

**Open letter from Amnesty International
to His Excellency the President Robert Mugabe
concerning the need for public discussion and action
on the disturbances in Matabeleland
and the Midlands in the 1980s**

Your Excellency,

As the 2 June 1997 opening of the Heads of State and Government of the Organization of African Unity (OAU) draws near, and as you prepare to assume the chairmanship of that organization, I am writing to you as Secretary General of Amnesty International to urge Your Excellency to commit yourself and your government to resolving Zimbabwe's need for greater openness and public discussion of the massive human rights violations that took place in Matabeleland and the Midlands in the 1980s. Amnesty International believes the head of state who assumes chairmanship of the OAU should not simply play a figurehead role, but take on a vital leadership function in promoting and protecting human rights among member states of that organization.

Amnesty International maintains that since that time, there has been a greater acknowledgement within Zimbabwe of the need to take positive steps for increasing the accountability of military and security forces. Nevertheless, the systematic detention, torture killing and "disappearance" of thousands of people in Matabeleland and Midlands during that period in history still need to be addressed, because the massive human rights violations that took place at that time remain unexamined, undiscussed and therefore unresolved.

Before taking the chair in just a few days time, we are asking Your Excellency to accept publicly the recommendations contained in the unpublished but widely reported document "Breaking the Silence, Building True Peace - A Report on the Disturbances in Matabeleland and the Midlands, 1980 to 1988", which was prepared by the Catholic Commission for Justice and Peace and the Legal Resources Foundation. It appears this report was presented to Your Excellency in March 1997 by those two non-governmental organizations and your response is awaited. We appeal to you to make a positive reply.

The "Breaking the Silence" report

The current controversy sparked by recent newspaper accounts and commentaries on the "Breaking the Silence" report, compiled from accounts by more than a thousand people over a five year period, clearly indicates a need for the full truth about the human rights violations during that time to be

revealed and examined by Zimbabwean society. Although its partial release to the media appears to have been unplanned, according to its authors, this opportunity should be welcomed and allowed to expand into a broad, informed discussion about the truth of that period in history.

According to excerpts of the "Breaking the Silence" report published recently in the Mail & Guardian (South Africa), the Guardian (London) and the Zimbabwe Independent, the report estimates more than 3,000 extrajudicial executions, hundreds of "disappearances", more than 7,000 beatings or cases of torture and more than 10,000 arbitrary detentions in Matabeleland North, Matabeleland South, and Midlands provinces. The evidence gathered, often from eye-witnesses, indicates that most killings and "disappearances" were committed by government forces, most notably the army's Fifth Brigade. Government responsibility appears indisputable.

Amnesty International's appeals

The contents of the report, which covers the time period from 1980 to 1988, confirm what Amnesty International has repeatedly brought to the attention of your government. Since 1982, when my predecessor first wrote to your government concerning reports of assaults and brutal treatment of detainees held incommunicado under the Emergency Powers regulations, Amnesty International continued to write to the Government of Zimbabwe with recommendations for a full and impartial investigation into reports of detentions, tortures and "disappearances" in Matabeleland; the reform of laws that thwart holding those who commit such abuses responsible for their actions; and the creation of institutional safeguards in place to prevent human rights violations. Those recommendations were similar to the appeals we made in the 1970s to the Rhodesian Government when this organization voiced concern about reports that the Rhodesian security forces were committing mass extrajudicial executions of prisoners and civilians.

From 1983 to 1993, each of our annual Amnesty International Report entries on Zimbabwe included calls for action to stop the human rights violations that were occurring in Matabeleland. In addition, this organization published more detailed research about its findings. In February 1985, Amnesty International published a report examining the cases of imprisonment of seven prominent opposition politicians in Zimbabwe under legislation allowing indefinite detention without trial. In September 1985, we published a further report that alleged the torture or ill-treatment of members and supporters of Zimbabwe African Peoples Union (ZAPU), other opposition members, and trade unionists held without charge or trial.

At a meeting in London on 18 November 1985, Amnesty International submitted an aide memoire to then Minister of Home Affairs Enos Nkala that outlined various ways in which the allegations of torture in Matabeleland could be investigated. We suggested methods of investigation including a commission of inquiry, established in accordance with Zimbabwe's Commission of Inquiry Act of 1941, and an invitation to the United Nations Special Rapporteur on torture to conduct a thorough evaluation of the prevalent allegations of torture.

In January 1986, Amnesty International sent to Your Excellency a detailed memorandum that called for an investigation into reports of torture, including 21 detailed cases of torture in Bulawayo or elsewhere in Matabeleland. In February 1986, we published another report calling for an investigation into the killing of school headmaster Luke Kumalo and his wife, who were killed in an attack in

Matabeleland in 25 November 1985. We called for an investigation into those killings and the numerous other similar incidents that now appear to have been perpetrated by government security forces. In July 1986, another report by Amnesty International recorded the widespread torture in police stations and Central Intelligence Organization (CIO) holding centres of political detainees alleged to have been involved with the "dissidents" or armed rebels.

By March 1989, Amnesty International issued a report sent to the Zimbabwe government that concluded with recommendations to release all political detainees unless they were to be charged with a recognizable criminal offense; investigate all allegations of torture by the CIO and the "disappearance" of anyone alleged to have been taken into the custody of security forces; and ensure that all officials found to have committed human rights violations such as torture, extrajudicial execution or arbitrary or unlawful detention be brought to justice. Since that time, Amnesty International has called upon your government to publish the findings of its own Chihambakwe Commission of Inquiry, which heard testimony of abuses in 1984.

Amnesty International acknowledges that the 1990s have seen greater openness by the authorities to allowing non-governmental organizations to educate the Zimbabwe Republic Police about their responsibility to protect the human rights of the people of Zimbabwe. The security forces, including military commanders, have received some training in humanitarian law at the Regional Peacekeeping Centre affiliated with the Zimbabwe Staff College. Yet these steps do not address the legacy of mass human rights violations in Matabeleland.

Silence breeds impunity

In this organization's experience, when a state continues to deny its responsibility for atrocities committed by its security forces and suppresses open dialogue about human rights violations, a sense of impunity is created as members of state agencies feel that they can abuse human rights without being punished. The experiences in Rwanda, Yugoslavia and Argentina all demonstrate that, when human rights violations remain uninvestigated and unpunished, a vicious circle is set up with violations contributing to further violations.

The "Breaking the Silence" report states that it is not intended to hold individual violators of human rights accountable. As a matter of principle, this organization believes all those who have tortured or killed others should be brought to justice. We also strongly oppose immunity laws, such as the 1982 Emergency Powers Regulations and the 1988 extension of a general amnesty to all members of the state security forces. Amnesty International saw these laws as restricting the investigation of the violations and preventing those responsible from being brought to justice, and it was for that reason we have stated that these laws are contrary to international human rights law.

In the Zimbabwean context it might be impossible for legal and practical reasons to identify and prosecute most of those responsible. At a minimum, however, those incriminated in the torture, killings and "disappearances" committed by the Fifth Brigade and other state security forces in the 1980s, and who are not known to be innocent of the suspicions against them, should be excluded from any position in which they have powers of arrest and hold direct or indirect responsibility for the safety and security of prisoners.

The need for open discussion

The memory of massive human rights violations returns again and again into the national consciousness until the truth is plainly told to the people. The survivors and the relatives of the dead or missing have the undeniable right to a full search for the truth, public identification of those responsible and compensation for their suffering and loss. Amnesty International believes that true reconciliation comes from a process of justice being seen to be done, and from forgiveness based on a complete understanding by all people of the abuses that have been committed and the wrongs suffered.

On 11 May 1997, the Sunday Mail newspaper reported that Your Excellency told mourners attending a funeral at Heroes Acre that some "mischief makers" were building divisions among the Zimbabwean people by publishing differences and wrongs of the past and denouncing the leaders of today. You are quoted as saying "If we dig up history, then we wreck the nation. We wreck the survival of that nation and we tear our people apart into factions, into tribes..."

Amnesty International has continued to receive recent reports of state intimidation of people in Matabeleland who want to commemorate those who were killed during that period. The Breaking the Silence report also refers to the intimidation of the reports' researchers. Amnesty International believes that any attempt to suppress discussion of the issues raised in the report -- whether by the Government of Zimbabwe or by other actors in society -- does not contribute to the long-term reconciliation among Zimbabweans. Indeed, stifling such free expression is in itself a human rights violation under international law.

Zimbabwe's obligations under international law

By ratifying the African Charter on Humans and Peoples' Rights in May 1986, the Zimbabwean government voluntarily assumed the obligation to adopt legislative and other measures to give effect to the rights, duties and freedoms enshrined in the Charter. Article 7 of the African Charter states that "Every individual shall have the right to have his cause heard. This comprises: a) The right to an appeal to competent national organs against acts violating his fundamental rights..." The government is therefore obliged to allow the victims of human rights violations access to the courts for the prosecution of perpetrators of such violations.

When Zimbabwe acceded to the International Covenant on Civil and Political Rights in May 1991, it undertook under Article 2 "to ensure that any person whose rights or freedoms... are violated shall have effective remedy..." Such effective remedy includes the prosecution of perpetrators of human rights violations and the right to adequate compensation.

In the government's official response to the UN Commission on Human Rights, published in the Commission's Report of the Working Group on Enforced or Involuntary Disappearances in January 1996, the Zimbabwean government agreed to compensate the victims of the violence in the Matabeleland conflict. The Commission quotes the government as saying that "...pursuant to the signing of the unity accord in 1987, it had decided to compensate all families with missing relatives, regardless of whether there were court proceedings concerning the circumstances of the disappearance". This admission by the Government of Zimbabwe that it is obliged to pay

compensation sets a precedent for providing effective redress to all those who suffered human rights violations during that tragic period in the country's history.

Recommendations

In view of Your Excellency's prominence in regional affairs, and now assuming leadership of a continent-wide organization of African states, Amnesty International appeals to Your Excellency to implement recommendations contained in the "Breaking the Silence" report, and recommendations that we have made during the past 15 years. The measures outlined below are not exhaustive of the suggestions by Amnesty International or the report, but are of particular importance in relationship to Amnesty International's concerns.

- Acknowledge the massive human rights violations that took place at the hands of government security forces, and the suffering innocent civilians endured, by allowing this report and the Chihambakwe Commission report to be published.
- Remove, pending further inquiries, those identified as having been directly involved in human rights violations from positions in which they might again commit human rights violations. Those found to have been responsible should not be employed in any position in which they have the powers of arrest and hold direct or indirect responsibility for the safety and security of prisoners.
- Make appropriate legal provisions to ensure that victims are able to claim compensation, including by granting them any necessary legal assistance and by amending existing laws that provide for such compensation.
- Begin a constitutional debate to consider safeguards to prevent widespread human rights violations from ever occurring again in Zimbabwe.
- Invite independent experts, such as the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, or the African Commission's Special Rapporteur on extrajudicial, summary or arbitrary executions, to thoroughly evaluate any of the allegations of killings by state security forces that are disputed by the government.

Conclusion

One cannot underestimate the gravity of the tragic events in the 1980s, particularly when such a detailed report has finally allowed some of the Zimbabweans affected to give voice to their suffering. In the statute of the International Tribunal for Rwanda, adopted by the UN Security Council on 6 November 1994 (S/RES/955), crimes against humanity are defined to include murder, extermination, imprisonment, torture, rape and persecution "when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds" (Article 3). Viewed in this light, the atrocities that have been documented in the "Breaking the Silence" report are tantamount to crimes against humanity.

Lessons could be drawn by many other heads of state from how Your Excellency now chooses to deal with the perpetrators and the victims of these crimes against humanity. By taking decisive action, we believe that you could set Zimbabwe as an example for other countries where massive human rights violations were committed in a transitional period. As you reportedly told the Zimbabwean nation in your 11 May 1997 speech, "The register or record will remind us what never to do. If that was wrong, if that went against the sacred tenets of humanity, we must never repeat it." Amnesty International hopes that you will quickly take action to make this commitment a permanent reality in Zimbabwe.

Sincerely yours,

Pierre Sané
Secretary General
Amnesty International