The three journalists are said to be currently detained at the central police station in Harare. They have allegedly been charged with "abuse of journalistic privilege" which, under the Access to Information and Protection of Privacy Act, carries up to two years' imprisonment and a fine of Z\$ 100,000 upon conviction. The Special Rapporteur was informed that all three journalists had reported on the alleged beheading of a woman by militants of the ruling ZANU-PF (Zimbabwe African National Union Patriotic Front party), an event that has not yet been confirmed by reliable sources.*

670. On 21 May 2002, the Special Rapporteur sent an urgent appeal concerning the arrest of three staff members of the weekly *The Standard*, **Bornwell Chakaodza**, editor-in-chief, **Farai Mutsaka** and **Fungayi Kanyuchi**, both journalists. According to the information received, the three individuals were arrested on 16 May 2002 by the Criminal Investigations Department for allegedly "abusing journalistic privileges by publishing falsehoods". They were reportedly detained at the main police station in Harare. They were allegedly targeted for two articles: in the first article, entitled "Deadly riot gear arrives", Mr. Mutsaka allegedly stated that Zimbabwe had bought anti-riot tank from Israel, while in

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the second article, entitled "Police in sex for freedom deals?", Mr. Kanyuchi reported that some policemen were releasing prostitutes in exchange for sex. Mr. Chakaodza was charged because he was technically responsible for publishing the articles.

671. On 6 June 2002, the Special Rapporteur sent an urgent appeal concerning **Stenford Moyo** and **Wilbert Mapombere**, respectively president and secretary of the Law Society of Zimbabwe, who were reportedly arrested on 3 June 2002 on charges of writing subversive letters to the MDC Secretary-General Welshman Ncube, who dismissed the allegations, and British diplomats. Mr. Moyo and Mr. Mapombere were released the same day and rearrested the next. It is not clear whether the two men have appeared in court yet. According to information received, the arrest of Mr. Moyo and Mr. Mapombere may be related to the critical position adopted by the Law Society against partisan judges.

672. On 19 June 2002, the Special Rapporteur sent an urgent appeal to the Government concerning the arrest of around **85 demonstrators** on 17 June. According to information received, police attacked and arrested demonstrators for "illegal demonstration" during a rally organized by the MDC in central Harare. It is reported that heavily armed police officers fired tear gas and baton charged several hundred demonstrators, and that several of those arrested suffered serious injuries. It is reported that 62 members of the MDC were charged at a court in Harare and released later the next day. They were to go back to court on 20 June for a remand hearing.

673. On 11 July 2002, Special Rapporteur sent an urgent appeal to the Government concerning **Chris Gande**, a reporter from the *Daily News* in Bulawayo, who was apparently charged under section 80 (1) (b) of the Access to Information and Protection of Privacy Act for allegedly writing "falsehoods" with regard to the participants in a gala held in memory of a former Vice-President.

674. By his letter dated 26 July 2002, the Special Rapporteur drew the attention of the Government to information he received concerning alleged cases of violations of the right to freedom of opinion and expression of the following persons:

(a) On 14 January 2002, an all-night vigil at the Zimbabwean Parliament organized by **journalists** working for the independent media in Zimbabwe was cut short as police threatened to use force if the journalists defied an order to vacate. According to information received, the vigil was organized to protest the Access to Information and Protection of Privacy Bill, which was set to be passed on 15 January. As more and more truckloads of police and intelligence officers continued to arrive at the Parliament building, the journalists decided to call off

the protest. **Edwina Spicer** and **Jackie Cah**i, journalists, were reportedly arrested on 25 February 2002, accused of filming State House, which is a prohibited area under the Protected Areas Act, and held for 20 hours at Harare central police station. According to information received, Ms. Spicer and Ms. Cah*i* were filming Morgan Tsvangirai, leader of the MDC, as he went to the Morris Depot police station, which is near State House, where he was summoned to answer to charges of plotting to assassinate the President. Ms. Spicer and Ms. Cah*i* were reportedly charged with “failing to comply with the directive as to movement or conduct in a protected area”, but as no such directive seems to have been published, the Senior Public Prosecutor refused to prosecute them and they were released;

(b) **Around 1,400 people** were arrested during the presidential election of 9 and 10 March 2002 and detained without charge in overcrowded conditions. According to information received, those arrested were opposition party polling agents (responsible for monitoring vote counting), independent election observers and Zimbabwean citizens perceived to be supporters of the MDC;

(c) On 20 March 2002, two vendors of *The Daily News* were reportedly assaulted and their newspapers were destroyed in the town of Rusape. It is believed that the attacks were carried out by 15 young ZANU-PF party workers and purported war veterans. Twenty-year-old vendor **Tongai Manomano** and 28-year-old **Munyaradzi Mupingo** were attacked and forced to walk to the ruling party's offices in the town, where they were allegedly asked why they were selling the newspaper “in an area where the newspaper was banned”. It is further reported that they were later taken to the war veterans' office, where they were beaten with sticks and sjamboks (whips) on the soles of their feet and all over their bodies, and where money from the sale of the newspapers was allegedly taken from them;

(d) On 26 March 2002, **the Book Café**, which was founded in 1995 with the purpose of promoting cultural activities and artists through discussions and workshops, was barred by the police from holding any political discussions unless it sought clearance under the Public Order and Security Act (POSA). It is reported that since the enactment of POSA, police have issued orders that they have a right to grant or refuse permission to any group suspected of being political;

(e) Police and supporters of ZANU-PF have allegedly been harassing and assaulting people living in Chimanimani, in the eastern province of Manicaland, believed to be supporters of the MDC, as well as human rights defenders and other observers, in what is alleged to be an attempt to prevent news from getting out. It is also reported that those trying to document violence have also been

targeted. **Talance Barara**, a member of the MDC, was reportedly arrested on 5 April 2002 by Chimanimani police as he and three other MDC members were on their way to photograph the site of a burned-out homestead belonging to an MDC supporter. He was reportedly released 24 hours later. **Michael Shane Kidd** was reportedly arrested on 6 April 2002, apparently because he had given the camera to Mr. Barara. His lawyer, who allegedly arrived at the police station on the day he was arrested, was not able to see him until the following morning. On 8 April, a court reportedly ordered that Mr. Kidd be released and a subsequent medical examination confirmed that his eardrum was ruptured. Following a complaint lodged by Mr. Kidd at a different police station, the senior officer in charge of Chimanimani was reportedly charged with assault but was not suspended from duty;

(f) **Patrick Jemwa**, a Zimbabwe Broadcasting Corporation cameraman, was reportedly beaten by soldiers and seriously injured on 6 April 2002 while he was filming a march organized by the civic organization the National Constitutional Assembly, in Harare. It is reported that Mr. Jemwa sustained serious injuries and was taken to the Avenues Clinic, where he received treatment before being discharged;

(g) On 26 April 2002, the home of the senior Central Intelligence Organization officer in Chimanimani was firebombed and the following day 19 people were arrested by the police, including **Talance Barara** and **Michael Shane Kidd**, who were allegedly detained until 14 May when a court granted them bail. On 28 April, two lawyers reportedly tried to see them in the police station and were threatened at gunpoint by a senior police officer and the CIO officer whose home was burnt. The next day another lawyer reportedly managed to see Mr. Kidd and Mr. Barara, who had allegedly been tortured;

(h) **Tipason Madhobha**, a 25-year-old polling officer for opposition leader Morgan Tsvangirai in Gokwe during the March presidential election, was reportedly murdered and his body was found on 2 May 2002 in a stream. According to information received, Mr. Madhobha had been missing since 10 April, after he left his home with four neighbours to look for stray cattle. It is reported that when the five of them were in Manokore village, about 15 km from Mr. Madhobha's village, Kufazvinei, they were told by an elderly man that ZANU-PF youths in Ganye did not tolerate any strangers and they risked being attacked. According to information received, ZANU-PF youths were camped at Ganye Secondary School in Fundikwa village, where Mr. Madhobha was found dead;

(i) **Brian Mangwende**, a reporter with the newspaper *The Daily News*, was allegedly arrested by police officers from the Law and Order Section and the

Criminal Investigations Department in the eastern border city of Mutare on 10 May 2002, and was detained for two hours on allegations of having written a false story about the victimization of schoolteachers working in rural areas. It seems that the police did not charge him and did not record a statement from him;

(j) **Geoffrey Nyarota**, editor-in-chief of the newspaper *The Daily News* (see above), was arrested on 20 May 2002 around 10 a.m. at the newspaper's offices for "publishing falsehoods" and breaching provisions of the Access to Information and Protection of Privacy Act. He was reportedly released five hours later after he was charged under section 80 (1)(b) of the Act;

(k) **Bornwell Chakaodza** and **Fungayi Kanyuchi**, respectively editor and entertainment editor of the weekly English-language newspaper *The Standard*, were arrested on 28 May 2002 on allegations of having written falsehoods. It is reported that the arrest is connected to an article entitled "The private media's burden" that appeared in the newspaper on 26 May, which criticized the manner in which the police handled journalists. It is reported that Mr. Chakaodza and Mr. Kanyuchi had to sign warned and cautioned statements in the presence of their lawyer and were released immediately afterwards;

(l) The broadcasting station **Joy TV** closed down on 31 May 2002, after its lease agreement with the Zimbabwe Broadcasting Corporation was cancelled on the grounds that the agreement violated the 2001 Broadcasting Services Act. Joy TV was leasing TV2, a second station owned by the State-controlled ZBC, which is now the sole broadcaster in the country, and although the 2001 Act purportedly regulates the entry of other broadcasters into the industry, no private station has yet been licensed to date;

(m) On 5 June 2002, the Minister of State for Information and Publicity, Jonathan Moyo, reportedly appointed a Media Commission to regulate the operations of the industry, as provided for in the Access to Information and Protection of Privacy Act. According to information received, the Commission is made up of supporters of ZANU-PF: Tafataona Mahoso, chairperson, Rino Zhuwarara, Sephath Mlambo, Pascal Mukondiwa, Jonathan Maphenduka and Alpinos Makoni. It is alleged that journalists and media outlets were not consulted in the process of making the appointments, although section 40 (2) of the Act clearly states that "The Board shall consists of no fewer than five members and not more than seven members (at least three of whom shall be nominated by an association of journalists and an association of media houses)"

(n) The Government reportedly announced on 19 June 2002 an amendment to the Access to Information and Protection of Privacy Act, requiring that owners of

media outlets and journalists pay exorbitant fees in order to operate and work in Zimbabwe. According to information received, the new law stipulates that domestic media must pay an application fee of Z\$ 20,000 (approximately US\$ 360) and a registration fee of Z\$ 500,000 (US\$ 9,000) and foreign media will be charged an application fee of Z\$ 2,000 (US\$ 36) and a registration fee of US\$ 10,000. In addition, it is reported that Zimbabwean correspondents for foreign media are required to pay an application fee of US\$ 50 and an accreditation fee of US\$ 1,000, foreign journalists will be charged US\$ 600 for temporary accreditation and local journalists will be required to pay an application fee of Z\$ 1,000 (US\$ 18) and an accreditation fee of Z\$ 5,000 (US\$ 90);

(o) According to information received, at a time of a major food crisis in Zimbabwe, authorities and ZANU-PF supporters allegedly withhold food aid from people believed to be supporting the opposition to President Mugabe. It is reported that distribution of food packages has been halted by the authorities in several areas known to be opposition strongholds, and it is said that there has been interference with relief programmes by local officials and ZANU-PF militants. It is reported that similar acts of discrimination occurred in the towns of Masvingo and Gutu, as well as in Kwekwe, Norton, Plumtree, Beitbridge, Victoria Falls, Chipinge, Kariba and Tsholotsho, north of Bulawayo;

(p) Since the March presidential elections, militia, using the lists of names and addresses of those who acted as polling officers for the MDC, have allegedly attacked, abducted and destroyed the homes of middle-ranking opposition officials. Further reports state that militia resort to rape and sexual torture to intimidate and “punish” those perceived as opposition supporters, in particular in the towns of Kwekwe, Chinhoyi and Gokwe, as well as in Mashonaland Central Province and in Masvingo. It is also reported that dozens of people are being held in illegal detention in some 50 militia camps around the country, reportedly for “re-education”, where some are allegedly beaten and tortured.

676. On 18 October 2002, the Special Rapporteur, jointly with the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to education, sent an urgent appeal regarding **627 teachers** who were reportedly dismissed on 14 October 2002 by the Public Service Commission, an organism mandated to manage the hiring, promotion and dismissal of public servants in Zimbabwe. It is reported that the teachers had been on strike since the previous week, asking for a long-awaited wage increase that would compensate for their loss of purchasing power following the inflation and devaluation of the Zimbabwean dollar. **Raymond Majongwe**, the Secretary-General of the Progressive Teachers' Union of Zimbabwe (PTUZ), was arrested for picketing, allegedly threatening teachers who were not involved in the strike. According to the information received, he

was injured during his 48 hours in police custody and appeared before the court with a torn shirt and injuries to one eye and an arm. On 16 September, he was reportedly re-arrested. Two other leaders of the PTUZ, **Innocent Moyo** and **Enoch Paradzayi**, were also arrested on 15 October on charges of disturbing public order. The three are believed to be currently held incommunicado. Fears have thus been expressed that they may be at risk of torture or other forms of ill-treatment.*

Communication received

677. The Government of Zimbabwe sent a letter to the Special Rapporteur on 7 June 2002, in reply to his urgent appeal dated 6 June 2002. In that letter, the Government rejected the contents of the Special Rapporteur's appeal and stated that the arrest of Stenford Moyo and Wilbert Mapombere was considered lawful by the High Court of Zimbabwe.

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, submitted in accordance with Commission resolution 2001/47, E/CN.4/2002/75/Add.2, 25 February 2002

Country situations

Zimbabwe

Communications sent

109. On 12 February 2001, the Special Rapporteur transmitted an urgent appeal regarding the bombing of the printing presses of the independent newspaper *The Daily News* in Southerton, in the suburbs of Harare, on 28 January 2001 which caused extensive material damage to five of the six printing presses of the daily estimated at US\$ 2 million. It was reported that, on 27 January 2001, a few hours before the bombing, Information Minister and Government spokesperson Jonathan Moyo had told the Zimbabwe Broadcasting Corporation (ZBC) that the State would silence *The Daily News* because it posed a security risk to the nation. Furthermore, a number of government officials who had become increasingly critical of the newspaper's independent stance, had threatened on several occasions to "close down" *The Daily News*, which had published wide-ranging allegations of corruption and mismanagement against the Government of President Robert Mugabe. Furthermore, the Special Rapporteur raised his

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concern that **Davison Maruziva**, deputy director of *The Daily News*, and reporters **Conrad Nyamutata** and **Luke Tamborenyoka** had been arrested and questioned by officers of the Criminal Investigative Department (CID) in Harare two days before the bombing, in connection with an October 2000 article which said that members of the opposition Movement for Democratic Change (MDC) had filed a lawsuit against President Mugabe in the United States for political violence that occurred during the June 2000 general elections.*

110. On 17 August 2001, the Special Rapporteur sent an urgent appeal regarding the arrest and detention of **Geoff Nyarota** and **Wilf Mbanga**, respectively editor-in-chief of *The Daily News* and former chief executive officer of the Associated Newspapers of Zimbabwe (ANZ), the company that publishes *The Daily News*, on 8 November 2001 by plain clothes police officers, who took them to CID headquarters. Neither of them was informed of the charges against them. However, it was alleged that these arrests were related to criticisms made against the Government by this independent daily newspaper.

111. On 24 August 2001, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, issued a press release expressing their extreme concern about reports of death threats against five Zimbabwean journalists who had publicly denounced the repeated violations of press freedom in their country, namely **Basildon Peta**, news editor of the weekly *Financial Gazette* and correspondent for *The Independent* of London and the *Star* of Johannesburg, **Geoff Nyarota**, editor of the *Zimbabwe Daily News*, **Iden Wetherell**, editor of the *Zimbabwe Independent*, **Mark Chavunduka** and **Cornelius Nduna**, respectively editor and news editor of *The Standard*.*

112. On 12 September 2001, the Special Rapporteur transmitted a communication regarding the announcement on 13 June 2001 by the Government of Zimbabwe that foreign journalists were going to be required to apply for accreditation from the Information Department at least a month before their entry into the country. The foreign journalists would be able to make their travel arrangements only when they had clear indications from the Department on the accreditation status of applicants. In the same communication, the Special Rapporteur raised his concern that on 20 June 2000, a car used by four journalists, namely **Beatrice Khadige**, a correspondent of the French news agency Agence France Presse, **Guy Oliver** and **Brian Ramapulana**, two journalists of the South African television station E-TV, and **Sharon Chetty**, a correspondent of the South African private daily *Sowetan*, was attacked with stones and clubs by several militants of the

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

Zimbabwe African National Union-Patriotic Front at a tobacco plantation south of Harare. Furthermore, the Special Rapporteur noted with great concern that on 3 July 2001, **Chris Mazivanhanga**, a cameraman with the Associated Press (AP), **Tsvangirai Mukwazhi**, a photographer with *The Daily News* and **Cornelius Nduna**, news editor of *The Standard*, were arrested while taking pictures of three burning laundries in the suburb of Budirio, following the general strike organized by the country's trade unions (ZCTU) to protest against a 70 per cent fuel price increase decided by the Government. The three journalists were accused of interfering with police investigations, detained overnight and released the following morning. Their equipment was not returned. The Special Rapporteur also considered the case of the Government's decision of 25 July 2001 to cease the granting of accreditation to BBC journalists wishing to cover Zimbabwe. The decision followed a report from Rageh Omaar, special reporter of the BBC World Service, relating to a speech by President Mugabe during the opening session of parliament on 24 July 2001. The journalist stated that President Mugabe promised to continue with the forcible acquisition of White-owned farmland, while authorities assert that the President spoke of "lawful acquisition", not "forcible acquisition".*

113. On 9 November 2001, the Special Rapporteur again sent an urgent appeal concerning the arrest and detention of **Geoff Nyarota** and **Wilf Mbangwa** (see above).

114. On 19 November 2001, the Special Rapporteur, jointly with the Special Representative on human rights defenders, sent an urgent appeal concerning the cases of **David Coltart**, a prominent and well-respected human rights lawyer and member of Parliament, **Morgan Tsvangirai**, leader of the MDC, and other members of the political opposition in Zimbabwe. Mob violence in the city of Bulawayo directed against members of the MDC had forced Mr. Coltart into hiding. On 15 November 2001, Mr. Coltart was detained by police in Harare and then released after two hours. Mr. Coltart had campaigned for many years to improve access to legal services and to uphold the basic rights of everyone in Zimbabwe. Furthermore, Vice-President Joseph Msika and other government officials appeared to incite violent action against members of the MDC, and the ruling ZANU-PF party accused MDC members of being responsible for the abduction and murder of Cain Nkala, Chairman of the Bulawayo War Veterans Association, an armed militia closely associated with the ZANU-PF party.*

115. On 28 November 2001, the Special Rapporteur sent a communication

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

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concerning the approval by the Government of the Public Order and Security Bill to replace the Law and Order Maintenance Act (LOMA). The Public Order and Security Bill is meant to deal with acts of terrorism, treason, banditry, sabotage, insurgency and subversion, and provides that the publication or communication of false statements that are prejudicial to the State or that incite public disorder or violence, affect the defence and economic interests of the country, undermine public confidence in the security forces, or disrupt or interfere with an essential service is an offence. Those found guilty will be fined up to 100,000 Zimbabwe dollars, or jailed for five years, or both. The bill also makes it an offence to undermine the authority of the President by making public statements or publishing in print or electronic media statements that engender hostility towards the President. Those convicted of these offences will face a fine of up to 10,000 Zimbabwe dollars, or imprisonment for up to one year. Senior police officers will be the regulatory authorities for the bill when it becomes law and will have powers to control public gatherings and crowds whenever it deems it reasonable to do so.

Press release

116. The Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal on 22 August 2001 concerning the death threat against **Basildon Peta**, 30 years old, news editor of the weekly *Financial Gazette* and a stringer for *The Independent* of London and the *Star* of Johannesburg. On 19 August 2001, the privately owned *The Standard* reported that Mr. Peta, along with four other journalists, was on a hit list compiled by the Law and Order Section of the Zimbabwe police and the Central Intelligence Organization, which oversees internal security. The other journalists listed were: **Geoff Nyarota**, editor of the *Zimbabwe Daily News*; **Iden Wetherell**, editor of the *Zimbabwe Independent*; **Mark Chavunduka** and **Cornelius Nduna**, respectively editor and news editor of *The Standard*. According to the article, the five Zimbabwean journalists, who were under special surveillance by State agents, would have been “killed or harmed” before presidential elections.*

Communications received

117. In reply to the communication of the Special Rapporteur dated 12 September 2001, the Government of Zimbabwe explained, in a letter dated 28 September 2001, that the accreditation of BBC correspondents was suspended until further notice pending agreement on an ethical and professional code of conduct. With regard to the attack of certain journalists by ZANU-PF militants, the Government explained that it was impossible for the journalists to identify their attackers as

party supporters. Furthermore, the Government informed the Special Rapporteur that journalists were put in protective custody for their own safety, which the police could not guarantee in the riotous situation. This explains why they were released the following morning.

118. In a letter dated 19 November 2001, the Government of Zimbabwe replied to the concerns expressed by the Special Rapporteur in his communication dated 9 November 2001. The Government informed the Special Rapporteur that Mr. Nyarota and Mr. Mbanga were arrested on allegations of having made misrepresentations to the Zimbabwe Investment Centre in their application to obtain a licence to publish *The Daily News*; they had indicated that they wanted to publish some weekly papers but instead published a daily. This contravened section 40 of the Zimbabwe Investment Centre Act. The arrest of Mr. Nyarota and Mr. Mbanga was in accordance with the relevant criminal laws of Zimbabwe and was in no way related to their criticisms against the Government.

119. In a letter dated 5 December 2001, the Government acknowledged receipt of the communication dated 28 November 2001.

Observations

120. The Special Rapporteur thanks the Government of Zimbabwe for acknowledging receipt of his communications. He awaits further information on the above-mentioned cases. The Special Rapporteur is extremely concerned at the state of freedom of opinion and expression in Zimbabwe. Therefore, he hopes to be granted an invitation to visit before the next presidential elections.

Visit

121. In September 2001, the Special Rapporteur requested the Government of Zimbabwe to extend an invitation to carry out an official visit.

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, submitted in accordance with Commission resolution 1999/36, E/CN.4/2000/63, 18 January 2000

II. Activities

3. During the period under review, the Special Rapporteur sent 11 allegations and 56 urgent actions. Seeking to avoid unnecessary duplication of the activities of the other thematic special rapporteurs and country-specific rapporteurs, the

Special Rapporteur has joined during the past year with the Special Rapporteur on the question of torture on 4 cases of allegations (Azerbaijan, Chad, Democratic Republic of the Congo and **Zimbabwe**) and on 12 cases of urgent appeals [...].

III. Issues

C. Criminal libel and defamation

50. International jurisprudence also supports the view that Governments and public authorities as such should not be able to bring actions in defamation or insult. The Human Rights Committee has, for example, called for the abolition of the offence of “defamation of the State”. While the European Court of Human Rights has not entirely ruled out defamation suits by Governments, it appears to have limited such suits to situations which threaten public order, implying that Governments cannot sue in defamation simply to protect their honour. A number of national courts (e.g. in [...] **Zimbabwe**) have also refused to allow elected and other public authorities to sue for defamation.

IV. Country situations

Zimbabwe

Communication sent

199. On 6 October 1999, the Special Rapporteur sent a joint allegation with the Special Rapporteur on the question of torture regarding the cases of **Mark Chavudunka**, editor of the independent Sunday newspaper *The Standard*, and **Ray Choto**, chief reporter for the same newspaper. Mark Chavudunka was arrested on 12 January 1999 by the military police in Harare and allegedly detained incommunicado for six days. According to the source he was accused of having published an article on 10 January 1999 with regard to the arrest of 23 military officers for plotting a coup in December 1998. Ray Choto was reportedly arrested on 19 January 1999 by the police. Both journalists have reportedly sustained serious injuries as a result of torture during their detention at the military police station. Despite the fact that both journalists were released on bail on 21 January 1999, they are still facing charges under the Law and Order Maintenance Act for “publishing false reports”. *

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

VIII/ SPECIAL RAPPORTEUR ON THE RIGHT TO EDUCATION

Report of the Special Rapporteur, Katarina Tomasevski, submitted pursuant to Commission on Human Rights resolution 2002/23, E/CN.4/2003/9, 21 January 2003

A. Eliminating obstacles to teaching

38. The global commitment to the quality of education entails the elimination of obstacles to teaching and learning and this, in turn, requires full recognition of the rights of both learners and their teachers. The Commission's mention of teachers, for the first time, in its resolution 2002/23 has inspired the Special Rapporteur to amplify her previous work on the affirmation of the rights of teachers, especially by studying the obstacles thereto (E/CN.4/2002/60, paras. 50-51; E/CN.4/2001/52, para. 16; E/CN.4/2000/6, paras. 42-44). Alongside her previous work, in cooperation with the ILO, on clarifying constraints upon the rights of teachers in Ethiopia (E/CN.4/2001/52, para. 19), the Special Rapporteur sent a joint letter to the Government of **Zimbabwe** on 18 October 2002 together with the Special Rapporteurs on torture and on freedom of opinion and expression and the Working Group on arbitrary detention. That urgent appeal sought to clarify the fate of numerous teachers whose protests against their collective dismissal were reportedly suppressed. The dismissal itself seems to have been prompted by a teachers' strike. Since no reply was received by the time this report had to be finalized, the Special Rapporteur will continue her efforts to clarify the fate of the teachers, the background and circumstances of the events that seem to have jeopardized not only their livelihoods but also their lives, and the evolving government policy regarding the status of teachers.*

* Please note that cases raised in joint urgent appeals and joint communications will also be mentioned under the other relevant special procedures sections.

IX/ SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD

Report submitted by the Special Rapporteur on the right to food, Jean Ziegler, in accordance with Commission on Human Rights resolution 2002/25, E/CN.4/2003/54, 10 January 2003

III. Allegations of violations of the right to food

Zimbabwe

54. On 11 July 2002, the Special Rapporteur wrote to the Government of Zimbabwe concerning the famine in the country and allegations of violations of the right to food. Despite the famine, the Special Rapporteur had received allegations from non-governmental and international organizations that government actions were contributing to the deterioration of the food situation, notably alleging that in some regions food relief was being distributed in priority to government supporters. The Special Rapporteur requested the Government to provide further information on these allegations. He reminded the Government of the obligation to respect the right to food and emphasized the principle that food should never be used as an instrument of political or economic pressure.

X/ SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION OR BELIEF

Report submitted by Mr. Abdelfattah Amor, Special Rapporteur on freedom of religion or belief, in accordance with Commission on Human Rights resolution 2002/40, E/CN.4/2003/66, 15 January 2003

A. Report on communications sent by the Special Rapporteur and replies received from States since the issuance of the report submitted to the Commission on Human Rights at its fifty-eighth session

7. Since the publication of the most recent report (E/CN.4/2002/73), 37 communications [...] have been sent to 24 States: [...] **Zimbabwe**.

Zimbabwe

79. The communication sent to Zimbabwe and the Government's reply are described in paragraphs 57 and 58 of the above-mentioned report.²

² See Interim Report of the Special Rapporteur A/57/274.

Interim report prepared by Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights on freedom of religion or belief, in accordance with General Assembly resolution 56/157 of 19 December 2001, A/57/274, 15 July 2002

Zimbabwe

57. On 4 March 2002, the Special Rapporteur sent a communication to the Government of Zimbabwe regarding **11 Christians**, including 4 clergymen who were reportedly arrested on 16 February 2002 while taking part in a prayer procession for peaceful elections. Prohibited from holding a “prayer walk” by the local police, church members reportedly took to their cars for a “prayer drive”. The Anglican organizer of the initiative, **Reverend Noel Scott**, was allegedly arrested shortly after the drive and ordered to surrender his Zimbabwean passport before being released from prison. Ten others, including a woman, were reportedly arrested and charged with obstruction.

58. By a letter dated 8 March 2002, Zimbabwe replied:

“The law in Zimbabwe clearly states that any procession, gathering or rally cannot take place without clearance from the police. The persons mentioned were acting against the law when they proceeded with their procession in defiance of the advice of the police, hence their arrest. While Zimbabwe guarantees religious freedom and expression, this freedom has to be enjoyed within the confines of the law.”

XI/ SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES

Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 2002/52, E/CN.4/2003/75/Add.1, 27 February 2003

Zimbabwe

Issues of concern

657. Since independence, the Government has enacted laws aimed at enhancing women's rights and countering certain traditional practices that discriminate against women. However, women remain disadvantaged in society. Illiteracy,

economic dependency and prevailing social norms prevent rural women in particular from combating societal discrimination. Despite legal prohibitions, women still are vulnerable to entrenched customary practices, including the practice of pledging a young woman to marriage with a partner not of her choosing and the custom of forcing a widow to marry her late husband's brother.

658. According to information received domestic violence, especially wife-beating, is common and crosses all racial and economic lines. It occurs throughout the country and sometimes results in death. The Musasa Project, a leading woman's rights organization, reported that the number of incidents of domestic violence increased during 2001 due to the deteriorating economy and higher unemployment among men.

659. There continued to be reports of rape, incest, and sexual abuse of women. Many cases were not reported because of the social stigma attached to the crime and wives' fear that husbands may disown them. It is reported that the actual number of politically motivated rapes may number in the hundreds. There were instances of gang rapes of young girls and elderly women and rapes of female farm workers and health care workers during the pre-election period in 2000. Women face many obstacles in filing reports of rape; for example, many police stations are not prepared to handle properly the investigation of such cases. In addition women are reluctant to file reports because of the social stigma of rape. When cases go to court, lengthy sentences for rape and wife-beating generally are imposed. However, a "binding over" order (an order to appear in court to respond to an accusation of violent behavior) is issued based only on actual physical abuse and not on threats of violence. Courts also do not have the power to oust an abusive spouse from a couple's home. Systemic problems and lack of education often mean that police do not respond to women's reports or requests for assistance. The legal system generally does not discriminate against women or minorities. Some High Court judges reportedly imposed lenient sentences in some cases of rape and child sexual abuse, and local women's and legal organizations challenged these decisions.

660. Female genital mutilation (FGM) rarely is performed in the country. However, according to press reports, the initiation rites practiced by the small Remba ethnic group in Midlands Province include infibulation, the most extreme form of FGM.

661. Although labor legislation prohibits discrimination in employment on the basis of gender, women are concentrated in the lower echelons of the work force and commonly face sexual harassment in the workplace. It is estimated that one in three working women at all levels were subjected to sexual harassment in the workplace.

662. There were an estimated 12,000 homeless street children in the country in 1999, and the number was estimated to be at least twice that number during 2001. The number of incidents of child abuse, including incest, infanticide, child abandonment, and rape is reportedly increasing. There was a large volume of rape cases in the Harare victim-friendly courts (VFC), which consist of individual magistrates designated to try family cases. The large volume led to calls by children's rights' advocates to establish additional courts in surrounding areas. Children are at increasing risk of HIV/ AIDS infection as a result of the rising rate of sexual abuse cases. The 2000 case in which war veterans abducted and sexually abused 10 schoolchildren was reportedly under investigation; however, there was no further information available at the beginning of 2002.

663. The traditional practice of offering a young girl as compensatory payment in interfamily disputes continued in 2002. Indigenous African churches that combine elements of established Christian beliefs with some beliefs based on traditional African culture and religion generally accept polygamy and the marriage of girls at young ages; they also generally approve of healing only through prayer and oppose science-based medicine including the vaccination of children.

664. There are reports of child labour, including reports of an increasing number of girls engaged in prostitution. Trafficking of persons was a growing problem in the country. There continued to be reports that persons were trafficked, particularly women and children, from the country to South Africa for prostitution and forced labor; the country also is a transit point for the trafficking of persons from Asia, Mozambique, and Malawi to South Africa. In cases where trafficking is discovered, the ZRP usually focused on the illegal immigration status of the victims rather than the activities of the traffickers. Most discovered victims of foreign nationality were detained and then deported.

PART III. UN PRESS RELEASES

Acting High Commissioner for Human Rights concerned over arrests of trade unionists in Zimbabwe, 20 November 2003

The following statement was issued on 20 November 2003 by acting High Commissioner for Human Rights Bertrand Ramcharan:

"The acting United Nations High Commissioner for Human Rights expresses his concern regarding reports that more than 100 trade unionists and civil leaders have been arrested on 18 November 2003 during a protest demonstration in the capital Harare.

Last month, the Commission on Human Rights' Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo; the Chairperson-Rapporteur of the Commission's Working Group on Arbitrary Detention, Leila Zerrougui, and the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, also expressed concern regarding the arrest of more than forty trade unionists during a national protest demonstration.

The Acting High Commissioner appeals to the Zimbabwean authorities to take all necessary measures to guarantee the rights of the detained persons and to secure their right to freedom of opinion and expression in accordance with the fundamental principles as set forth in the Universal Declaration of Human Rights and reiterated in the international human rights norms and instruments".

UN rights expert welcomes withdrawal of criminal charges against judge in Zimbabwe, 3 July 2003

The Special Rapporteur on the independence of judges and lawyers of the United Nations Commission on Human Rights, Dato' Param Cumaraswamy, today welcomed the withdrawal of all criminal charges against retired Judge Fergus Blackie by the public prosecutor in Zimbabwe. "This is a step in the right direction towards respect for the independence of the judiciary and the rule of law in Zimbabwe", the Special Rapporteur said.

The Special Rapporteur urges the public prosecutor to similarly withdraw the criminal charge preferred against Justice Benjamin Paradza on 18 February 2003 for alleged obstruction of justice.

On two previous occasions (press releases on 24 September 2002 and 19 February 2003), the Special Rapporteur has expressed grave concerns over the criminal charges brought against Judge Blackie and Justice Paradza and their implications on judicial independence and the rule of law in Zimbabwe.

On 19 February, the Special Rapporteur said, among other things, "What is common and very conspicuous about the alleged charges against Justice Paradza and retired Judge Blackie is that the principle witnesses to prove the alleged charges, would be fellow judges. This is pitting judges against judges and setting the members of the judiciary on a collision course between what will be seen as the independents and the complaints...".

The Special Rapporteur will continue to monitor developments in Zimbabwe on the rule of law and independence of judges and lawyers.

Expert expresses grave concern over arrest of another judge in Zimbabwe, 19 February 2003

Dato' Param Kumaraswamy, the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers, today expressed grave concern over the arrest and detention of another judge in Zimbabwe.

According to the Special Rapporteur, the judge, Justice Benjamin Paradza, charged with an alleged obstruction of justice, was arrested in his chambers and detained overnight on 17 February 2003. He was then brought before a court on the morning of 18 February 2003 and released on bail. Justice Paradza had previously handed down decisions that were unpalatable to the Zimbabwean Government. In January 2003, soon after Justice Paradza delivered his judgment on the Harare Mayor Elias Mudzuri case, ordering his release, he was intimidated and threatened with reprisal by police intelligence officers. The Government is reported to have alleged that Justice Paradza had attempted to influence a fellow judge in a case involving an application for the release of a passport of an accused in a murder trial.

Last September 2002, retired Judge Blackie was arrested and detained in humiliating circumstances and subsequently charged with obstruction of justice. Prior to his retirement, Judge Blackie had convicted and sentenced the country's Minister of Justice to three months imprisonment for contempt of court. The Government had alleged that Judge Blackie had delivered a judgment quashing an appeal of a jail term imposed on a white woman without concurring with the other judge who sat on the appeal with him. In a press release of 24 September,

Mr. Cumaraswamy had expressed his outrage over that arrest, detention and charge.

"What is common and very conspicuous about the alleged charges against Justice Paradza and retired Judge Blackie is that the principle witnesses to prove the alleged charges would be fellow judges. This is pitting judge against judge and setting the members of the judiciary on a collision course between what will be seen as the independents and the compliants. While judges are not above the law, subjecting them to arrest and detention in such humiliating circumstances is tantamount to intimidation of the gravest kind. This leaves a chilling effect on the independence of the judiciary."

"This latest development is but one in a series of institutional and personal attacks on the judiciary and its independent judges over the past two years, which have resulted in the resignations of several senior judges and which have left Zimbabwe's rule of law in tatters.

"When judges can be set against one another, then intimidated with arrest, detention and criminal prosecution there is no hope for the rule of law which is the cornerstone of democracy. It paves the way for governmental lawlessness," the Special Rapporteur said.

Developments in Zimbabwe a threat to peace, democracy and rule of law in Africa, says UN rights expert, 24 September 2002

The following statement was issued today by the Special Rapporteur on the independence of judges and lawyers of the United Nations Commission on Human Rights, Dato' Param Cumaraswamy:

The United Nations Special Rapporteur on the independence of judges and lawyers once again expresses his outrage over the further deterioration of the rule of law in Zimbabwe. The latest arrest, detention and charges preferred against retired High Court Judge Blackie for alleged corruption and obstruction of justice and the dismissal by the High Court of the judge's application for habeas corpus are yet another clear systematic attack on the basic fabric of democracy i.e. the rule of law in Zimbabwe.

There is reasonable cause to believe that this latest arrest, detention and charges against Justice Blackie are an act of vendetta by the Government over the earlier conviction of and sentence of imprisonment and fine imposed on the Minister of Justice, Patrick Chinamasa, on July 17 by Justice Blackie for contempt of court.

That same conviction and sentence was subsequently set aside by a Supreme Court judge.

When judges can be arrested, detained and charged on trumped up facts for exercising their judicial functions then there is no hope for the rule of law in such countries. It is a blatant and wanton breach of Principle 2 of the United Nations Basic Principles on the Independence of the Judiciary. Principle 2 provides:

"The judiciary shall decide matters before it impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason"

The Special Rapporteur also views with grave concern a recent ruling of the High Court refusing the official opposition for access to the voters' roll in a pending court action challenging the legality of the recent Presidential elections. The voters' roll must necessarily be a crucial and material evidence in the action. He has learnt that an appeal from that order will be heard by the Court of Appeal on October 1, 2002.

The Special Rapporteur has further learnt that President Mugabe recently has threatened the shadow Minister of Justice, Bulawayo attorney, David Coltart, saying that the only place in Zimbabwe for him, (David Coltart) will be in prison.

The Special Rapporteur in no less than five previous occasions publicly expressed his grave concerns over the deterioration of the rule of law in that country. The Government obviously is impervious to international concerns and outrage.

The Special Rapporteur once again calls on the international community to continue its pressures and double its efforts to get the Government of Zimbabwe to comply with its obligations under the Constitution and international law. The prevailing lawlessness in the Government is not only a menace to the people of Zimbabwe but if allowed unabated could threaten peace, democracy and the rule of law in the African region.

UN expert calls upon international community to take action to stop deterioration in rule of law in Zimbabwe, 2 September 2002

The following statement was issued on 30 August 2002 by the Special Rapporteur of the United Nations Commission on Human Rights on the independence of judges and lawyers, Dato' Param Cumaraswamy:

The United Nations Special Rapporteur on the independence of judges and lawyers again expressed his outrage about the continual undermining of the independence of the judiciary and the attacks on the rule of law in Zimbabwe.

The Special Rapporteur has received information that Walter Chikwanha, a magistrate in Chipinge, Manicaland had been assaulted and dragged out of court by a group of so-called "war veterans", supporters of President Mugabe, after he refused to place into custody several individuals, including five members of the main opposition party, the Movement for Democratic Change.

The Special Rapporteur has also been informed that after attacking the magistrate, the group of individuals went after the lawyer for the MDC officials, Langton Mhungu and vandalized his car. As a result, the lawyer concerned and his family have left Chipinge for Mutare. In protest of these actions, magistrates and prosecutors of Manicaland went on strike from 19 to 23 August.

"The provision of adequate protection to judges and lawyers when their safety is threatened is a basic prerequisite for safeguarding the rule of law," Mr Cumaraswamy stated. "This is simply fundamental, in order to guarantee the right to a fair trial by an independent and impartial tribunal and the protection of human rights."

"The apparent failure to do so in this case represents a serious threat to the independent judicial system in Zimbabwe. Unfortunately, this represents another example of the Government of Zimbabwe's continuing disregard for the independence of the judiciary and contempt for the rule of law. The assault on the magistrate within the four walls of his court house can only be viewed as a blatant attack on the rule of law."

The Special Rapporteur called upon the Government to publicly condemn these acts of violence against the judiciary, to reassert its commitment to the independence of the judiciary and to prosecute all those responsible for this heinous act. The Special Rapporteur also called upon the international community to redouble its efforts to ensure that the rule of law is respected in Zimbabwe.

UN expert on the independence of judiciary deeply concerned over arrest of Zimbabwe law society officials, 6 June 2002

The following statement was issued today by the Special Rapporteur of the United Nations Commission on Human Rights on the Independence of Judges and Lawyers, Dato' Param Cumaraswamy:

The UN Special Rapporteur on the Independence of Judges and Lawyers, Dato' Param Cumaraswamy, expressed his deep concern over the arrest and detention of the President of the Law Society of Zimbabwe, Sternford Moyo and its Executive Secretary, Wilbert Mapombere, in Harare on June 3, 2002 for alleged possession of "subversive" documents relating to the mass action allegedly planned by the Movement for Democratic Change (MDC).

It is learnt that the home of the President and the office of the Law Society were searched for the alleged documents by the police and no such alleged documents were found. However, both the President and the Executive Secretary are charged under the draconian Public Order and Security Act for an offence which provides for a maximum 20 years imprisonment.

The Special Rapporteur has also been informed that recently the President on behalf of the Law Society published a report expressing the Society's concerns, inter alia, on the pressures on the judges resulting in the resignation of several judges.

The UN Basic Principles on the Role of Lawyers provides, inter alia, that lawyers shall seek to uphold human rights and fundamental freedoms recognised by national and international law.

From the information received the Special Rapporteur believes that both the leaders of the Law Society have been arrested, detained and charged for expressing their association's concerns over the deterioration of the rule of law in Zimbabwe.

The Special Rapporteur has previously in press statements and his report to the fifty-eighth Session of the Commission on Human Rights last April expressed very grave concerns over the deterioration of the rule of law and acceleration of governmental lawlessness in Zimbabwe. This latest arrest and detention further reflects the continuation of the systematic attacks on the independence of judges and lawyers by the Government and its agencies.

The Special Rapporteur calls on the Government of Zimbabwe to comply with its international obligations and respect the role of lawyers and release the two

leaders of the Law Society and withdraw all charges against them unconditionally.

UN rights expert concerned over developments in Zimbabwe, 7 March 2002

The United Nations Special Rapporteur on the Independence of Judges and Lawyers, Dato' Param Cumaraswamy, expressed grave concern today over the latest developments in Zimbabwe.

According to the Special Rapporteur, Zimbabwe's President Robert Mugabe is reported to have defied a Supreme Court order delivered on February 27 striking down electoral legislation on grounds that it was improperly enacted by Parliament. The President reinstated by an executive edict published in the Government Gazette on March 5 the same legislation, asserting that it was validly enacted and "shall be deemed to have been lawfully" adopted.

"This action is a blatant violation of the United Nations Basic Principles of the Independence of the Judiciary, which expressly provide that States should guarantee the independence of the judiciary and that decisions of the courts should not be subject to revision save by lawfully constituted appellate courts", Mr. Cumaraswamy said.

The Special Rapporteur added that he has also learnt that Justice Ebrahim, who presided the Supreme Court which delivered the judgment, has since resigned. Mr. Cumaraswamy recalled that Justice Ebrahim was the last of seven Supreme Court judges to step down since the early retirement, under pressure, of Chief Justice Anthony Gubbay in March 2001.

"These latest developments", the Special Rapporteur continued, "seen in the light of previous attacks, harassment and intimidation of the judiciary by the executive and others, as well as defiance of court orders by the Government, are indicative that Zimbabwe is no longer a government of laws but of men who have no regard whatsoever for the independence of the judiciary and the majesty of the law".

"Defiance of court orders in effect is defiance of the rule of law", he said. "When it is the Government and its agents who defy then governmental lawlessness becomes the order of the day".

The Special Rapporteur will raise these concerns when he presents his reports to the fifty-eighth session of the United Nations Commission on Human Rights on 4 April 2002.

High Commissioner for Human Rights concerned over deteriorating situation in Zimbabwe, 16 January 2002

United Nations High Commissioner for Human Rights Mary Robinson expressed growing concern today over the deteriorating situation in Zimbabwe and the risks of ever wider confrontation in the run up to the general election in the country.

"The scale of documented cases of rights abuses against members of opposition groups, the independent media and human rights organizations is alarming", Mrs. Robinson said today. "Most recently, Bills have been passed to further restrict political activity and participation, while legislation curbing freedom of expression is being considered. There is a real human rights crisis in Zimbabwe and action must be taken now, especially as elections are scheduled for March".

The High Commissioner said recent human rights breaches are aggravated by a climate of impunity which has become evident in the country particularly since attacks against the independent judiciary have intensified.

"I have noted President Robert Mugabe's pledge at the recent Southern Africa Development Community Summit that the March elections would be free and fair and be subject to international monitoring", said Mrs. Robinson. "But real democracy requires full respect for human rights immediately. My Office stands ready to offer Zimbabwe its support in moving towards that objective".

UN experts concerned over reports of death threats against journalists in Zimbabwe, 24 August 2001

Asma Jahangir (Pakistan), Special Rapporteur on extrajudicial, summary or arbitrary executions and Abid Hussain (India), Special Rapporteur on the right to freedom of opinion and expression have expressed their extreme concern about reports of death threats against five Zimbabwean journalists who have "publicly denounced the repeated violations of press freedom in their country".

In a communication to the Government on 22 August 2001, the independent experts of the United Nations Commission on Human Rights refer to allegations that the following journalists appear on a hit-list compiled by the Law and Order section of the Zimbabwe police and the Central Intelligence Organization: Basildon Peta, news editor of the weekly Financial Gazette and correspondent for the Independent of London and the Star of Johannesburg; Geoff Nyarota, editor of the Zimbabwe Daily News; Iden Wetherell, editor of the Zimbabwe

Independent; Mark Chavunduka and Cornelius Nduna, respectively editor and news editor of the Standard Newspaper.

In their communication the two experts urge the Government to provide information on these serious allegations, in particular on the steps taken, in compliance with the provisions contained in the international legal instruments to which Zimbabwe is party, to ensure effective protection of the right to life and physical integrity of the five journalists.

They also appeal to the Government to take all necessary measures to ensure that the right to freedom of opinion and expression is fully protected, in accordance with article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

High Commissioner for Human Rights appeals to President Mugabe on concern over liberties in Zimbabwe, 6 March 2001

United Nations High Commissioner for Human Rights Mary Robinson said today that she has written again to President Robert Mugabe drawing his attention to international concern over respect for the right to life, security of the person, freedom of expression and freedom of opinion and association in Zimbabwe. The High Commissioner appealed to President Mugabe to intervene personally to address these concerns with a view to assuring the full exercise of human rights in Zimbabwe.

In a letter delivered to President Mugabe last week, Mrs. Robinson said numerous persistent representations had been made to her Office about human rights in the country. The High Commissioner said, "You, as one who fought for your country's freedom ... would understand the importance of a free media, including the local independent press, and the freedom of journalists to inform the public".

She also referred to deep concerns relating to independence of the judiciary. She made a particular appeal to the President to "use your best endeavours for the well-being of the Chief Justice and other judges and magistrates", she said.

"I am fully conscious of the legacy of history that weighs upon nations such as Zimbabwe, and of the need for change and reform", Mrs. Robinson said. "But it is imperative to pursue these objectives within the framework of the law and of respect for human rights".

The High Commissioner has previously written to President Mugabe about the situation of human rights in Zimbabwe. She remains deeply concerned about the deterioration in the situation and is following it closely with a view to assessing future avenues of action.

Special Rapporteur on independence of judiciary alarmed at threat to Chief Justice of Zimbabwe to vacate office, 28 February 2001

The Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, today issued the following statement:

"I have been following the developments in Zimbabwe with a great deal of concern. The recent information that I have received indicating that the Chief Justice has been informed that he is immediately required to vacate his office on 28 February and his official residence by 9 March 2001 represents an unacceptable threat to the independence of the judiciary. Further, the Government's decision to pay the Chief Justice four months salary in lieu of leave is contrary to the very grain of the office of a judge.

Judges, including the Chief Justice, are not employees of the Government or any other authority. Their offices are constitutional appointments. In the exercise of their judicial functions they are not subject to the direction or control of any person or authority, including the executive and the legislature. This basic principle is expressly provided for in the Constitution of Zimbabwe.

The Government's decision to pay the Chief Justice four months salary in lieu of leave, is an indication that the Government is labouring under the mistaken conception of equating a judge's position with that of an employee, where there is no master and servant relationship.

I once again appeal to the Government to honour and comply with its obligations undertaken under international and regional instruments and moreover under the Constitution of Zimbabwe. These attacks and intimidation are not just threats on independent judges but in essence are, and will be seen to be, as attacks on the majesty of the rule of law. The Special Rapporteur calls upon the Government to refrain from carrying out the threat to the Chief Justice to vacate his office by 28 February and his official residence by 9 March 2001."

UN expert on independence of judiciary reiterates concern over "further deterioration" of situation in Zimbabwe, 21 February 2001

The Special Rapporteur on the Independence of Judges and Lawyers United Nations Commission on Human Rights, Dato' Param Cumaraswamy, today again registered his concern with the Government of Zimbabwe over recent developments reflecting a further deterioration in the independence of the judiciary.

The Special Rapporteur sent an urgent appeal to the Government after receiving further information that Mike Moyo, a member of the Liberation War Veterans Association, stated that squads of the war veterans would invade the houses of judges refusing to resign and that they would harm those judges and their families.

Mr. Cumaraswamy stated that "harassment, intimidation, attacks and threats against an independent judiciary and its judges will in fact be seen as a direct assault on the rule of law. The rule of law which is so pivotal for democracy and sustainable development in any country, now has deteriorated further and appears to be very much in jeopardy in Zimbabwe." The Special Rapporteur further stated that "If these further threats and intimidation are true, then the earlier assertion of the Government on 12 February 2001 that the "judiciary is alive and thriving in Zimbabwe" cannot possibly be sustained."

In his communication, the Special Rapporteur drew the Government's attention to the United Nations Basic Principles on the Independence of the Judiciary and to the Vienna Declaration and programme of action of the 1993 World Conference on Human Rights, as well as to Article 26 of the African Charter on Human and Peoples Rights, which holds that:

"States parties to the present Charter shall have the duty to guarantee the independence of the courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the Charter"

The Special Rapporteur added that "the obligation to guarantee an independent judiciary implies the State's obligation to protect and defend the judiciary from intimidation, harassment, attacks and threats from any quarter or for any reason. On the contrary, it is extremely disturbing to note from information received that members of the executive in Zimbabwe are heard actively expressing and encouraging such attacks."

Mr. Kumaraswamy concluded by once again urging the Government to comply with its obligations undertaken under international and regional instruments and guarantee the independence of the judiciary, protect the safety of the judges, honour the judgements of the Supreme Court and restore the rule of law. He has made similar calls over the last few weeks.

Special Rapporteur on independence of judges and lawyers expresses concern over threats to judiciary in Zimbabwe, 12 February 2001

The Special Rapporteur on the Independence of Judges and Lawyers, Dato' Param Kumaraswamy, today expressed his further concern over the continuing threats to the independence of the judiciary in Zimbabwe.

The Special Rapporteur has been informed that two more judges of the Supreme Court, namely Justices McNally and Ibrahim, were approached by the Minister of Justice and requested to submit letters seeking early retirement. This came after the Chief Justice of the Supreme Court, Anthony Gubbay, was forced to retire late last week.

'I am extremely concerned about these developments which indicate that the rule of law is further deteriorating in Zimbabwe,' Mr. Kumaraswamy said. 'The Government must comply with its obligations under international standards and stop harassing and pressuring members of the judiciary. The allegation that the Government has called upon judges to seek early retirement will be seen as a clear violation of Principle 2 of the United Nations Basic Principles of the Independence of the Judiciary.'

The Special Rapporteur is currently liaising with the Government through the Permanent Mission of Zimbabwe to the United Nations Office at Geneva to conduct an urgent mission, possibly in March, in order to meet with the Minister of Justice and other members of the Government, the judges of the Supreme Court and representatives of the legal profession.

The Special Rapporteur concluded by saying 'It is most unfortunate that such a well respected and independent judiciary appears to be under threat from the executive branch of Government.'

UN rights expert concerned about independence of judiciary in Zimbabwe, 25 January 2001

The Special Rapporteur on the Independence of Judges and Lawyers, Dato' Param Cumaraswamy, expressed grave concern today over threats to the independence of the judiciary in Zimbabwe.

"Since November 2000, when the Supreme Court of Zimbabwe declared the Government's 'fast track' land reform program unconstitutional, the Zimbabwean judiciary has come under increasing pressure", the Expert of the United Nations Commission on Human Rights said. "Government Ministers have publicly attacked judges accusing them of favouring whites over the majority black population and stated that the Government will no longer stand by if the judiciary passed judgements that disadvantaged blacks. The Government has also ignored the decision of the court declaring the fast track land reform program illegal", he continued.

Members of the judiciary have also received threats from those involved in reclaiming land, stating that the judges must resign or be removed by force, he said. These threats have forced the judges of the Supreme Court to seek assurances from the Government that they will stop the threats being made against them and provide them with adequate protection. Threats and intimidation of independent judges and their institutions will necessarily be seen as attacks on the rule of law, which is the very foundation of a democratic state.

"The deterioration in the rule of law and the undermining of the independence of the judiciary is a matter of grave concern to the international community", Mr. Cumaraswamy added, drawing the Government's attention to Principle 2 of the United Nations Basic Principles on the Independence of the Judiciary which obliges the judiciary to decide matters before them impartially "without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter for any reason".

"The state has an obligation to extend protection to those judges who have been intimidated and threatened", he said.

The Special Rapporteur urged the Government to respect the rule of law by respecting and implementing the decisions of the court and to support publicly the independence of the judiciary.

PART IV. REPORTING STATUS TO THE TREATY-BODIES

Treaty	ICCPRC	ICESCR	CRC	CEDAW	CERD	CAT	CMW
Date of Entry into force	13/08/1991	13/08/1991	11/10/1990	12/06/1991	12/06/1991	No accessio n	No accessio n
Reporting Status	Overdue since 01/06/2002	Overdue since 30/06/1998	Overdue since 10/10/1997	Overdue since 12/06/1996	Overdue since 12/06/2000		