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U.S. Department of State

Zimbabwe Country Report on Human Rights Practices for 1996

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ZIMBABWE

President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU-PF) have dominated the legislative and executive branches of Zimbabwe's Government since independence in 1980. The Constitution allows for multiple parties; in addition to ZANU-PF, there are a large number of smaller parties. However, they are poorly organized and led, poorly financed, and subject to periodic intimidation by the ruling party and government security forces. The judiciary is independent, but the Government occasionally refuses to abide by court decisions.

The Zimbabwe Republic Police (ZRP) are responsible for maintaining law and order. The Zimbabwe National Army and Air Force are responsible for external security. The Central Intelligence Organization (CIO) under the Ministry of State Security is responsible for internal and external security but no longer has powers of arrest.

Zimbabwe's economy is agriculturally based, with strong mining and tourism sectors and a diversified manufacturing base. It is increasingly market based under the 1991-95 structural adjustment program. Primary exports are tobacco, cotton, oil seeds, livestock, gold, and nickel. Over 60 percent of the population engages in subsistence agriculture. The formal sector unemployment rate remains above 45 percent. Indigenization (black economic empowerment) is a government priority to redress economic disparities between the majority black population and a small white elite. The estimated 1996 annual per capita gross domestic product of \$588 is expected to rise as the economy continues its recovery from drought.

The Government generally respected the human rights of its citizens; however, there were significant problems in some areas, including incidents of police brutality, harsh prison conditions, the Government's refusal to abide by several court rulings, CIO intimidation of opposition party candidates and their supporters, restrictions on academic freedom, infringements on citizens' privacy, and the banning of the Gays and Lesbians of Zimbabwe's stand at the Harare International Book Fair (which was overturned by the courts).

Members of the security forces committed human rights abuses. Despite cases of police brutality, human rights organizations report a marked improvement in overall police treatment of suspects and members of the public.

Although the legislative and campaign climate remained tilted in favor of the ruling party and the March presidential elections were marred by opposition candidates' last minute attempts to withdraw, impartial election monitors found the elections generally free and fair. As a result of the Government's improper handling of nominations, the High Court nullified the results of the October 1995 Harare and Bulawayo mayoral elections. Cases challenging the validity of the Chitungwiza, Gweru, and rerun Harare mayoral elections were still pending at year's end. Although the small independent press was increasingly open and critical of the Government, the electronic media--the major source of information for most Zimbabweans--remained government-controlled, and strict antidefamation laws led to self-censorship. The Zimbabwe Broadcast Corporation issued an order banning coverage of several businessmen and opposition politicians. Domestic violence against women remained widespread, and traditional, often illegal, discrimination against women and the disabled continued.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no reports of political killings by government security forces. However, police killed three people in shooting incidents during the year. All occurred in the line of duty, and there were no suspicious circumstances.

Harsh prison conditions contributed to the average of 25 deaths per month of prisoners in custody (see Section 1.c.).

The Legal Resource Foundation and the Catholic Commission for Justice and Peace (CCJP) interviewed thousands of victims or relatives of victims of atrocities committed during the 1982-87 Matabeleland crisis and are scheduled to present their findings to the President in early 1998. No action has been taken on the 1993 Simplicius Chihambakwe Commission investigation of the Matabeleland crisis. Despite calls by the CCJP for an investigation, the Government took no further action on the bodies discovered at Antelope Mine in Kezi in 1992; the bodies have not been identified or properly buried. The trial of the police officer charged with murder after allegedly shooting another officer, who had ordered him not to urinate in public, began in September. There were no developments in the cases concerning the 1992 death in custody of 15-year-old Happy Dhlakama, the 1991 death of Lieutenant Shepard Chisango, or the 1988 death of Captain Edwin Nyela.

b. Disappearance

There were no reports of politically motivated disappearances. There were no developments in the 1990

disappearance of Rashiwe Guzha.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture, and cruel and inhuman treatment. There were no credible reports of torture. The ZRP service charter and improved training have resulted in markedly better treatment of suspects and the public. However, there are still reports of occasional police brutality. For example in November police fired tear gas at a group of striking nurses trying to peaceably enter a magistrate's court to attend the hearing of fellow strikers. Also in November, police beat students fleeing demonstrations at the University of Zimbabwe. Police occasionally beat suspects as they are arrested.

The Government has not actively pursued past allegations of torture, nor prosecuted CIO or ZRP officers for such abuses. The CIO continued to refuse to pay court-ordered damages to a 1990 torture victim.

Prison conditions remained harsh and have improved little since the CCJP issued its 1993 report describing extreme overcrowding, shortages of clothing, and poor sanitary conditions. In August, 4,000 prisoners were released under a presidential amnesty, helping to ease serious overcrowding. Overcrowding and poor sanitation aggravated outbreaks of cholera, diarrhea, and AIDS-related illnesses. An average of 25 prisoners a month died in custody, 18 from AIDS-related illnesses. Zimbabwe has established a successful community service sentencing program to try to alleviate prison overcrowding. The Legal Resource Foundation, in cooperation with the prison service, established a human rights training program for prison officials. Officials who mistreat prisoners are routinely punished.

The Government permits international human rights monitors to visit prisons.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest, detention, or exile, and the Government observes these prohibitions. The law requires that police inform an arrested person of the charges against him before he is taken into custody. Warrants of arrest issued by the courts are required except in cases of serious crimes or where there is the risk of evidence disappearing. The Ministry of Home Affairs pays an average of \$150,000 (Z\$1.5 million) each year in damages in wrongful arrest cases. In September the Minister issued a strongly worded statement warning police to observe proper procedures.

Although a preliminary hearing before a magistrate is required within 48 hours (or 96 hours over a weekend), the law is often disregarded if a person does not have legal representation. A 1992 amendment to the Criminal Procedures and Evidence Act substantially reduced the power of magistrates to grant bail without the consent of the Attorney General or his agents. In practice, however, a circular issued by the Attorney General giving a general authority to grant bail has lessened the negative impact of the rule. High Court judges grant bail independently.

The Government still enjoys a wide range of legal powers under the Official Secrets Act and the Law and Order Maintenance Act (LOMA). Originally promulgated 30 years ago and widely used in the past to prosecute political opponents of the Government, the LOMA gives extensive powers to the police, the Minister of Home Affairs, and the President to address political and security crimes that are not clearly defined. The Government invoked the LOMA during the civil service strike in September when it briefly arrested two leaders of the Public Service Association. In November two leaders of the junior doctors strike and the head of the Zimbabwe Teachers' Union were arrested under the LOMA. The Supreme Court has agreed to hear a constitutional challenge to the LOMA as part of their defense. A

supporter of the independent Member of Parliament (M.P.) was fined under the LOMA for removing his vehicle, which had been driven by an unlicensed driver, from police impoundment during the Harare South by-election campaign. William Namakonya and Simba Mhlanga received 12- and 15-year sentences respectively under the LOMA for conspiring to assassinate President Mugabe. Opposition leader and M.P. Ndabadingi Sithole is still on bail pending trial on the same charge. In November the Supreme Court agreed to hear a constitutional challenge to the LOMA's provisions that the accused must prove their innocence as part of Sithole's defense.

Pretrial detainees, who make up 21 per cent of the overall prison population, spent an average of 6 months in prison before their trials because of a critical shortage of magistrates and court interpreters. In an extreme case, Daniel Machabe was released in 1994 after spending more than 7 years in remand without trial.

The Government does not use exile as a means of political control.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the judiciary has a well-deserved reputation for independence. However, on occasion the Government refuses to abide by its decisions. Judges are appointed for life and can be removed from the bench only for gross misconduct. They are not discharged or transferred for political reasons. Magistrates, who are part of the civil service rather than the judiciary, hear the vast majority of cases and are sometimes subject to political pressure. Military courts deal with disciplinary or court martial proceedings. Police courts, which can sentence a police officer to confinement to camp or demotion, handle disciplinary and misconduct cases. Trials in both these latter courts meet internationally accepted standards for fair trials; defendants in these courts have the right to appeal to the Supreme Court. All levels of the judiciary often make rulings unpopular with the Government.

The Customary Law and Local Courts Act of 1990 created a unitary court system, consisting of headmens' courts, chiefs' courts, magistrates' courts, the High Court, and the Supreme Court. With this restructuring, civil and customary law cases may be heard at all levels of the judiciary, including the Supreme Court. In July the police criticized the customary courts for ruling on rape cases, over which they have no jurisdiction.

The Constitution provides for the right to a fair trial, and the judiciary rigorously enforces this right. Every defendant has the right to a lawyer of his choosing. However, well over 90 percent of defendants in magistrates' courts go unrepresented. In criminal cases, an indigent defendant may apply to have the Government provide an attorney, but this is rarely done and rarely granted. However, in capital cases the Government provides an attorney for all defendants unable to afford one. Litigants in civil cases can request legal assistance from the Legal Resources Foundation or the Citizens Advice Bureau. All litigants are represented in the High Court. The Supreme Court has instructed magistrates to ensure that unrepresented defendants fully understand their rights and to weigh any mitigating circumstances in criminal cases, whether or not the accused presents them as part of his defense.

The right to appeal exists in all cases and is automatic in cases in which the death penalty is imposed. Trials are open to the public except in certain security cases. Defendants enjoy a presumption of innocence and the right to present witnesses and question witnesses against them. Defendants and their attorneys generally have access to government-held evidence relevant to their cases. The legal system does not discriminate against women or minorities.

The Government generally abided by court decisions even when it was strongly opposed to the rulings. However, in January the Immigration Department deported a Nigerian national despite a High Court stay of the deportation order. In addition the Government routinely delayed payment of court costs or judgments awarded against it. For example, the CIO continued its refusal to pay damages awarded by the High Court to a former opposition party official whom CIO agents had tortured in 1990. The Attorney General's office was unable to ensure CIO compliance with the judgment.

Legal and human rights activists continued to criticize the Government's efforts to adopt constitutional amendments in order to overturn Supreme Court rulings. For example, Amendment 11 (1992) changed the Constitution to allow corporal punishment of minors after the Supreme Court ruled that caning of minors constituted cruel and inhuman punishment. Amendment 14 (1996), which denies both men and women the right to confer automatic residency on their foreign spouses, was passed in response to a 1994 Supreme Court ruling declaring that women should have the same rights as men to confer residency and citizenship on their spouses (see Section 2.d.).

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits arbitrary interference with privacy, family, home, or correspondence. Human rights groups are concerned that Amendment 14 erodes these constitutional rights by repealing Section 11 of the Constitution which specifies protection for the right to the privacy of one's home and from the compulsory acquisition of property without compensation. Although government authorities generally respect citizens' right to privacy and violations are subject to legal sanction, it is widely known that the Government sometimes monitors private correspondence and telephones, particularly international communications.

The need for land reform in Zimbabwe is almost universally accepted; however, problems have arisen with implementation of the 1992 Land Acquisition Act. Farmers whose lands have been designated for acquisition may only appeal the amount of compensation in administrative courts, not the initial decision to acquire their farms. In the past this act was implemented largely along racial lines; the Government stated that black-owned commercial farms would not be subject to designation. In a few cases, land was designated for acquisition to achieve political goals. Opposition party leader M.P. Ndabadingi Sithole continued to fight the Government over its 1993 acquisition of his farm.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of expression but allows for legislation to limit this freedom in the "interest of defense, public safety, public order, state economic interests, public morality, and public health." Although the independent press is increasingly open and critical of the Government, there is a high degree of self-censorship in both the government-controlled and independent press. Self-censorship is aggravated by antidefamation laws that make no distinction between public and private persons. For example in December the former head of the army was awarded substantial damages in a defamation suit because an independent monthly had pondered how his "goings on" would be reported. In addition an extremely broad Official Secrets Act makes it a crime to divulge "any information acquired in the course of official duties."

The major print media (seven English language newspapers and one vernacular broadsheet) belong to

the Mass Media Trust, a holding company heavily influenced by the Government and ruling party. The Ministry of Information controls the Zimbabwe Inter-Africa News Agency wire service. The Government influences mainstream media through indirect ownership, editorial appointments, directives to editors, and removal of wayward editors. The small independent press consists primarily of two economic weeklies and three monthly magazines. They carefully monitor government policies and open their pages to opposition critics. Other minor independent publications exist with fewer than 3,000 subscribers.

Radio and television are entirely government owned and controlled. Journalists report that ZANU-PF Secretary for Information Nathan Shamuyarira is often involved in determining what news is broadcast. Despite a Supreme Court ruling that the Government's monopoly on telecommunications was unconstitutional because it interfered with the constitutional right to freedom of expression, the Government has repeatedly refused to license independent radio and television stations. The Zimbabwe Broadcasting Corporation (ZBC), which still enjoys a monopoly under the Broadcast Act, issued an order banning coverage of several prominent businessmen and opposition politicians. In addition all of the government-controlled media refused to report the statements of the Public Service Association during the civil service strike in August. The ZBC gave all candidates 30 minutes of free broadcast time during the Presidential campaign.

Books and films are subject to review by the Zimbabwe Board of Censors. In February the police briefly seized the negative of a film, still in production, on the liberation struggle which the National War Veteran's Association claimed was offensive. However, the Southern African Film Festival was held in Harare in September without interference from the Board of Censors.

In July the government spokesman announced that the Gays and Lesbians of Zimbabwe (GALZ) exhibit on AIDS counseling and prevention at the Harare International Book Fair had been banned. The Board of Censors subsequently issued an official banning order, but the High Court overturned the order on the grounds that the Board of Censors could not ban materials it had not screened.

The University of Zimbabwe (UZ) Amendment Act and the National Council for Higher Education Act curtail academic freedom by restricting the independence of universities, making them subject to government influence, and extending the disciplinary powers of the university authorities against staff and students. The UZ suspended or expelled 20 students under the act after students wrecked the university cafeteria protesting poor food. A large number of Harare Polytechnic and UZ students were suspended in July for participating in unruly demonstrations demanding increased allowances.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right of assembly and association for political and nonpolitical organizations, including a broad spectrum of economic, social, professional, and recreational activities. Permits are no longer required for meetings or demonstrations. A draft public order act, the purported successor to the Law and Order Maintenance Act, has been circulated for comment to human rights groups. The law would make organizers of demonstrations civilly liable if the demonstrations turn violent.

The formation of unions and political parties is not restricted. Organizations are generally free of governmental interference as long as their activities are viewed as nonpolitical. However, under the Private Voluntary Organizations Act of 1995, the Minister of Social Welfare, Labor, and Public Service is empowered to suspend the executive body or "any member of the executive committee of an organization and to appoint persons to manage the affairs of the organization for a specified time." A

case challenging the Minister's November 1995 removal of the board of a women's nongovernmental organization (NGO) is pending in the Supreme Court. The National Association of NGO's (NANGO) is negotiating with the Government for revision of the act. As a result of the act, several newly established NGO's decided to establish their organizations as "associations" connected with established NGO's so that their executive bodies would not be subject to government interference.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respects them in practice.

The new Zimbabwean Citizenship and Immigration bill, presented to Parliament in mid-1994 but not yet law, tightens prohibitions against dual citizenship. Human rights groups are concerned that these provisions will most affect white Zimbabweans, many of whom hold dual citizenship, and will interfere with citizens' right of return.

In response to a 1994 Supreme Court ruling that Zimbabwe's practice of allowing men, but not women, to confer residency rights on their foreign born spouses was discriminatory, the Government proposed a constitutional amendment establishing the practice in the Constitution. After an outcry from civic, particularly women's, organizations, the Government withdrew the amendment and proposed a revised bill that allows neither men nor women to confer citizenship on their foreign born spouses. Parliament passed the amendment in October.

The Government cooperates with the Office of the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. Zimbabwe provides first asylum. Forty persons were granted first asylum and 36 denied it in 1996. There were no reports of forced expulsion of those having a valid claim to refugee status nor of forced return of persons to countries where they feared persecution. There were approximately 350 refugees from a variety of African nations.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the legal right to change their government democratically, however, the political process continued to be tilted through various means in favor of the ruling party. President Mugabe and his ZANU-PF Party remained the dominant political force within the country. In the 1995 general elections, ZANU-PF captured 117 of the 120 elected seats. The 10 chiefs who sit as M.P.s are elected by their peers. The President also appoints 8 provincial governors, who sit as M.P.s, and 12 nonconstituency M.P.s. The net result of several constitutional amendments has been to consolidate the power of the executive branch and to limit M.P.s' independence. There is no effective parliamentary opposition, and the legislature remained subordinate to the executive branch. However, in 1996 Parliament had greater influence on the content of proposed legislation in ruling party caucus debate and during the committee phase than in previous years.

There are many small opposition parties. However, their growth is inhibited by a variety of factors, including the Political Parties Finance Act (PPFA) and the government monopoly on the electronic media. The PPFA provides government funding only to those parties that have more than 15 parliamentary seats, effectively giving all public funding to the ruling party. An opposition party's constitutional challenge of the Electoral Act is still pending before the Supreme Court. There were

credible reports of continued CIO harassment of opposition and independent candidates and their supporters. In addition to these serious institutional problems, however, the opposition parties' poor leadership, infighting, and lack of coherent platforms played an important role in their poor electoral showing.

The week before the March presidential elections both opposition candidates attempted to withdraw, claiming that until the PPFA, the Electoral Act, and the Broadcast Act were substantially revised, they would be unable to surmount the hurdles placed before them by the electoral system. However, the Registrar General ordered that the elections be held with their names on the ballots because they did not withdraw within the period required by the Electoral Act.

Voting in the presidential elections was peaceful and generally free and fair. The turnout was very low (30.4 percent). The relatively high ratio of spoiled ballots (over 4 percent) was thought to indicate a need for more thorough voter education, particularly in rural areas. Human rights organizations praised the conduct of the ZRP during the elections. There were no reports of bias or intimidation by election officials. The Electoral Supervisory Commission (ESC) deployed hundreds of NGO election monitors nationwide, but at year's end the ESC had not presented its report on the Presidential election to the Minister of Justice.

In March the High Court nullified the results of the October 1995 Bulawayo and Harare mayoral elections because the returning officers (supervising election officials) had conducted nominations improperly. An opposition party is appealing the High Court's ruling that the Gweru mayoral elections were handled properly, alleging that the President abused the Presidential Powers Act in calling for mayoral elections before Parliament passed a new Urban Councils Act establishing the post of executive mayor.

New Bulawayo and Harare elections were held in August and September. The campaign in Harare was marked by lopsided media coverage and CIO and ZANU-PF official harassment of opposition party supporters. There were isolated incidents of violence by supporters of both candidates. Before the election, the independent candidate successfully sued to have the Town Clerk, who was a candidate in the 1995 ruling party parliamentary primaries, removed as returning officer. His suit to have the new election results nullified, on the grounds that the voters' roll was not in order and that vote counting was handled improperly, was still pending in the High Court at year's end. NGO election observers described the vote counting as "chaotic" and noted that the agents of the independent candidate were not present when counting began. Also in September the independent candidate for Mayor of Chitungwiza (a newly designated municipality) filed a High Court suit to have the election results nullified because gross irregularities in the voters' roll resulted in persons not on the roll being allowed to vote fraudulently and persons on the roll being refused the right to vote. There were 20 affidavits attached to his suit detailing abuses ranging from violence and intimidation by supporters of the ruling party, to vote buying, to voters being told they were "too old to vote."

There are institutional problems with the management and supervision of elections. Although the Ministry of Justice technically administers the Electoral Act, the Registrar General's Office falls under the Ministry of Home Affairs. With a meager budget and a tiny staff seconded from the Ministry of Justice, the Electoral Supervisory Commission lacks the institutional capacity to oversee all of the country's polling stations. Nor do commissioners have the executive authority to order that an irregularity be corrected. Despite an attempt to computerize the voters' roll, it contains a very large number of redundancies or errors, including misspellings, multiple entries, and names of the deceased. In the March presidential elections, thousands of voters were turned away because their names were missing from or improperly listed on the roll. An opposition party's challenge of the results of the July 1995 parliamentary by-election in Gweru on the grounds that registration irregularities affected the

outcome was still before the High Court at year's end.

Women participate in politics without legal restriction. However, according to local women's groups, husbands--particularly in rural areas--commonly force their wives to vote for the husband's preferred candidates.

There are 20 women in the 150-member Parliament, including the Deputy Speaker. There are three female cabinet ministers and three deputy ministers. All major ethnic groups are represented in Parliament and in the Government.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Although the Government permits local civic and human rights groups to operate, it monitors their activities closely, in particular those of the Catholic Commission for Justice and Peace and ZIMRIGHTS. Other groups that promote human rights include the Legal Resource Foundation, the Southern African Federation of the Disabled, Zimbabwe Lawyers for Human Rights, the Child and Law Project, the Zimbabwe Women Lawyer's Association, and the Southern African Human Rights Research and Documentation Trust. The Foundation for Democracy in Zimbabwe (FODEZI) was established in July as a watchdog organization to support independent candidates. Amnesty International, Transparency International, and the International Committee of the Red Cross operate in Zimbabwe. The Government does not discourage representatives from international human rights groups from visiting Zimbabwe.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides that "every person in Zimbabwe" is entitled to fundamental rights whatever his race, tribe, place of origin, political opinions, color, creed, or sex.

Women

Domestic violence against women, especially wife beating, is common and crosses all racial and economic lines. Women's groups have noted that every police station in Zimbabwe has handled at least one case of a woman killed by her husband. According to Women in Law and Development in Africa (WILDAF), domestic violence accounts for more than 60 percent of murder cases in the Harare High Court. In 1992 (the last year for which official statistics are available), 4,437 official complaints of wife beating were filed. Human rights groups have noted that increased training has improved police community relations officers' handling of these cases. There were 3,148 cases of rape reported in 1995 (the majority involving girls under the age of 14), resulting in 727 convictions. There were 1,400 cases of rape in the first half of 1996. Women's groups and the police believe the actual number is much higher, but the majority of cases go unreported because of the social stigma of rape. When cases come to court, the courts generally impose stiff sentences for rape and wife beating. However, a "binding over" order (an order to appear in court to respond to an accusation of violent behavior) is issued based only on actual physical abuse and not on threats of violence. In addition the courts do not have the power to oust an abusive spouse from a matrimonial home.

Since independence the Government has enacted major laws aimed at enhancing women's rights and countering certain traditional practices that discriminate against women. However, women remain disadvantaged in Zimbabwean society. Illiteracy, economic dependency, and prevailing social norms prevent rural women in particular from combating societal discrimination. Despite legal prohibitions,

women are still vulnerable to entrenched customary practices, including "kuzvarira," the practice of pledging a young woman to marriage with a partner not of her choosing; "nhaka," the custom of forcing a widow to marry her late husband's brother; and the customary practice of offering a young girl as compensatory payment in interfamily disputes.

Although two women preside as chiefs in Mashonaland, a dispute has erupted over the ascension of a female chief, sanctioned by the President, in Matabeleland South. Provincial Governor Welshman Mabhena declared that "under Ndebele custom a woman can never preside over a man. It is a mockery of our culture."

The Legal Age of Majority Act and the Matrimonial Causes Act recognize women's right to own property independently of their husbands or fathers. However, while unmarried women may own property in their own names, women married under customary law are not allowed to own property jointly with their husbands. Inheritance laws remain unfavorable to widows. The Government took no legislative action on a draft inheritance law that would address the issue of unfair and unequal distribution of inherited assets. Divorce and maintenance laws are favorable toward women, but women generally lack awareness of their rights under the law.

Although labor legislation prohibits discrimination in employment on the basis of gender, women are concentrated in the lower echelons of the work force and commonly face sexual harassment in the workplace.

Several active women's rights groups in Zimbabwe, including WILDAF, the Musasa Project, the Zimbabwe Women Lawyers' Association, and the Women's Action Group, concentrate on improving women's knowledge of their legal rights, increasing women's economic power, and combating domestic violence. There is no government office specifically responsible for women's affairs.

Children

The Government continued to demonstrate its strong commitment to children's rights and welfare through a system of primary health care and education overseen by the Ministry of Health and Child Welfare. The Children's Protection and Adoption Act, the Guardianship of Minors Act, and the Deceased Person's Maintenance Act all protect the legal rights of minor children. While there is no compulsory education, Zimbabwe has made considerable progress in providing education for girls, and overall primary school attendance has increased by more than 400 percent since independence. About 93 percent of children reach grade 5. With the reintroduction of school fees in urban schools and rural secondary schools, however, enrollment has declined. If a family is unable to pay tuition costs, it is most often female children who leave school. There are an estimated 12,000 homeless "street kids" in Zimbabwe, many of them the children of former Mozambican refugees or AIDS orphans. Child abuse--including incest (long taboo in Zimbabwean society), infanticide, child abandonment, and rape is increasing but still is not widespread.

The Ministry of Justice's Vulnerable Witnesses Committee established two pilot projects to improve the judicial system's handling of child victims of rape and sexual abuse. The criminal justice system has special provisions for dealing with juvenile offenders.

Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, is rarely performed in Zimbabwe. However, according to press reports, the initiation rites practiced by the small Remba ethnic group in Midlands Province include infibulation, the most extreme form of FGM.

People with Disabilities

President Mugabe appointed a disability activist to Parliament in 1995 to represent the needs of the disabled. The Disabled Persons Act of 1992 specifically prohibits discrimination against people with disabilities in employment, admission to public places, or provision of services and is viewed by advocates of the disabled as model legislation. In practice, however, the lack of resources for training and education severely hampers the ability of disabled people to compete for scarce jobs. Although the act stipulates that government buildings should be accessible to disabled persons, for budgetary reasons this is rarely implemented. Disabled people face particularly harsh customary discrimination. According to traditional belief, people with disabilities are considered bewitched, and reports of disabled children being hidden when visitors arrive are common.

National/Racial/Ethnic Minorities

The Shona ethnic group makes up 77 percent of the population, Ndebele 14 percent, Kalanga 5 percent, whites 1 percent, and other ethnic groups 3 percent. Government services are provided on a nondiscriminatory basis, and the Government has sought to expand and improve the previously "whites only" infrastructure in urban areas to provide health and social services to all citizens. Nevertheless, in social terms Zimbabwe remains a racially stratified country. While schools and churches are all integrated, social interaction among racial groups is still limited. Although intertribal relations are generally very good, the disproportionate number of Shona speaking teachers and headmasters in Matabeleland schools remained a sensitive issue.

Section 6 Worker Rights

a. The Right of Association

The Labor Relations Act (LRA) provides private sector workers with freedom of association and the right to elect their own representatives, publish newsletters, and set programs and policies that reflect the political and economic interests of labor. Workers are free to form or join unions without prior authorization. The LRA allows for the existence of multiple unions per industry, provided that each is registered with the Ministry of Public Service, Labor, and Social Welfare (MPSLSW). While the Government may deregister individual unions, the High Court has ruled that the LRA does not give the Minister the power to suspend or deregister the national umbrella labor confederation, the Zimbabwe Congress of Trade Unions (ZCTU).

Approximately 30 percent of the formal sector work force belongs to the 33 unions that form the ZCTU. ZCTU officers are elected by delegates of affiliated trade unions at congresses held every 5 years. While the Government encouraged the ZCTU's formation, anticipating that it would form the labor arm of ZANU-PF, it no longer directly influences ZCTU actions. The Government and the ZCTU often clash on economic policy, particularly the Economic Structural Adjustment Program (ESAP). The Government usually does not consult either the ZCTU or employers before implementing policy decisions affecting the workplace. This lack of consultation often results in reactions that disrupt labor relations, thereby promoting uncertainty and even strikes. At its 1995 Congress, the ZCTU called for the formation of a standing committee consisting of labor, government, and industry representatives that would comment on all government policy decisions affecting labor. The LRA allows for the formation of multiple national federations. A second umbrella labor organization, the Zimbabwe Federation of Trade Unions (ZFTU), was launched in October with the stated purpose of providing an alternative of the ZCTU. The new organization states that its goal is to work in collaboration with the Government and is openly critical of the ZCTU. The ZFTU's origin, leadership, and membership remained unclear at

year's end. Although key personnel have not been publicly identified, most observers believe that they are principally former senior ZCTU leaders, some of whom were involuntarily separated from that organization. No ZFTU activity has been observed other than the fact of its formation.

Public servants and their associations, the Public Service Association (PSA), the Zimbabwe Teachers Association (ZIMTA), and the Zimbabwe Nurses Association (ZINA), are not covered by the provisions of the LRA. Instead, their conditions of employment are provided for under the Constitution. Although civil servants are constitutionally barred from forming unions, in 1995 ZIMTA stated its intention to join the ZCTU and the PSA joined in August. All public servants are deemed essential and are prohibited from striking. Nonetheless, in late August at least 20,000 civil servants went on nationwide strike with many more unable or unwilling to report to work. The Government declared the strike illegal, briefly arrested PSA leaders, and announced the dismissal of striking workers. After a 20-day strike, the Government rescinded the dismissal order and agreed to implement previously promised pay raises. The Government also agreed to enter negotiations on other worker demands such as unifying the public and private sectors under one LRA. In late October, over 2,000 government nurses and 300 government doctors from Zimbabwe's principal hospitals resumed their portion of the civil servant strike, citing as justification lack of Government good faith in the negotiations. The Government declared the strike illegal, dismissed the striking workers, arrested several of their representatives, and banned demonstrations, use of protest placards, and public gatherings related to the strike. In November the ZCTU called a national 2-day work stoppage after riot police broke up a peaceful demonstration using truncheons and tear gas. The police briefly detained the ZCTU's Secretary General during the demonstration. The call for a work stoppage went unheeded. By early December, most nurses and doctors had returned to work, but the Government refused to reinstate two doctors and several nurses who were in the forefront of the strike.

The Labor Relations Amendment Act (LRAA) of 1992 specifies that workers may establish independent worker committees, which exist side by side with unions, in each plant. Worker committees must also be registered with the MPSLSW, which is free to refuse registration. Trade union officials believe that the formation of worker committees was an attempt to dilute union authority. However, the ineffectiveness of worker committees demonstrated the need for the experienced worker representation of the established trade unions.

The International Conference of Free Trade Unions (ICFTU) has criticized Zimbabwean labor legislation for giving "wide scope to the authorities to declare that a given enterprise or industry constitutes an essential service, and then impose a ban (on strikes) on it." The authority to reclassify a previously nonessential service as essential was not used in 1996. Workers in sectors deemed "nonessential" have the right to strike provided the union advises the Government 2 weeks in advance of its intention to do so. If the MPSLSW finds that administrative requirements were not met for a strike, it can issue a disposal order that gives the employer the right to dismiss striking workers. There were no reports that this occurred in 1996. There were 30 cases of collective job actions during the first 5 months of 1996.

The ZCTU and its officials are free to associate with international labor organizations and do so actively. The ZCTU is affiliated with the ICFTU and the Southern African Trade Union Coordinating Council. The African American Labor Center (AALC) maintains a regional office based in Harare.

b. The Right to Organize and Bargain Collectively

The LRA provides workers with the right to organize. As originally enacted, this act was silent on the right to bargain collectively. However, the 1992 LRAA permits unions to bargain collectively over wages. Worker committees, which are by law not organizationally part of the unions or the ZCTU, are

empowered to negotiate with the management of a particular plant on the conditions of labor and codes of conduct in the workplace, except for wages.

Collective bargaining wage negotiations take place on an industrywide basis between the relevant union and employer organizations sitting on joint employment boards or councils. These bodies submit their agreements to the Registrar in the MPSLSW for approval. The Government retains the power to veto agreements that it believes would harm the economy. However, it did not directly involve itself in labor negotiations unless requested to do so by one of the two parties. When no trade union represents a specific sector, representatives of the organized workers, i.e., the professional associations, meet with the employer associations, under the mediation of labor officers from the MPSLSW. Public sector wages are determined by the Salary Service Department of the MPSLSW, subject to the approval of an independent Public Service Commission (PSC). Each year PSC officials meet with PSA representatives to review wages and benefits. These reviews result in a recommendation that is forwarded to the MPSLSW. The Minister is not required by law to accept the recommendation.

Employees designated as being in managerial positions are excluded from union membership and thus from the collective bargaining process. The presence of the ZCTU or specific national unions in individual shop floor or worker committee negotiations is not mandated.

The LRA prohibits antiunion discrimination by employers against union members. Complaints of such discrimination are referred to labor relations officers and may subsequently be adjudicated by the Labor Relations Tribunal (LRT). Such complaints are handled under the mechanism for resolving cases involving "unfair labor practices." The determining authority may direct that workers fired due to antiunion discrimination should be reinstated, although this has yet to be utilized in practice.

The LRAA streamlined the procedure for adjudicating disputes by strengthening the LRT. Now, labor relations officers hear a dispute; their decision may be appealed to regional labor relations officers, after which the LRT may hear the case. Ultimately, it may be appealed to the Supreme Court. In 1993 the Government filled long vacant positions on the LRT, but at year's end the LRT boards were still not fully staffed. The LRT has a backlog of over 2,000 cases, some of which have been awaiting a hearing for more than 7 years.

The Export Processing Zones Act states the LRA shall not apply to workers in export processing zones (EPZ's). Although President Mugabe publicly agreed in 1994 that the act should be revised to make the LRA applicable in the EPZ's, the Government has taken no action to amend the act. Applications for companies to be established in the newly created EPZ's are currently being processed.

c. Prohibition of Forced or Compulsory Labor

Compulsory labor is prohibited by law, and there were no reports that it was practiced.

d. Minimum Age of Employment of Children

The law affords little protection to working children. There is no specific legal prohibition of child labor; the LRA only states that contracts of employment shall not be enforceable against any person under the age of 16. Although schooling is not compulsory, over 90 percent of children attend school through grade 5 (see Section 5).

The presence of child labor in industry is marginal since a ready supply of adult labor at relatively low wages gives firms little incentive to employ children. Children are most often employed as casual farm

workers, domestics, or in the informal sector; only a tiny percentage of children work full-time. Among the peasant farmers, financial necessity often dictates the use of child labor during the harvest season and for tending livestock. There were anecdotal reports of an increase in the number of children working full-time in the informal sector and small-scale alluvial gold panning. The Government formed a task force in late 1993 to define child labor, determine problem areas, and suggest legislation to alleviate these problems. The task force referred its recommendations to the Attorney General's office which to date has taken no action.

e. Acceptable Conditions of Work

The maximum legal workweek is 54 hours, and the law prescribes a minimum of one 24-hour rest period per week. Working conditions are regulated by the Government on a specific industries basis. The Constitution empowers the PSC to set conditions of employment in the public sector. Government regulations for each of the 22 industrial sectors continue to specify minimum wages, hours, holidays, and required safety measures. In recent years, in an effort to opt out of the wage bargaining system, the Government mandated wage parameters and specified minimum wage increases only for domestics and gardeners. Due to an ineffective monitoring system, many such workers are remunerated below the minimum wage.

The minimum monthly wage for domestics and gardeners of approximately \$31 (Z\$308.49 and Z\$304.83 respectively) is the de facto minimum wage. In most instances the employer must provide housing and food to workers or allowances for such. On commercial farms, the employer may provide schooling for workers' children. The minimum wage is not sufficient to sustain a decent standard of living for a worker and family. Workers in sectors covered under collective bargaining agreements received wage increases averaging a few points below the 25 percent inflation rate. Minimum monthly wage rates ranged from \$29 (Z\$290) in the agricultural sector to approximately \$73 to \$82 (Z\$731 to Z\$817) in the various manufacturing sectors. In theory labor relations officers from the MPSLSW are assigned to monitor developments in each plant to assure that government minimum wage policy and occupational health and safety regulations are observed. In practice these offices are understaffed, cannot afford to routinely inspect workplaces, and must rely on voluntary compliance and reporting by employers.

Safety in the workplace is a continuing problem. The most recent figures show that there were 252 deaths in 19,861 reported occupational injuries during 1995, numbers consistent with those for preceding years. Many of the basic legal protections do not apply to the vast majority of farm, mine, and domestic workers. Unions charge that there are no general standards for the work environment, such as threshold limits for manually lifted weights or conditions for pregnant workers. Health and safety standards are determined only on an industry-specific basis. The Government intervenes on a selected basis (and often seemingly in response to the most recent accident) and sets standards by regulation in some industries. In theory workers have a legal right to remove themselves from dangerous work situations without jeopardy to continued employment; in practice they risk the loss of their livelihood.

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