Amnesty International Briefing

RHODESIA/ ZIMBABWE

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RHODESIA/ZIMBABWE IN OUTLINE

Rhodesia or Zimbabwe, as its African population increasingly calls it is a landlocked country with a total land area of some 389,000 square kilometers. Its four neighbouring countries are Botswana, Zambia, Mozambique and South Africa.

The population of Rhodesia in 1974 was estimated to be 6,100,000 with an annual growth rate of 3.5 per cent. The ethnic balance of the population is:

African	96.0%
European (ie, white)	3.6%
Other (Asian, etc)	0.4%

Despite this extreme racial imbalance, approximately half of the total land area is reserved for occupation by the European minority under the Land Tenure Act (1969). The European minority exercises effective governmental authority. In the 66-member lower house of parliament, 50 seats—all of which are held by the Rhodesian Front Party are reserved for the elected representatives of the European minority. The remaining seats are reserved for African members. Eight members are elected by the Council of Chiefs and eight are elected directly by the African population on the basis of an extremely restricted franchise.

Prime Minister Ian Smith unilaterally declared Rhodesia independent from Britain on 11 November 1965. This unilateral declaration of independence (UDI) was deemed unlawful by the British government and no country has recognized Rhodesia as an independent state. The British government still represents Rhodesia within the United Nations and the British Commonwealth, on the grounds that Rhodesia is still a British colony. After UDI the UN imposed economic sanctions to make trade with Rhodesia illegal. Although several countries are known to have contravened these sanctions, it is South Africa which has provided the Rhodesian regime with the most effective economic and military support.

Rhodesia has a diverse economy and has achieved high growth rates (11-12 per cent) in many of the years since UDI despite the trade curbs imposed by sanctions. After South Africa, it is the most highly industrialized country in sub-Saharan Africa. Manufacturing industry contributes as much to the gross domestic product as the two primary sectors, agriculture and mining, combined. Main exports include maize, tobacco and cotton and minerals such as chrome, tin and iron.

Rhodesia/Zimbabwe

1. Introduction

Amnesty International is particularly concerned by the following human rights problems in Rhodesia:

(i) the use of preventive detention, imposed without charge or trial for periods of indefinite duration. Those detained include nationalist leaders belonging to banned political parties and rank and file members of political organizations, like the African National Council, which have not yet been proscribed;
(ii) the physical restriction of released prisoners and political detainees;
(iii) the holding of trials and detention review tribunals *in camera;*
(iv) the use of the death penalty, in some cases on a mandatory basis, for a wide range of offences, and the execution, in secret, of condemned prisoners;
(v) the torture of political prisoners;
(vi) the government's refusal to establish an independent inquiry into allegations of atrocities committed by the Rhodesian security forces;
(vii) the forced settlement of large numbers of rural Africans in so-called "protected villages" as part of the government's counter-insurgency policy.

For the sake of clarity, this paper uses terms such as "Minister" and "Republic", which normally refer to legitimate governments. This should in no way be regarded as implying recognition of the legitimacy of the Rhodesian Front regime.

2. The Political and Constitutional Context

Prime Minister Ian Smith unilaterally declared Rhodesia independent from Britain (UDI) on 11 November 1965 in an attempt to preserve the social, political and economic privileges of Rhodesia's 270,000 white inhabitants at the expense of the six million Africans who make up the mass of the population. Prior to UDI, Mr Smith's Rhodesian Front government had sought independence through negotiation with the British government.

At a time when British colonial territories in the rest of the continent were rapidly becoming independent nations on the basis of rule by the African majority, the British government refused to accede to Mr Smith's demands for independence under a white minority government. Britain insisted, both before UDI and in subsequent negotiations, that progress be made in improving the political status of the African population as a preliminary to independence. Britain's reluctance to surrender authority over Rhodesia was increased by the

fact that the Rhodesian government's policies were clearly designed to perpetuate minority rule by denying freedom of expression and political organization to the African majority of the population. (All major African political parties had been banned and many African nationalist leaders detained without trial or restricted by the end of 1964.)

The British government defined six principles as the minimal basis for independence:

- unimpeded progress to majority rule
- guarantees against retrogressive amendment of the constitution
- progress towards improving the political status of Africans
- progress towards ending racial discrimination
- guarantees against oppression of one section of the population by another
- the British government would also need to be satisfied that the Rhodesian people as a whole supported any basis proposed for independence.

Faced with these conditions, the Rhodesian Front government decided upon unilateral action to sever Rhodesia's links with Britain.

Britain and the United Nations immediately denounced UDI as an illegal act, lacking all constitutional and legal validity. Acting through her representative, the Governor, Britain's Queen Elizabeth II dismissed the Rhodesian Front administration, and the British Parliament passed the Southern Rhodesia Act to reassert the authority of the United Kingdom over Rhodesia and declare the transactions of the Rhodesian regime null and void.

Therefore, since 1965 the United Kingdom has theoretically retained sole power to legislate for Rhodesia and all legislative enactments, executive actions and judicial procedures of the Rhodesian Front government have been regarded internationally as of no effect. However, in practice, the British government has been unable to exercise its legitimate authority.

The constitutional legality of the Rhodesian regime has also been tested in the courts. In 1968, the highest court of appeal for Rhodesian questions, the Judicial Committee of the Privy Council in London, ruled that the detention order served on Daniel Madzimbamuto, a political prisoner, in November 1965 was invalid since it had been issued by a "rebel" administration. The Privy Council ordered Mr Madzimbamuto's immediate release.

This appeal was widely regarded outside Rhodesia as a test case to determine the illegality of the Rhodesian Front government, but despite initial hopes that the ruling would have effect in Salisbury, it was rejected by both judiciary and administration and Mr Madzimbamuto remained in detention. The Rhodesian government's right to implement the death penalty has been challenged internationally on similar legal grounds, and similarly upheld in Rhodesia.

Since UDI, the government has remained intransigent in the face of increasing pressures for African majority rule. Attempts at a constitutional settlement were made in direct negotiations between the British and Rhodesian governments in 1966, 1968 and 1971-72, and between the Rhodesian government and Rhodesia's African nationalist leaders on two occasions in 1974. These negotiations broke down because of the regime's unwillingness to make major concessions to African aspirations.

Further negotiations are currently in progress between the Rhodesian

government and the Rhodesia-based section of the African National Council led by Joshua Nkomo.

In Rhodesia itself the administration has persistently attempted to hamper the development of the nationalist movement through the use of politically divisive policies: by banning African political parties, and by subjecting both national and local political leaders to arbitrary detention or imprisonment. To some extent, the regime has been successful. The nationalist movement has now divided into two main factions: the Rhodesia-based African National Council led by the former president of the banned Zimbabwe African Peoples' Union, Joshua Nkomo, and the section of the African National Council led by Bishop Abel Muzorewa and the former leader of the Zimbabwe African National Union, Reverend Ndabaningi Sithole. The latter has support in Rhodesia but its leaders are now living in exile. The effect of the regime's divisive policies may only be temporary: in the face of Rhodesian Front intransigence, African nationalist leaders increasingly take the view that majority rule can only be obtained by force. Their position has been strengthened by recent political changes in the former Portuguese colonies of Angola and Mozambique, where radical African nationalist governments have now achieved power. Mozambique formally closed its border with Rhodesia on 3 March 1976.

3. Legal Situation

(i) *Legislation under which prisoners are held*

Most political prisoners, who include both convicted political offenders and untried detainees and restrictees, are held under one of three laws.

a) *Law and Order (Maintenance) Act 1960.* First introduced in 1960 but amended and strengthened many times since, this act is the foundation of Rhodesian security legislation. Its far-reaching provisions created a wide range of political offences and imposed strict limitations on all forms of African political activity and organization. Among other things, it is an offence for any person to make statements likely to "excite disaffection" against the government or expose the police to "contempt or disesteem". It is also unlawful either to wear clothing signifying association with a particular political organization or to sing any song or utter any slogan "which is likely to lead to public disorder".

At the same time the authorities were given extensive powers to ban publications, prohibit public meetings and search and arrest suspected persons without a warrant. They were also empowered, without reference to the courts, to restrict anyone considered likely to pose a threat to public order either by denying that person access to a particular place (Section 50a) or by confining him to a designated area (Section 50b). In practice Section 50a is still used to prevent African political leaders from entering townships or rural areas where they enjoy support. Section 50b is now used primarily to restrict released detainees to the vicinity of their home areas. Its original function– to provide for the exile of African political leaders to isolated "restriction areas" like Gonakudzingwa and Sikombela – has now been superseded by the use of preventive detention. Before this occurred, however, an amendment to

the act extended the duration of restriction orders from the original 3-month period to a term of 5 years. Restriction orders may be renewed upon expiry.

The Law and Order (Maintenance) Act contains two other stringent features which add to its far-reaching and severe effect and explain why it is the piece of legislation under which most convicted political prisoners are prosecuted. First, the onus of proof is laid on the accused person to demonstrate his innocence, rather than on the state to show his guilt. Secondly, since its first promulgation in 1960, the act has contained provisions which establish mandatory minimum sentences for certain offences, thereby reducing the extent to which a judge may exercise discretion when passing sentence. From the act's promulgation, crimes involving arson and the use of explosives have carried a mandatory death sentence (Section 37) while an amendment of December 1974 introduced the mandatory death penalty for offences connected with the recruitment of nationalist guerrillas (Section 23A).

b) *Emergency Powers (Maintenance of Law and Order) Regulations, 1966.* These regulations are in force as long as Rhodesia remains under the state of emergency that has been in effect almost continually since before UDI (1965). They empower the Minister for Law and Order to detain any person "in the interest of public safety or public order". Detainees may then be held for periods of indefinite duration, either in prisons or in detention camps specially established for the purpose.

The Emergency Powers Regulations also provide for the short-term detention of suspected persons for interrogation purposes. Detainees may be arrested without warrant by a police officer and held for periods not exceeding 30, or in some cases, 60 days. Apart from allowing preventive detention, the regulations also empower the Minister for Law and Order to declare any part of Rhodesia a "protected area" if he believes it is "in the interest of public safety or the maintenance of public order" to do so. The "protecting authority" appointed by the minister, who may be a senior police officer or a district commissioner, is then able to restrict or regulate entry and movement within this designated area, seize and control all livestock and foodstuffs, prohibit the publication of any document, impose curfews, carry out searches of individuals and property, enforce compulsory labour, destroy or confiscate moveable property without compensation, and designate the areas in which people must live. Moreover, he may establish villages in the protected areas and issue general orders to regulate most aspects of everyday life, including personal movements, education, farming practice, the keeping of livestock and so on. He may also regulate entry into, and departure from, the protected villages and require all persons to carry identity documents.

c) *Unlawful Organizations Act, 1959.* This allows the government to declare any organization unlawful if it appears that its activities endanger public order by appearing to "raise disaffection" or promote feelings of racial "ill will or hostility" within Rhodesia. The act has been used to ban each of the

main African nationalist parties – the African National Congress (ANC) in 1959, the National Democratic Party (NDP) in 1961, the Zimbabwe African Peoples' Union (ZAPU) in 1962, the Zimbabwe African National Union (ZANU) in 1964, the People's Caretaker Council (PCC) in 1964, and the Front for the Liberation of Zimbabwe (FROLIZI) in 1971. Membership of an unlawful organization–again the onus of proof is on the accused person to establish his innocence–can result in a term of 5 years' imprisonment.

(ii) Legal/administrative detention procedures

a) *The Judiciary.* This consists of a High Court and inferior or magistrates courts. The High Court has two divisions: the General or Trial Division which hears all cases beyond the jurisdiction of the magistrates courts, and the Appellate Division which takes cases on appeal from both the Trial Division and the magistrates courts. The magistrates courts have jurisdiction over all cases except those involving murder, high treason, rape and other offences, such as those under the Law and Order (Maintenance) Act, which may incur a capital sentence.

For many years, the Rhodesian judiciary maintained a fine record of independence. In 1960, Sir Robert Tredgold, the Chief Justice, resigned in protest against the introduction of the Law and Order (Maintenance) Act. In 1964 the High Court declared the government's use of preventive detention incompatible with the Declaration of Rights contained in the 1961 constitution. More recently, however, the judiciary, which is exclusively white, has shown greater willingness to cooperate with the government. Nowhere has this been more apparent than in matters of security, where Judge President Hector McDonald has publicly associated himself with government attitudes towards "terrorists" captured in the course of the nationalist liberation struggle. The participation of the same judge in the proceedings of the "special court", established to review charges against the Reverend Ndabaningi Sithole in March 1975, was described by an Amnesty International observer as a "prostitution of the judiciary" in that it lent an aura of judicial legitimacy to what was in effect a detention tribunal.

The powers of the courts have also been somewhat curtailed since UDI in that, under the 1969 constitution, they no longer have authority to pronounce that a law is inconsistent with the Declaration of Rights.

(b) *Arrest process.* Sections 23 and 50 of the Emergency Powers (Maintenance of Law and Order) Regulations empower police officers to arrest without warrant any persons whom they suspect of having acted, or being about to act, in a manner "prejudicial to the maintenance of public order". Similar powers are also conferred upon district commissioners and their assistants under Section 50.

Persons detained under Section 50 for interrogation purposes may not be held for more than 30 days, but those arrested under Section 23 may, at the end of their 30-day term, be detained for a subsequent 30-day period on the authority of the Minister for Law and Order.

(c) *Conduct of trials.* In the High Court, Africans are normally tried before a judge and two assessors and in the inferior courts by a magistrate or a magistrate and assessors. The assessors, who are selected by the judge, must be persons considered to have both knowledge and experience of "the African mind, customs, way of life and language" but they are always Europeans. No provision is made under the Criminal Procedure and Evidence Act for Africans to be tried before a jury, except where an African is co-accused with a European who chooses trial by jury. In such cases the jury is of course composed entirely of Europeans.

Another section of the Criminal Procedure and Evidence Act (Section 288), authorizes the courts to admit as evidence any statement or confession which an accused person is alleged to have made at the time of arrest, even though such a statement might not have been recorded in writing at the time. Thus, in situations of dispute, the onus of proof lies on the defendant to prove either that he did not make a certain statement or that it was made under duress.

A disturbing feature of recent years has been the frequency with which the Minister for Law and Order has invoked Section 403a of the Criminal Procedure and Evidence Act in order to insure that political trials are conducted *in camera*. Legislation has also been introduced to make it an offence to communicate details of political trials to any person either within Rhodesia or outside the country.

(d) *Release process.* Unlike South Africa, where convicted political prisoners cannot qualify for any remission of sentence, political prisoners in Rhodesia can and do obtain up to one-third remission of sentence on the same basis as common law prisoners. However, it has long been normal procedure in Rhodesia for convicted political prisoners to be served with detention orders on the expiry of their sentences, so that the advantages accruing from remission are nullified in practice.

Political detainees held under the emergency regulations, may have their detention orders revoked at any time by the Minister for Law and Order. But in practice the minister sets aside a detention order only on the rare occasions when an "amnesty" is declared for political reasons. Such an "amnesty" was granted at the time of the Anglo-Rhodesian settlement negotiations in late 1971 when some 11 men were released. More recently, approximately 90 detainees were freed following an agreement to start new negotiations for a political settlement between Mr Smith and the ANC, led by Bishop Muzorewa, at Lusaka in December 1974.

Political detainees may also be recommended for release by the Review Tribunal, a body established under the Emergency Powers Regulations and consisting of a High Court judge and two other persons appointed by the President, which meets periodically in order to review the detention orders imposed by the Minister for Law and Order. Individual detainees may apply for their detention orders to be reviewed within three months of issue and, thereafter, at annual intervals. The minister is bound to carry out the recommendations of the Review Tribunal unless the President directs

otherwise. However, the tribunal has recommended the release of relatively few detainees in the past, and those have been freed on medical grounds or because educational arrangements have been made for them in Europe. Many detainees do not recognize the validity of the tribunal, believing that to appear before it requires denial of their political beliefs. Consequently, they refuse to appear. The tribunal meets *in camera.*

4. Number and Analysis of Prisoners

Almost without exception, Rhodesia's political prisoners are Africans who actively support the nationalist struggle for majority rule on the basis of universal adult suffrage. They may differ as to political affiliation or strategy, but they are united by their desire to see an end to the social, economic and political domination of Rhodesia by the white minority population. Until recently, almost all African nationalist leaders were in detention in Rhodesia or were political exiles abroad. Both Joshua Nkomo, the former ZAPU leader, and Reverend Ndabaningi Sithole, the former ZANU leader, were detained almost continuously from the time that their political parties were banned in the early 1960s until December 1974.

Since the development of African nationalism as a mass movement in the 1950s, successive governments have used political imprisonment and detention as a means of controlling African political opposition. When the various African political organizations were proscribed in turn, usually within a short time of their formation, their leaders were restricted, detained or driven into exile. The only organization with mass African support that has not been banned is the African National Council, which was formed in 1971 to organize African opposition to the Anglo-Rhodesian settlement proposals agreed by Mr Smith and British Foreign Secretary Sir Alec Douglas-Home. Following the Lusaka agreement of December 1974, the banned organizations FROLIZI, ZANU, and ZAPU merged with the ANC to form a new political grouping which retained the name African National Council. However, during 1975, the new ANC divided into two rival sections, one based primarily in Rhodesia and led by Joshua Nkomo and the other under Bishop Muzorewa which has support in Rhodesia but whose leaders are in exile.

For the purposes of this paper four main categories of political prisoners may be identified:

(a) *Convicted political prisoners*: those charged, tried and sentenced for political offences of both a violent and non-violent nature. A variety of factors, not the least of which is the existence of restrictions on press coverage of political trials, make it impossible to provide an accurate estimate of the total number of sentenced political offenders, but they certainly number more than 500.

(b) *Long-term political detainees:* those held for periods of indefinite detention on the authority of the Minister for Law and Order. They include both persons who have been detained after completing prison sentences for political offences and persons who have neither been charged nor brought to

trial at any time. Some political detainees have been held for more than 10 years. So were many of the nationalist leaders freed following the Lusaka agreement of December 1974. At the time of UDI more than 1,000 people are thought to have been in detention and perhaps 1,000 others in restriction. Over the next few years the number of detainees fell, so that by 1969 there were approximately 300 detainees and by April 1971 only 137. Since then, however, numbers have risen steadily. Amnesty International estimates that there were approximately 350 people in detention when the Lusaka agreement was concluded in December 1974. Approximately 90 political detainees were released as a result of the agreement, but a spate of new detentions occurred in 1975 and *AI* estimates that the total number of detainees may now be in excess of 700.

(c) *Short-term detainees:* those who may be held for periods of 30-60 days for interrogation purposes. Although no overall total exists, many hundreds of people have been detained for short periods in the last three years. Short-term detention is particularly prevalent in northeast Rhodesia where it is used by the security forces wishing to question detainees about the presence of nationalist guerrillas. Many of these detainees allege torture.

(d) *Restrictees:* these include people who have been restricted to designated areas of Rhodesia and ex-detainees who may have been restricted to the vicinity of their homes or to "protected villages" in the Tribal Trust Lands of the northeast. Once again, it is impossible to give an accurate estimate of their numbers.

In its broadest sense the term "political restrictees" might also be used to refer to between 100,000 and 300,000 rural Africans currently living in conditions of partial restriction in northeast Rhodesia. These are the people who have been forcibly resettled in so-called "protected villages" since the start of guerrilla warfare in 1972.They may only leave the "protected villages", which are fenced and fortified encampments, between 0600 and 1800 hours. They must carry identification documents and must enter and leave the villages by way of guarded gateways. Persons found outside the protected villages during the hours of curfew may be shot on sight.

Mention should also be made of the Tangwena, a small group of rural Africans under the leadership of Chief Rekayi Tangwena, who were evicted in 1969 from the lands occupied by their people for more than 70 years. Constantly harassed by the Rhodesian police, they now live in hiding in the Inyanga Mountains on Rhodesia's eastern border with Mozambique.

5. Location of Prisons, Detention Camps, Interrogation Centers

Although there are prisons in most Rhodesian towns, any of which may be used to hold political prisoners from time to time, convicted political offenders who have received sentences under the Law and Order (Maintenance) Act are normally held either at Khami Maximum Security Prison in Bulawayo or at Salisbury Maximum Prison. Prisoners who have been condemned to death are executed in Salisbury.

A number of untried political detainees are also held in prison, principally at Salisbury Remand and Holding Prison and Gwelo Prison, where separate detention sections are known to exist, or else at Que Que, Marandellas, Buffalo Range, Gatooma or Wankie. Women political detainees are kept at Chikurubi Prison in Salisbury.

The main detention center, where more than 500 long-term political detainees are currently confined, is located at Wha Wha near the town of Gwelo. Here prisoners are categorized according to political background and placed in one of five different detention sections. Another detention camp, situated at Gonakudzingwa (Sengwe) in the isolated and inhospitable southeastern corner of Rhodesia, was used primarily to detain ZAPU supporters before it was closed down in May 1974 following the change of government in neighbouring Mozambique.

Short-term detainees, who may be held for periods of up to 30 or 60 days under Sections 23 and 50 of the emergency regulations, tend to be kept at local police stations or in military camps in the areas in which they were arrested. Because of the guerrilla war, most detentions of this kind have taken place in northeast Rhodesia during the last three years, although other places have also been sporadically affected, such as the Gwanda district south of Bulawayo.

Specialized interrogation centers are also known to exist although few details are available. The main special branch interrogation center is thought to be located at Goromonzi, east of Salisbury, and similar establishments are said to exist throughout the country.

6. Prison Conditions

Under the discriminatory system operated by the Rhodesian prison authorities, a prisoner is graded upon entry into prison according to the authorities' estimation of his or her standard of living. The grades stipulate the kind of food, clothing and cell equipment to be supplied. In practice Europeans are normally placed on scale I and receive the best treatment, Asians and Coloureds (people of mixed race) are put on scale II, and Africans on scale III, although better educated or more prosperous Africans may be placed on scale II.

Most political prisoners, including untried detainees, are classified on scale III. As such, they receive a diet consisting largely of *sadza*, a maize-meal porridge, but without items like bread and sugar which form a normal part of the diet of urban Africans. They wear shorts and singlets, but are barefoot. They are only given sisal sleeping mats and three or four blankets as bedding.

Although graded in the same way as convicted prisoners, political detainees have certain privileges not shared by other prisoners. They are allowed more frequent visits and mail, they do not have to work while in prison and they may purchase additional foodstuffs to supplement their prison diet with money sent to them from outside. Detainees are normally kept separate from convicted prisoners.

Despite these advantages, political detainees have complained many times about the harsh treatment they receive. In August 1972, 34 detainees at Salisbury Remand Prison smuggled out a letter to Amnesty International and the International Committee of the Red Cross detailing instances of bad

treatment. Similarly detainees complained that the deaths in detention of Leopold Takawira in June 1970 and Kenneth Chisango in January 1974 were directly attributable to poor conditions and inadequate medical attention. The Rhodesian authorities deny these claims.

7. Torture Allegations

There have been consistent allegations of torture since the introduction of the Law and Order (Maintenance) Act in 1960, but recent reports indicate that it is now employed almost as routine practice by both police and security forces. It is particularly acute in northeast Rhodesia where nationalist guerrillas are active. Many hundreds of Africans in that area are reported to have been detained for short periods by the security forces and subjected to interrogation and torture on the assumption that they possess information about guerrilla activities.

Various methods of torture are allegedly used. They include beating on the body with fists and sticks, beating on the soles of the feet with sticks, and the application of electric shocks by means of electrodes or cattle goads. In addition torture victims have been threatened with castration or immersed head first in barrels of water until unconscious.

Since 1974, church leaders and African parliamentarians have called repeatedly for the establishment of an independent inquiry into allegations of torture and atrocities committed by the security forces. All such calls have been rejected by the Minister for Law and Order on the grounds that any inquiry would undermine the morale of the armed forces. The minister has also stated that several allegations investigated by his department were found to be false. Nevertheless, when several torture victims brought actions for damages in the High Court in 1975, the government introduced the Indemnity and Compensation Act. This act effectively indemnifies members of the security forces against prosecution for any actions carried out since 1 December 1972 while on active service in the war zone. The act also gave the minister authority to terminate actions for damages which were before the High Court–an authority that the minister exercised immediately to forestall several outstanding suits. In effect, the Indemnity and Compensation Act gives the security forces absolute discretion as to the methods they employ against suspected guerrillas even if such methods include killings among the civilian population. Consequently no inquiry has been held into reported civilian killings at Kandeya Tribal Trust Land in the Mount Darwin area on 12 June 1975.

For its part, the Rhodesian Front government has accused nationalist guerrillas of committing atrocities against the civilian population in the war zone.

8. Position of Released Prisoners

Prisoners released from detention experience difficulties of several kinds. They often cannot obtain work because of employers' reluctance to take people with a record of political activity. They may be confronted in their private lives with broken marriages or bills for rental arrears or other necessities required by their families during their years of imprisonment. In addition, former detainees are further hampered by being restricted upon release to a given radius of their

home area, whether it is in one of the townships where job opportunities are greater but the cost of living higher, or in the countryside where work is scarce but the subsistence level lower. Contravention of any of the terms of the restriction order is punishable by re-detention.

More serious still is the situation of approximately 50 former detainees who have been sent to "protected villages" in the Tribal Trust Lands of northeast Rhodesia. Because they are restricted to the confines of the "protected villages" such ex-detainees can neither find employment nor engage in subsistence farming.

Other former detainees have recently been denied passports by the Ministry of Internal Affairs when they wished to go abroad to take up offers of educational scholarships.

9. Capital Punishment

The death penalty is very widely used not only for criminal offences such as murder or rape, but also for those convicted of certain political offences under the Law and Order (Maintenance) Act. This act, which has been amended many times since 1965 so as to provide for increasingly severe sentences, created a number of offences which *may* incur a capital sentence and also specified offences which carry a *mandatory* death penalty. Possession of arms of war, commission of acts of terrorism or harbouring of guerrillas fall within the former category, in which a judge may exercise discretion in deciding whether to impose the death penalty. The latter category includes offences involving arson, the use of explosives or the recruitment of guerrillas. In these cases the judges have no discretion in sentencing and must impose the death penalty whatever the particular circumstances. Only pregnant women and children under 16 years of age are excluded from execution while youths aged between 16 and 19 may either be executed or sentenced to life imprisonment.

Since 1965 more than 60 people are believed to have been hanged. The first executions were carried out in 1968 amidst a storm of international protest, and immediately led the United Nations to impose comprehensive and mandatory economic sanctions against Rhodesia. Before any executions took place the British government had reiterated the view that the Rhodesian Front regime could not lawfully carry out executions. Queen Elizabeth II, whose position as Rhodesian head of state had not at that time been challenged, exercised the royal prerogative of mercy to commute the sentences of the first three men due to be executed. Nevertheless, the three men were hanged on 6 March 1968 after the Rhodesian Chief Justice ruled that the Rhodesian Front regime had *de facto* authority to carry out executions.

While the Rhodesian government's right to execute at all has been challenged on constitutional and legal grounds, it is the execution of political offenders that has caused greatest protest. Since guerrilla warfare began in late 1972, the death penalty has been used with increasing frequency both against captured nationalist guerrilla fighters and against African villagers alleged to have sheltered or assisted guerrillas, and has often been imposed after trials conducted *in camera*. The exiled liberation movements responsible for the guerrilla offensive contend that they are at war with the Rhodesian Front

regime, and that captured guerrillas should be regarded as prisoners of war and treated in accordance with the Geneva Convention. The Smith government refutes this view. The execution of political prisoners had been expected to cease following the Lusaka agreement of December 1974, in the light of a reported undertaking given by Mr Smith to nationalist leaders. However further executions took place in the first two months of 1975, when five prisoners were hanged.

The Rhodesian government's determination to continue executing Africans who it believes are connected with the armed struggle–even if they are sentenced *in camera*–was further emphasized on 22 April 1975, when the then Minister for Law and Order, Desmond Lardner-Burke, stated that the Rhodesian authorities would withhold all details of further executions as the issue had become an "emotive one". He said that when a death sentence was passed and the appeal turned down, it should be presumed that the prisoner would be executed. It is impossible to know how many prisoners have since been executed.

10. Conscientious Objection

Increased conscription of the non-African population as a result of the intensification of guerrilla warfare has led to a growing number of conscientious objectors being brought before the courts. However, most objectors are treated relatively leniently, receiving no more than admonitions, fines or suspended prison terms.

11. Action by Amnesty International

(i) Individual Amnesty International groups were active in March 1976 on the cases of more than 250 men and women who were known to be detained without trial or restricted in Rhodesia. Since 1965, individual *AI* groups have worked on the cases of more than 1,000 prisoners in Rhodesia.

AI adopts as 'prisoners of conscience" all political detainees who are believed to have been imprisoned for the non-violent expression of their political or other conscientiously held beliefs. It urges the Rhodesian Front government either to bring charges against such detainees in a fair and open trial or release them immediately and unconditionally.

(ii) *AI* urges the Rhodesian Front government to allow all political trials to be conducted openly and in full accordance with recognized norms of judicial procedure. It deprecates the holding of trials *in camera.*

(iii) *AI* opposes the use of torture and capital punishment in all circumstances. In Rhodesia, both torture and the use of the death penalty have become commonplace. *AI* urges the Rhodesian Front administration to cease these practices immediately. The application of the mandatory death penalty and the secrecy with which executions are conducted is particularly abhorrent.

In addition, *AI* urges the British government, which retains legal

responsibility for Rhodesia, to declare illegal all executions carried out by the Rhodesian regime and to state publicly that punitive action will be taken against those responsible.

These papers are intended to summarize available information on political imprisonment, torture and capital punishment in a single country. They are designed to be concise and factual and are written primarily for reference purposes.

Since AI is limited by its statute to act only in specific human rights situations, reference is made to the political, economic and social situation in each country only where this has direct relevance to particular human rights problems. *The information contained in each paper is accurate at the time of publication.*

AMNESTY INTERNATIONAL is a worldwide human rights movement which is independent of any government, political faction, ideology, economic interest or religious creed. It works for the release of men and women imprisoned anywhere for their beliefs, colour, ethnic origin or religion, provided they have neither used nor advocated violence. These are termed "prisoners of conscience".

AMNESTY INTERNATIONAL opposes torture and capital punishment in all cases and without reservation. It advocates fair and early trials for all political prisoners and works on behalf of persons detained without charge or without trial and those detained after expiry of their sentences.

AMNESTY INTERNATIONAL seeks observance throughout the world of the United Nations Universal Declaration of Human Rights and the UN Standard Minimum Rules for the Treatment of Prisoners.

AMNESTY INTERNATIONAL has 1,600 adoption groups and national sections in 33 countries in Africa, Asia, Europe, the Middle East, North America and South America and individual members in 65 countries. Each adoption group works for three prisoners of conscience in countries other than its own. The three countries are balanced geographically and politically to ensure impartiality. Information about prisoners and human rights violations emanates from Amnesty International's Research Department in London.

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