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Open Letter

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Zimbabwe: Appeal to President Mbeki on African Day on Human and Peoples Rights

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To mark African Day on Human and Peoples' Rights on 21 October, Amnesty International's Secretary General, Irene Khan, has written to South African President Thabo Mbeki expressing the organization's concern regarding the deteriorating human rights situation in Zimbabwe. Over 13,500 people from 126 countries signed an Amnesty International petition in support of the call for action from President Mbeki.

Open letter from the Secretary General of Amnesty International to the President of South Africa on the occasion of African Day on Human and Peoples' Rights

21 October 2002

Dear Mr. President,

On the occasion of the 16th anniversary of the coming into force of the African Charter on Human and Peoples' Rights, I would like to express my deep concern about the deteriorating human rights situation in Zimbabwe. Amnesty International warmly welcomes South Africa's influential role in helping to mediate the crisis thus far, noting in particular South Africa's participation in the Commonwealth troika and your role as current Chair of the African Union. However, Amnesty International believes that African leaders, including your government, need to intensify efforts to publicly signal to the Zimbabwean government that human rights violations including those perpetrated by "militia" linked to the state, are unacceptable and to remind them that these acts are in clear violation of the human rights principles enshrined in the African Charter.

Most recently through the African Union and the New Partnership for Africa's Development (NEPAD), African leaders reaffirmed their commitment to take effective and concrete measures to promote principles of human rights. The NEPAD Declaration on Democracy, Political, Economic and Corporate Governance, which South Africa played a key role in drafting, promoted the principle of peer review and formally recognized the need for regional accountability. The disparity between the principles enshrined in the African Charter and the NEPAD Declaration, and the reality of human rights violations in Zimbabwe creates an urgent need for effective peer review in practice. The test is whether the good intentions of NEPAD and the African Union can be realized as a new dawn for human rights protection in Africa, particularly in countries like Zimbabwe, where human rights are constantly under attack.

Amnesty International has been monitoring closely the human rights situation in Zimbabwe. In June 2002, Amnesty International published a report entitled Zimbabwe: The toll of impunity (AI Index: AFR 46/034/2002), a copy of which was sent to you and other members of the South African Government. The report surveyed the range of human rights concerns which Amnesty International has documented in Zimbabwe, particularly over the past two years. As the report indicates, there is a serious level of human rights violations occurring in Zimbabwe including extrajudicial executions, torture, and denial of the rights to freedom of expression, association and assembly.

According to the latest figures released by the Zimbabwe Human Rights NGO Forum, approximately 58 politically-motivated killings and over 1,050 cases of torture have been reported in 2002 alone. Furthermore, the conduct of the country-wide local council elections recently held in late September 2002 indicates that the pattern observed in other elections of state-sponsored threats, intimidation and attacks on opposition supporters in the run-up to and during elections continues. According to the MDC, approximately half of the MDC candidates who intended to contest the elections were allegedly unable to, largely in response to threats, intimidation and violence perpetrated by government authorities and state-sponsored 'militia'. These events confirm that conditions for elections free from violence and intimidation do not exist in Zimbabwe, and that grave human rights violations continue to occur:

Political manipulation of the police

The investigation and prosecution of suspected state-sponsored perpetrators of human rights violations continue to be blocked by the political misuse of the police. The Zimbabwean government has undermined the effectiveness of the police, and distorted their professional role as impartial protectors of the community. This is evident in incidents which show their collusion with "militias" or at the very least their acquiescence in the face of "militia" assaults; the failure to bring to justice those responsible for this violence; and the failure to bring to justice police officers who are colluding with or acquiescing in violations by the "militias".

Not only have the police consistently failed to take adequate steps to prevent incidents of violence and arrest those responsible, they have also been directly involved as perpetrators by carrying out arbitrary arrests, beatings and torture during the past two years.

A climate of impunity persists as police, apparently under political instructions, fail to arrest and investigate those who commit human rights violations. The terrible consequences for victims of this situation is compounded by the impunity enjoyed by police who commit human rights violations without fear of being held accountable.

Erosion of the independence of the judiciary and circumvention of its effectiveness

The judiciary has a crucial role to play in enforcing the law and ending impunity for suspected perpetrators of human rights violations in Zimbabwe. However, Government attempts to harass and intimidate magistrates, and force out judges perceived to be critical of state policy, undermine the role of the judiciary, erode confidence in its decisions and damage it as an institution.

Several attacks on local magistrates have taken place in response to judgements they have made. For example, Godfrey Gwaka, the magistrate for Zaka district, Masvingo province, was stabbed on 26 August 2002 at Zaka service centre. It is suspected that the attack is related to judgements made by Godfrey Gwaka which were allegedly perceived to be in support of opposition supporters.

The government also continues its campaign of harassing senior judges as witnessed most recently by the arrest on 13 September 2002 of retired High Court Judge Fergus Blackie on charges relating to alleged irregularities in his handling of an appeal case prior to retirement. Judge Blackie was

released on bail, however the charges have not been dropped. Amnesty International fears that the real motivation for his arrest stems from his ruling on 17 July 2002 that Patrick Chinamasa, the Minister of Justice, Legal and Parliamentary Affairs, was guilty of two counts of contempt of court. Judge Blackie is the sixth judge to leave the bench since 2001. His departure highlights the government's ongoing efforts to intimidate the judiciary. Judges who have shown any sign of judicial independence have been threatened with investigation and disciplinary action for supposed misconduct.

Evasion of justice through the granting of presidential amnesties, clemencies and indemnities

The continued issuing of presidential pardons benefiting perpetrators of human rights violations represents a lost chance for justice and for breaking the cycle of impunity that has plagued Zimbabwe for decades. By formalizing impunity for gross human rights abuses, presidential clemency orders have encouraged state agents to continue to commit or condone human rights violations in the knowledge that they will not be held responsible for such crimes by the government. The most recent clemency order was granted in 2000 following the parliamentary elections. However the pattern stretches back to before independence, creating a longstanding climate of impunity for perpetrators. These orders are a breach of international human rights law. They allow perpetrators to escape justice, deprive victims of access to any remedies and leave the society as a whole vulnerable to a cycle of violence.

Obscuring the identification of the state's agents in perpetrating human rights violations

In an attempt to escape accountability for human rights violations, the Zimbabwean government uses its "militias" to abduct and torture individuals who are known or suspected supporters of the opposition Movement for Democratic Change (MDC) party, including people who acted as polling agents or stood as MDC candidates in recent elections. The evidence in cases documented by Amnesty International as well as local human rights organizations shows a clear link between the "militia", the government and the ruling party.

The "militia" groups constitute a powerful weapon for suppressing any form of political opposition. They are allowed to operate without interference. They appear to enjoy logistical support from government and party agents. Documented acts of torture and assault, as well as rape and other forms of sexual violence, committed by "militias" as groups or individuals, have clearly occurred in a context of state-sanctioned violence. In allowing these abuses to occur, the Zimbabwean government is flouting Zimbabwe's Constitution and evading its obligations under international human rights law.

Attacks on human rights defenders and the independent media

The increasing clampdown on Zimbabwe's independent media and human rights NGOs is indicative of the government's efforts to silence the media and prevent the investigation and publication of human rights violations. Since the enactment of the Access to Information and Protection of Privacy Act on 15 March 2002, at least 16 journalists have been arrested for allegedly contravening various sections of the Act. On 29 August 2002, the Harare office of Voice of the People, one of Zimbabwe's two independent broadcasting organizations, was bombed by unknown assailants.

On 29 August 2002, Dr. Frances Lovemore, Medical Director of Amani Trust, a leading human rights and service organization in Zimbabwe, was arrested in Harare and charged with "publishing or communicating false statements prejudicial to the state". The charge stemmed from press reports which referred to Amani Trust's work with victims of torture and politically motivated rape in Zimbabwe. The offices of Amani Trust were raided and searched by police. Police also initially obstructed access to Dr. Lovemore by her family and lawyer. Dr. Lovemore was released the next day and all charges against her dropped due to insufficient evidence.

On 13 September 2002, the government issued a public notice advising NGOs to register with the government as per Section 6 of the Private Voluntary Organizations (PVO) Act. The notice warns that

those NGOs which continue to operate without being registered risk prosecution. Although the PVO Act was enacted in 1997, it has not been fully enforced. Given increasing state repression of freedom of expression and assembly in Zimbabwe, Amnesty International is concerned that this recent notice signals intensified efforts on the part of the government to silence organizations perceived to be critical of the state.

Based on this, Amnesty International therefore urges African leaders including from South Africa to take a more public stand in condemning state sponsored repression and violence in Zimbabwe. I believe that a stronger stand by South Africa, along with other leaders from the African Union and the Southern African Development Community is vital to ending impunity in Zimbabwe and to protecting the human rights of all Zimbabwean citizens. I therefore once again call on your government to use its highly influential voice to encourage the Zimbabwean authorities to bring an end to human rights violations perpetrated by the government.

Yours sincerely,

Irene Khan
Secretary General

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