

THE OBSERVATORY

for the Protection of Human Rights Defenders

L'OBSERVATOIRE
pour la protection
des défenseurs des droits de l'Homme

EL OBSERVATORIO
para la Protección
de los Defensores de los Derechos Humanos

Report / Rapport

Evaluation mission

Mission d'évaluation

"2003: systematic repression of human rights defenders in Zimbabwe"

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I. Introduction

In August 2003, the Observatory for the protection of human rights defenders, joint programme of the International federation for human rights (FIDH) and the World organisation against torture (OMCT) mandated a mission in Zimbabwe, in order to evaluate the situation of human rights defenders in the country. 2003 was marked by the fierce repression human rights defenders have had to face under the increasingly authoritarian regime. The confusion between State institutions, the ruling party (Zimbabwe African National Union-Patriotic Front (Zanu-PF), and Mugabe's personal power has become more and more flagrant. Since the 2002 presidential elections, the number of human rights violations has significantly increased, showing a stiffening of the repression. The nature of this repression also changed. Indeed, the regime has now adopted unprecedented forms of oppression, more subtle and sophisticated. It shows blatant and consistent disregard of the rule of law, but also a selective and politicised enforcement of legal provisions. Moreover, financial and professional pressure, administrative measures, etc - each time according to political criteria - are regularly used against human rights defenders. NGO activists, human rights lawyers, journalists, trade unionists, as well as members of the main opposition party, the Movement for Democratic Change (MDC), have systematically been targeted in 2003.

All the persons met by the Observatory's delegation confirmed the hardening of the situation in Zimbabwe. The systematic intimidation of civil society actors is now the norm in the country. The growing lack of independence of the judiciary, combined with other tactics such as the corruption of judges or the systematic delaying of verdicts, further reinforce the vulnerability of human rights defenders. They further denounce the government's contempt of law, often denying arrested human rights defenders of access to a lawyer, detention often exceeding the legal 48 hours, shuttling detainees from one police station to the other, or subjecting them to ill-treatments. The Observatory concurs with the NGO Zimbabwe Lawyers for Human Rights (ZLHR), which states that there is in Zimbabwe *"a wider, deliberate, systematic and sustained general attack on the judiciary to manipulate it, reduce its independence and weaken national institutions of protection that are vital for the restoration of the rule of law and democracy."*

While the economic situation, linked to the government's failed land-reform policy which has accelerated since 2000,

has steadily worsened in recent months, with increasingly destabilising consequences in southern Africa through refugees. To face up to this deterioration, the regime has doggedly entrenched itself in State-sponsored violence, committed by State security forces and youth militias under the control of the ruling party (like the "green bombers" or the "war veterans"), which is notably characterized by arbitrary arrests and detention and physical intimidation.

The situation has been made even more difficult by the adoption of extremely repressive legislation, incompatible both with the general provisions of international human rights law and with Zimbabwe's obligations under the International covenant on civil and political rights and the African charter on human and peoples' rights, both ratified by Zimbabwe. The blueprint for a new NGO act, expected to be adopted in the coming months, unfortunately confirms this trend, and leaves little hope for a reversal of government policy for 2004.

II. Adoption of repressive legislation

Among the most common tools used to repress and hinder the activity of human rights defenders in Zimbabwe, the following acts have figured prominently. According to ZLHR, they *"form an axis of repression in Zimbabwe, assaulting the epicentre of the freedom of expression"*.

1. The Public Order and Security Act (POSA)

The Public Order and Security Act, adopted in January 2002, has since become one of the favourite tools of the Zimbabwean government to suppress dissent and criminalize the legitimate exercise of freedoms of expression, association and assembly.

The Act prohibits a wide range of speech acts. In particular, article 16 (2) prohibits any statement likely to *"engender feelings of hostility towards, or causing hatred, contempt or ridicule" of the President, as well as any statement considered "abusive, indecent, obscene or false" about the President.* Likewise, article 15 prohibits *"publishing or communicating false statements prejudicial to the State"*, as well as any statement *"adversely affecting the economic interests of Zimbabwe, or undermining public confidence in a law enforcement agency"*. The extremely vague wording of such articles has encouraged a more frequent recourse to those provisions, which are in any circumstances, contrary to the Zimbabwean constitution in its section 20, which guarantees freedoms of expression and information. The Act has repeatedly been used against journalists, human rights activists and trade union activists.

POSA also constrains freedom of association and assembly. In addition to requiring the organisers of any public meeting to inform the local police of a meeting four days in advance (the police being allowed to cancel it altogether for the sake of "public order" - a provision systematically used against opposition parties and human rights defenders, though never on the ruling party meetings), article 19 also prohibits any act that *"forcibly disturbs the peace, security or order of the public or any section of the public; or invades the rights of other people; [or intends] to cause such disturbance or invasion or realising that there is a risk or possibility that such disturbance or invasion may occur"*. The combination of the requirement to inform public venues and the vagueness of the provision amounts to an arbitrary and selective limitation of freedom of assembly.

2. The Access to Information and Protection of Privacy Act (AIPPA) and the Broadcasting Services Act (BSA)

The Act, passed in March 2002, and amended in 2003, in effect allows for the authorities to exercise close political supervision on all media operating in Zimbabwe. Sections 38-42 of AIPPA provide for the establishment of a Media and Information Commission (MIC), whose board is appointed by the Minister of Information, currently Jonathan Moyo. The MIC is responsible for the now mandatory registration of all media and journalists operating in Zimbabwe (section 66). This also holds true for foreign journalists. Once issued, the licence is valid one year, renewable.

The Associated Newspapers of Zimbabwe (ANZ), publishers of *The Daily News* (which had not been given a licence) has challenged the legality of the restrictions of the AIPPA before the Supreme Court. In February 2004, a judgement was delivered, stating that those restrictions respected the Constitution.

In September 2000, *Capital Radio*, a private radio station, filed a suit with the Supreme Court against the then Broadcasting Act, arguing that it was unconstitutional, as it contravened Section 20 of Zimbabwe's Constitution which guarantees freedom of expression and information. The Court ruled in favour of Capital Radio and declared that the Act was unconstitutional. In response, however, the government passed the Presidential Powers (Temporary Measures) Broadcasting Regulations, which were to become the BSA. On the basis of the Regulations, *Capital Radio* was closed down. It has appealed the closure, but the judgement has been delayed: as of December 2003, no verdict had been pronounced. Those temporary measures were replaced in 2001 by the BSA.

Furthermore, under section 65 of the Act, the MIC can take action against any journalist who publishes information deemed to *"threatens the interests of defence, public safety, public order, the economic interests of the State, public morality or public health"*. AIPPA has been used to systematically curtail freedom of expression and limit access to information in Zimbabwe.

BSA allows for close governmental control of all of the broadcasting sector. According to sections 6, 7, 11 and 15 of

BSA, all broadcasting media is required to be licensed, and agreement rests in the hands of the Broadcasting Authority of Zimbabwe (BAZ), whose members are appointed by the Minister of Information. Furthermore, section 24 of the BSA allows the Minister to have a say in the contents of the broadcast programmes, and gives him the right to ban any broadcaster deemed to be a threat to national security.

3. The Private Voluntary Organisations Act (PVO Act)¹

The PVO Act, though enacted in 1967, had never been fully enforced. In a September 2002 notice, however, the government reasserted the provisions of the PVO Act, which, in its section 6, requires all private voluntary organisations (including NGOs) to register with the Minister of Public Service, Labour and Social Welfare. This move by the government has been perceived as a deliberate attempt to exercise control over the NGOs most critical of government policies. This was for instance the case with Amani trust, which was considered as a "threat to national security", whose offices were closed officially in November 2002 for not having complied with the registration requirements under the PVO Act. Amani trust has reopened in 2003.

In November 2002, Minister of Justice Patrick Chinamasa announced in Parliament that all organisations not registered under the PVO Act should immediately cease operations or face arrests.

Of further concern for human rights defenders in Zimbabwe is the government's intention to adopt new legislation to replace the PVO Act. This new "Non Governmental Organisations Act", the purpose of which, according to a government official, is to ensure that Zimbabwean NGOs "*are not infiltrated by foreign agents*", is expected to tighten the conditions under which NGOs will be registered in the future and allow for even stricter political control over their activities. The National Association of NGOs (NANGO), a Zimbabwean umbrella organisation, has been consulted on the draft of the new Bill. There is however no institutionalised mechanism for ensuring that NGO concerns are integrated in the Bill. There has also been concern within the NGO community that NANGO might not be as independent and representative as originally hoped.

1. See Annual report 2002 of the Observatory: "*Human rights defenders on the front line*".

III. Increasing attacks against human rights defenders

1. Non-governmental organisations targeted

All observers agree that the activity of NGOs has been severely constrained in 2003. This is particularly the case of human rights NGOs specialised in civil and political rights, as well as NGOs dealing with food distribution. Most NGOs report seeing their agendas and projects much more tightly scrutinised in 2003.

For NGOs working in food aid, new operational guidelines for food distribution issued in July 2003, making it mandatory to go through State organs. Following the important public and international outcry which expressed their concerns about the politicisation of food aid, the government later retracted, stating that the guidelines were to be ignored. Such a step is nonetheless of serious concern to all involved, since the guidelines have not officially been annulled. The head of one such NGO says that *"it was a very subtle move by the government: because even if they have now backed down, they have not withdrawn the text; we know that they will later come and tell us that 'you now need to enforce the existing guidelines' - that's always how they do the trick"*. In 2003, several NGOs working on food distribution reported having been subjected to intense pressure to employ youth militias in their teams, or to direct the food to areas chosen by the local politicians.

All human rights NGOs, human rights lawyers' association and development organisations were also targeted in 2003. There was a concerted effort by the authorities to undermine their activities and prevent them from exercising their freedoms of association, assembly and expression.

- In February 2003, Dr Makumbe, NGO activist, President of Transparency International and academic well known for his criticisms against the regime, was arrested in Harare with Mr Brian Kagoro and Mr Brian Raftopolous, both member of the Crisi Coalition of Zimbabwe, during a pacific demonstration organised by the Church. The three men were accused of having held an "illegal gathering", under POSA. They were released without charges the same day.

- On 8 March 2003, the police arrested 15 women and reportedly beat several others who were peacefully demonstrating in Bulawayo to celebrate the International Women's Day. The 15 women were held in custody for several hours, and released without charges.

- On 14 February 2003, Mrs Sheba Dube-Phiri, member of Women of Zimbabwe Arise (WOZA) and ZimRights Chairlady, was arrested with 15 other women and 2 men following a demonstration organized by WOZA. All of them were released on 16 February without sentence.

On 10 May 2003, 46 women, most of them members of WOZA, were arrested after a march to commemorate Mother's Day in Bulawayo. The women were at first denied access to a lawyer. They were released on 11 and 12 May without having been informed of the reason of their arrest.

On 5 June 2003, Mrs Dube-Phiri and Mrs Jennifer Williams, also member of WOZA, went to Bulawayo central police station in order to provide food for detainees held there who had not received nourishment for some days. They were accompanied with their lawyers, Mr. Ncube and Mr. Ndebele. The two women were arrested as soon as they entered as well as their lawyers, whose professional licences were confiscated. The policemen insulted them, threatened to abduct or kill them, and accused them of fuelling anti-government feeling. The four were released the same day without charges.

- On 6 June 2003, in Bindura region, a group of employees of the Zimbabwe Civic Education Trust (ZIMCET) were abducted by Zanu-PF members and allegedly tortured. They were then handed over to the police at Bindura police station, where they were detained without being informed of the charges against them. The group was released on 9 June 2003, and charges dropped, except for two of them, charged under section 24 of POSA for organising a public gathering without police clearance.

- The National Constitutional Assembly (NCA), a coalition of NGOs founded in 1996, has been subject to severe pressure because of its important role in the 2000 constitutional referendum, which led to the rejection of Mugabe's proposed revised Constitution.

Early 2003 already, several officials of the NCA, including the Chairman of NCA, Mr Lovemore Makuthu, were arrested, accused of wanting to overthrow the government, and detained in Harare Central Police Station for 24 hours. They report having been ill-treated, threatened and insulted, and had no access to lawyers. They were not informed of the reason of their arrest. Late august 2003, the chairperson of

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NCA for Maronga district was arrested and later released without charges in similar circumstances.

On 22 October 2003, about 400 activists of the NCA, including the Chairman Mr Lovemore Madhukuwere, were arrested in Harare while demonstrating peacefully.² The demonstrators were calling for a new Constitution to change the 1978 Constitution, which was drafted before the independence of Zimbabwe, and for strengthening of democracy. They were beaten up by the police and arrested. They were also been denied the access to their lawyers, who were manhandled when they presented themselves at the police station. The majority of those detained were released after 24 hours in detention, after having paid a Z\$5000.00 fine. Following his refusal to pay the deposit fine, Mr Madhuku was further detained and was charged for contravening section 24 of POSA on the prohibition of public gatherings or demonstrations without police notification. He was taken to court on 24 October 2003 and released on bail. One week later the court refused to place Dr Madhuku on further remand. He therefore is no longer facing any charges in respect of this particular arrest.

Finally, all NCA public meetings are closely followed, often prohibited under POSA, and when allowed, often disrupted, as was for instance the case in mid-august 2003 in Hwange (Matebeleland). The NCA further reports frequent police raids in their main office in Harare (usually right before a meeting, or immediately following it), seizing many working documents.

2. Human rights lawyers and magistrates

All lawyers and magistrates working in the field of human rights or taking up human rights cases are subject to intense pressure by the authorities. In effect the government has created a climate of fear and intimidation among all such lawyers and magistrates, often harassed and arrested. *"The government of Zimbabwe has a history of attacking the judiciary or members of the legal profession each time the Executive is unhappy at certain judicial decisions"*, writes Arnold Tsunga, executive director of ZLHR. In 2000, a "list" of human rights lawyers was circulated by the government, encouraging businesses and companies not to hire them.

Moreover, the government has also systematically transferred and/or demoted judges perceived to having issued rulings too favourable to the opposition or to civil society. This was notably the case with Judge Chikwana, transferred from Chipinge to Mutare after a ruling against to the government. Judge Gorwe was also transferred after having refused bail to

ZANU-PF supporters. Youth militias and ZANU-PF supporters regularly disrupt court proceedings when a human rights case, or a case involving the land occupations.

The pressure on magistrates reached such heights that it forced the President of the Supreme Court, Mr. Gabbay, to retire in June 2001, as the government publicly said it could no longer guarantee his protection and security. Between 2001 and 2002, 6 judges from the Supreme Court and the High Court, were forced to retire in similar circumstances and replaced by regime supporters, therefore paralyzing the highest judicial authorities of the country.

Human rights lawyers and magistrates are also subject to open pressure through slander in the media. For example, a report in *The Herald* newspaper, a government-controlled publication, of 25 November 2003 contained a headline titled *"Judge under probe- Majuru accused of making pre-determined judgments in ANZ, MIC legal wrangle"*. The paper thereafter gave a report that cast serious aspersions about the professionalism of the President of the Administrative Court Mr Majuru, in his dealing with the case involving the ANZ and the MIC. Judge Majuru was consequently forced to recuse himself from the matter. In the *Herald* of 29 November 2003, it was the turn of ZLHR to become the target of abuse, after coming out in defence of the independence of the judiciary.

Conversely, human rights defenders denounce the insidious corruption of judges designed to guarantee that they will rule in accordance with government's wishes. In particular, several high and supreme court judges have been granted newly-acquired lands and farms.

- On 17 January 2003, Mr Gabriel Shumba, a human rights lawyer then working for the Zimbabwe Human Rights Forum, and his client Mr Jacob Mafume, MP of Chitungwiza and member of MDC, were arbitrarily arrested with other members of the party. Detained until 19 January without having met a lawyer, they were severely tortured by State agents, who notably forced them to drink their urine. All of them were released on 19 January, in a delicate health. In spite of the medical reports that were drafted after their release, the police officers who committed those acts of torture were not interrogated. Most of the victims had to get a post-traumatic treatment in South African. Mr Gabriel Shumba, who now lives in exile, continues to receive threats after his departure.

- On 17 February 2003, Justice Benjamin Paradza was arrested from his chambers at the High Court of Harare,

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detained at Borrowdale police station in Harare and charged with corruption, with no legal ground mentioned. The arrest of Justice Paradza appears to be arbitrary and irregular, as "retaliation" against his ruling in a case involving the mayor of Harare, Mr Mudzuri, member of MDC. On 16 September 2003 the Supreme Court of Zimbabwe in the constitutional application involving issues surrounding the arrest, detention and remand of Mr Paradza to have been unconstitutional and set aside the criminal charges against him.

- On 8 April 2003, Public prosecutor Mr Chikafu was violently confronted by war veterans. They were accusing his decision to grant bail to several MDC supporters who had been arrested a few weeks earlier.

- On 2 June 2003, Mr Chidawanyika and Mr Kufaruwenga, both human rights lawyers, were harassed at Gweru Central Police station, in the centre of the country, where they had gone to represent their detained clients. They were insulted, manhandled and denied access to their clients. On 15 August 2003, at Victoria Falls in the North-West, Mr. Dube, another lawyer, was assaulted by members of the police stationed at the Victoria Falls Camp in similar circumstances. He witnessed his client being hauled head long down the stairs, and witnessed the officers taking turns to kick him all over the body with booted feet.

- On 16 August 2003, Mr Walter Chikwanha, judge at Chipinge tribunal, and Mr Khumalo, President of the tribunal, were attacked by a group of veterans from the independence was in front of the tribunal, following a judgement against the government. Armed with sticks and knuckle-dusters, they violently beat the magistrates up, as well as four employees of the tribunal. The police, who was at the scene of the beating, did not intervene.

The veterans, accompanied by two police armed men, then led Mr Chikwanha in the office of the National security, close to the tribunal, and forced him to sing loudly ZANU-PF slogans, before releasing him.

- On 12 October 2003, Ms. Béatrice Mtetwa, a prominent human rights lawyer, was once more attacked.³ Whilst a groupe of men tried to steal her car, Mrs Mtetwa called Borrowdale police station. Instead of pursuing the carjackers, the police took Ms Mtetwa into custody for allegedly driving while intoxicated. During three hours, she was beaten on her face and body. In a complaint filed on 16 October, she stated that "A policeman, identified as Officer Mutumwa, beat me with his fists on my face and my body (...) I tried to defend

myself as best I could. I bit him. The assault continued in the police car as we drove to the Borrowdale police station. At the station he kicked me all over my body in addition to the blows he had inflicted on my face. The assault was in full view of the other details who were at the charge office and who refused to intervene". At one point the officer gripped her in a stranglehold until she could not breathe, she stated.

3. Mass media and journalists

Journalists remain a favourite target of government repression. A very clear pattern has emerged by which the authorities subvert administrative proceedings into a political move to silence journalists. This is most notably the case with the registration requirement under AIPPA.

All journalists interviewed by the delegation, even from state run media, underlined the deterioration of the situation in 2003. "There is this perception within the government that all journalists, most notably those working for independent media, are part of the opposition, and that they are therefore a legitimate target of political repression", explains one. Many journalists report having been threatened and harassed in the course of their activities, arrested for a few hours, having their phones bugged, and having both emails and faxes intercepted by the authorities.

The coordinated and systematic use of AIPPA and POSA to restrain freedom of expression has de facto led to a growing self-censorship among Zimbabwean media. One editor openly admitted "emasculating, watering down" the stories sent by his reporters, to ensure that the paper would not be closed down.

- On 7 April 2003, Mr Frank Chikoklore, SW Radio Africa correspondent, was arrested following the diffusion of several stories on the stay-aways. He was taken to Kutama police station, where he was accused of "wanting to overthrow the government". He got strip-naked, severely beaten for several hours. He was released the following day without having seen a judge. He twice went to the police (in Norton first, then in Harare) to complain, but both times the police refused to file a case.

- On 18 March 2003, Mrs Gugulethu Moyo, ANZ legal adviser, which is an organisation created under the supervision of *The Daily News*, was assaulted at Glen View police station, where she had gone to secure the release of *Daily news* photographer Philemon Bulawayo then arrested and beaten. Mr Bulawayo had been arrested while taking pictures of

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opposition supporters demonstrating after a protest call by the MDC. Mrs Moyo together with Bulawayo were detained for two days before being released.

On 30 June 2003, Mr Sam Nkomo, the Chief Executive Officer of the ANZ, the owners of *The Daily News*, the paper's commercial director Mr Moreblessing Mpfu, the paper's editor Mr Nqobile Nyathi and Mrs Gugulethu Moyo, were charged under POSA. Mr Nkomo and Mr Mpfu were charged under section 16 of POSA for allegedly running adverts in *The Daily News* that denigrated the government. The adverts were placed by the opposition party the MDC in May 2003 prior to a mass protest staged in early June. Mr Nkomo and Mr Mpfu were made to sign warned and cautioned statements before being released.

Mr Nyathi was charged under the same law for a similar alleged offence on 26 June.

Mr Moyo, lawyer of Mr Nkomo and Mr Mpfu in this case, was charged under Section 19 of POSA for allegedly inciting people in the suburbs of Glen View and Budiriro to go on a mass protest against the government. The police initially refused her access to a lawyer arguing that since she is a lawyer herself she can represent herself. ANZ lawyer Kay Ncube was however later given access to Mrs Moyo. She was released after signing the statement.

On 12 September 2003, the Supreme Court ruled that *The Daily News* was operating illegally because it had not been registered with the MIC. Its offices were then hastily closed. *The Daily News* appealed this decision, and on October 24, Judge Majuru ordered the MIC to register the paper and its parent company, the ANZ.

On 25 October, *The Daily News* published a short edition of the newspaper to announce the Court's decision. Immediately, the office of the newspaper was closed and four directors of the ANZ were charged with "*publication without prior licence*" under the AIPPA provisions. The police considered that the decision of the Court did not constitute a valid license to publish, and therefore did not annul the suspension of the publication. Four of the ANZ directors are currently out on bail and are due to appear in court on February 6, 2004.

The MIC then appealed the Supreme Court ruling of 24 October. On 19 December, Judge Nare confirmed Judge Majuru's decision, and ruled that *The Daily news* should be allowed to resume publishing. His judgment also strongly suggested that the MIC abuses court process to buy time and

frustrate ANZ and *The Daily News*' remedy as well as freedom of expression. The day of the verdict, Judge Nare, who was threatened several times during the case as well as his family, was attacked in the government media, notably in *The Herald* on the very day of the ruling, 19 December.

The government defied the court order and the police forcibly shut down the offices and the paper's print works.

- The AIPPA was also used against foreign journalists. In early 2003, the *Guardian* correspondent, Mr Andrew Meldrum, was tried for "publishing a falsehood", a criminal charge carrying a jail term of two years. The court ruled in his favour, acquitting him of the charges and allowing him to stay in the country, but he was illegally abducted and expelled from the country in May 2003. His wife, Dolores Cortez Meldrum was illegally deported on 23 June 2003.

4. Pressure on trade unionists

Trade unionists, in particular members of the independent Zimbabwe Congress of Trade Unions (ZCTU), have been subjected to a systematic campaign of repression. ZCTU officials consider their activities to have been severely restrained in 2003. They denounce the increasing danger for their members, who often face arrest or risk being beaten, especially during the mass actions called by the ZCTU. All observers, including the International Labour Organisation in a June 2003 statement on ILO Convention n. 98, have concluded that freedom of association and freedom of assembly are severely violated in Zimbabwe.

Beside POSA, the authorities have used the Labour relations Amendment Act (LRAA), enacted in March 2003, to tighten restrictions on the ability of unions to organise strikes and demonstrations. Moreover, the government buys shares in large companies, thus gaining control, and then forces the creation of in-house trade unions which are under heavy political influence. This was notably the case with Galiba, a caterpillars company, and Aroma, specialising in confectionaries.

- In April 2003, 20 trade unionists were arrested. They were released on a 7 billion Z\$ bail. "*It is deliberate - they place a huge financial burden on us, to try to constrain our activities*", explains a ZCTU official, who evaluates the legal bill of the ZCTU at 119 million Z\$ for 2003.

- On 2 June 2003, a leader of the ZCTU in Masvingo was ordered to present himself at Masvingo Central Police Station.

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He was arrested the following day, severely beaten and mistreated. He was later released on bail.

- On 8 and 9 October 2003, more than 165 officials and members of the ZCTU were arrested in different cities of Zimbabwe, including Secretary General Wellington Chibebe, President Lovemore Matombo, and the trade union's Vice President Lucia Matibenga, while peacefully demonstrating to protest over high levels of taxation, high cost of living, shortage of cash and the gross violation of human and trade union rights. They were later released without charges.

- On 18 November 2003, ZCTU members Peter Munyukwi and David Shambare were arrested and subsequently severely assaulted. Mr Shambare had previously received threats after organising industrial action at the National Railways of Zimbabwe. They were later released and all charges against them were dropped.

2. See urgent appeal of the Observatory ZIM 001/1003/055.

3. *Ibid.*

IV. Conclusion

The deterioration of the situation, that was already highlighted by the Observatory in 2002, is still aggravating.⁴ In this context, the Observatory for the protection of human rights defenders urges:

- The Zimbabwean Authorities to:

1/ Immediately put an end to any kind of harassment and reprisals against all human rights defenders;

2/ Ensure that all human rights defenders in Zimbabwe are able to pursue freely their activities and in particular, ensure that the authorities respect freedoms of association, peaceful assembly and expression, guaranteed notably by the International covenant on civil and political rights, the International covenant on economic, social and cultural rights and the African charter on human and peoples' rights, which have been ratified by Zimbabwe;

3/ Conform with the provisions of the UN Declaration on Human Rights Defenders in particular article 1, which states that "everyone has the right, individually or in association with others, to promote the protection and realization of human rights and fundamental freedoms at the national and international levels" and article 12(2), which provides that "the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually or in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration";

4/ Publicly recognize the role of human rights defenders in the construction of the Rule of Law and democracy;

5/ Immediately engage impartial and exhaustive investigation on all cases of violence perpetrated against human rights defenders, in order to identify their authors, to prosecute them and to judge them in conformity with law;

6/ Revise legislation to put it in conformity with international human rights standards, in particular the provisions of the Public Order and Security Act (POSA) of the Access to Information and Protection of Privacy Act (AIPPA), of the Broadcasting Services Act (BSA) and of the Private Voluntary Organisations Act (PVO Act);

7/ Guarantee the independence of the judiciary;

8/ Ratify the ILO 87 Convention concerning freedom of association and right to organize itself, and implement the Recommendations of the ILO Committee of the Freedom of Association;

9/ Conform with the dispositions of the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance, and adhere to the its Peer Review Mechanism;

10/ Ratify the Additional protocol to the African charter on human and peoples' rights which creates the African court on human and peoples' rights, and make a declaration under Article 34(6) of the protocol;

11/ Give a positive answer to the request made by the Special Representative of the UN Secretary General on Human Rights Defenders in 2003, to visit Zimbabwe and enquire into the situation of human rights defenders in the country;

12/ Establish an Independent Human Rights Commission.

- The United Nations to:

To adopt, at the March 2004 session of the Human Rights Commission, a resolution on Zimbabwe, condemning human rights violations perpetrated by the regime, in particular those targeting human rights defenders;

- To the European Union to:

1/ Maintain and renew the targeted sanctions adopted by the European Union in February 2002, as done in February 2003, and to increase support for human rights NGOs and human rights defenders;

2/ Increase diplomatic pressure on African Governments in particular Southern African states to condemn the repression in Zimbabwe.

- To the African commission on human and peoples' rights to:

Give particular attention to the situation of human rights defenders in Zimbabwe and in particular to adopt, on the

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occasion of the next session of the Commission in May 2004, a resolution on this situation.

Moreover, the Observatory sends this report to Mrs Commissioner Jainaba Johm, appointed in 2003 focal point on human rights defenders.

- To the African Union (AU) to:

Adopt, on the occasion of the next session of the AU Conference which will take place in July 2004, a decision condemning the repression directed at human rights defenders in Zimbabwe.

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L'OBSERVATOIRE
pour la protection
des défenseurs des droits de l'Homme

EL OBSERVATORIO
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Activities of the Observatory

The Observatory is an action programme, based on the conviction that strengthened co-operation and solidarity among defenders and their organisations, will contribute to break the isolation of the victims of violations. It is also based on the necessity to establish a systematic response from NGOs and the international community to the repression against defenders.

With this aim, the priorities of the Observatory are:

- a) a system of systematic alert on violations of rights and freedoms of human rights defenders, particularly when they require an urgent intervention;
- b) the observation of judicial proceedings, and whenever necessary, direct legal assistance;
- c) personalised and direct assistance, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- d) the preparation, publication and diffusion at a world-wide level of reports on violations of human rights and of individuals, or their organisations, that work for human rights around the world;
- e) sustained lobby with different regional and international intergovernmental institutions, particularly the United Nations, the Organisation of American States, the Organisation of African Unity, the Council of Europe and the European Union.

The activities of the Observatory are based on the consultation and the co-operation with national, regional, and international non governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria for the examination and admissibility of cases that are communicated to it. It also targets action based interpretations of the definition of "Human Rights Defenders" applied by OMCT and FIDH.

The competence of the Observatory embraces the cases which correspond to the following "operational definition" : "Each person victim or risking to be the victim of reprisals, harassment or violations, due to its compromise exercised individually or in association with others, in conformity with international instruments of protection of human rights, in favour of the promotion and realisation of rights recognised by the Universal Declaration of Human Rights and guaranteed by several international instruments".

An FIDH and OMCT venture - Un programme de la FIDH et de l'OMCT - Un programa de la FIDH y de la OMCT

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