

# ***Report***

## **Legal and Judicial Cooperation Programme**

### **ZIMBABWE shrinks away economic rights and fundamental liberties**

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## **I - INTRODUCTION**

### **A. The Legal Cooperation Programme (LCP) in Zimbabwe**

The Legal Cooperation Programme (LCP) conducted by the FIDH is entitled “ *Training programme for trainers to international human rights norms and procedures*”. This programme is supported by the European Commission (European Initiative for Democracy and Human rights) and the French Ministry of Foreign Affairs. It develops various activities in 10 African countries aiming at strengthening the rule of law through education and sensitisation to human rights, due process of law and conflict prevention.

In each concerned country, the LCP encompassed three phases:

- The ***Preparatory mission***, which goal is to identify pressing human rights issues in the country to determine the theme of the workshop. In Zimbabwe, this mission took place from 20<sup>th</sup> to 23<sup>rd</sup> February 2002, and was led by Mr Ghalib Galant of the Human Rights Committee, FIDH member organisation in South Africa. This mission aimed at determining the feasibility of holding the LCP in Zimbabwe through numerous meetings with government officials, foreign missions and official delegations in Zimbabwe, and NGOs representatives.

- The ***Seminar***, which goal is to bring together international and regional experts, civil society actors and State representatives in a common and constructive brainstorming about important human rights issues. In Zimbabwe, the workshop on “***The role of the Government and civil society in sustainable development***” was co-organised by Zimrights and the FIDH, and was held at Victoria Falls, Zimbabwe, from 9<sup>th</sup> to 12<sup>th</sup> December 2002. The event gathered members from international and national NGOs, together with government officials. The discussions focused on the respective roles of both government and civil society in sustainable development. Despite the tense political situation in the country, the debates between duly mandated representatives of the government, civil society and international experts led to a constructive dialogue. The participants adopted joint recommendations about the main issues addressed, such as human rights defenders, the right to food and land reform.

- ***The Follow-up Mission***, which goal is to assess the implementation of the recommendations adopted by the participants of the workshop while at the same time to identify obstacles to their realisation. In Zimbabwe the mission was led by Mrs Anne-Christine Habard (FIDH secretary general) and Mr Ghalib Galant, and took place from 27<sup>th</sup> August to 3<sup>rd</sup> September 2003. The FIDH delegation noted the degradation of the general political, economic and social context, and focused on the situation of human rights defenders, who have been particularly targeted for the past few months. The mission could also assess the impact of the Legal Cooperation Programme as a working basis for the participants.

### **B. Presentation of ZimRights, Zimbabwe Human Rights Association**

The Zimbabwe Human Rights Association “ZimRights” is an local non-profit making Non-Governmental Organisation registered under the Welfare Organisations Act, No. W.O. 3/93. The Association was founded in 1992 and can be described as a network of human rights activists, most of them being grassroots based. ZimRights had a membership of over 15.000 people by the end of 1998. Zimrights’ key goal is to make the subject of human rights a household issue and a concern of each and every person on Zimbabwean soil.

ZimRights mission is to promote, protect and defend human rights in Zimbabwe in order to empower all people through networking, education programmes, publications, legal aid and lobbying.

The objectives of the organisation is to

- Promote (through a deliberate outreach programme) human rights for all people regardless of status.
- Assist the marginalized sectors of the community by providing them with relevant education and information in order to assert their rights and seek improvement of their living conditions.
- Act as a voice of the voiceless, the oppressed and the disadvantaged groups and aiming at empowering all citizens to be active participants in a democratic society.
- Carry out research into injustices and the underlying causes of these and then finding ways of

- remedying these through documentation and recommendations based on established facts.
- Lobby the Zimbabwe Government to commit itself to good governance through ratifying important international human rights instruments and to rededicate itself to its commitment to observe, protect and respect human rights and dignity of the individual through constantly reminding it of its international obligations.
  - Co-operate with other human rights organisations locally, regionally and internationally who are striving to advance the cause of human rights.

ZimRights strives to achieve these objectives through programmes and projects such as :

- Human Rights Education Programme
- Democracy and Good Governance
- Election Monitoring/Voters' Education
- Information Dissemination

ZimRights is also offering legal advice and assistance with special emphasis in human rights test case and public interest case litigation, i.e. using the law to enforce human rights. ZimRights has also taken the challenge to create capacity for:

- (a) Human rights training and monitoring of strategic law-making and enforcement agencies.
- (b) Advocacy for pro-human rights law reform.
- (c) Providing human rights legal services to members, including referral and information.

## **C. Background information on Zimbabwe**

### ***1. The land reform in Zimbabwe***

Land has historically been an acute source of conflict in Zimbabwe. Already during colonial times, when the country was known as Rhodesia, up to the 1965 Unilateral Declaration of Independence unilateral independence declared by the white minority government headed by Ian Smith, land was at the core of the conflicts between the white settlers and the black rural populations, as the white settlers very early on seized the majority of the best agricultural land. Land could be either privately or publicly owned, under different regimes (national parks and forests not included):

- Communal areas (land held by the State for tribes), 41% of the territory in 1979
- State owned farms, 0,75%
- Small Scale Commercial Farming (SSCF) – State lease, 3,5%
- Large Scale Commercial Farming (LSCF) – held under freehold, 40%

In 1979, the Large Scale Commercial Farms occupied approximately 40% of the territory, for a population of only a few thousands white farmers ; the communal areas accounted for 41% of the total – but they catered to the vast majority of the black Zimbabwean population. SSCF and state owned farms occupied a negligible part of the land (respectively 3.5 and 0.75% of the territory).

Unsurprisingly, land came again to be at the centre of the “war of liberation” fought in the 1970s, which ended with the Lancaster House Agreement signed on 21 December 1979 between de Patriotic Front (PF), consisting of ZAPU (Zimbabwe African Patriotic Union) and ZANU (Zimbabwe African Nationalist Union) and the then Rhodesian government. The Agreement was followed by national elections in 1980. Robert Mugabe, leader of ZANU became prime minister, then, following constitutional amendments in 1987 which provided for an executive presidency, president, and he remains so today.

The Lancaster House Agreement, though providing the first framework for land redistribution, did so in a limited manner, as it meant to give special protection to white Zimbabweans for the first ten years of independence: in particular, it prohibited compulsory acquisition of land – the redistribution should occur on a “willing buyer, willing seller” basis – and the government agreed to the “prompt payment of adequate compensation” for the property – a compensation based on market price. The financial burden of the programme was to be shouldered mainly by Britain, which provided £ 44 million through a “land resettlement grant” to the Zimbabwe government.

Between 1980 and 1990, approx. 1300 farms, accounting for approx. 3 million hectares, were acquired by the government (against a target of 9 million), which allowed approx. 50,000 families to resettle. However, essentially because of the “willing seller” principle, the acquired land was mainly of poor quality, while the most fertile land remained in the hands of the white commercial farmers.

The following decade demonstrated a paradoxical pattern: the resettlement programme slowed dramatically (only 20,000 families resettled) compared to the previous decade – although the restrictions to land acquisition contained in the Lancaster House Agreement were now no longer applicable, and the Zimbabwean government actually quickly passed laws to supposedly accelerate the redistribution programme. Among these, the Land Acquisition Act, 1992, figured prominently, as it allowed for compulsory acquisition of the land, and allowed the purchase at non-market price. The Rukuni Commission (an ad hoc commission set up on land tenure) made some further recommendations in 1994 on the best way to achieve a fair and sustainable redistribution (notably, a land tax), which were never implemented.

It is important to note that the favoured method of redistribution during these two decades was to privilege state ownership, which was then redistributed to individuals through the issuance of state permits – a method heavily contested as the years passed, with growing accusations of cronyism, nepotism, and arbitrary changes of government policies on land allocation.

By the end of the second decade of independence, in 1999, only 3.6 million hectares had been redistributed, consisting mainly of unproductive land; 11 million of the most fertile land remained in the hands of about 4,500 commercial farmers, most of them white, while the population density in “communal areas” had actually increased.

The situation was becoming increasingly tense, and in 1997, the Zimbabwean government, spurred by dissatisfied war veterans, launched the Land Reform and Resettlement Programme Phase II (LRRP-II), which included the compulsory acquisition of 1,471 farms (approx. 3.9 million hectares). The first land invasions happened in 1998, the year an international donors’ conference was laying out principles for a fair and transparent redistribution programme; though it encountered some difficulties, it nonetheless triggered some progress: by 1999, 35 farms, totalling 70,000 hectares had been acquired, a land tax bill was being drafted, and other steps were being taken, such as measures to limit farm sizes.

But the real politicisation of the issue was still to come; in 1999, following a nationwide civil society movement, Mugabe launched a project for a new constitution, which he put on referendum in February 2000. To his great surprise, and for the first time since his coming to power, the bill was defeated, by 53%. The newly formed Movement for Democratic Change (MDC) had campaigned for a “no” vote.

Facing an unprecedented challenge, Mugabe responded by cracking down on the opposition, spurring a wave of political violence which has not receded since, and by politicising the issue of land reform, which Mugabe placed at the centre of his political agenda (ZANU -PF’s slogan for the June 2000 parliamentary elections was “Land is the Economy – the Economy is Land”): he called for radical measures to redistribute the land. If the land issue had always been a difficult problem in Zimbabwe, it has now become, more than ever, a political tool, used by the Mugabe regime to maintain its eroding hold on power. Mugabe modified and/or added several provisions of the Constitution to ease the compulsory acquisition of land, amended the Land Acquisition Act, which was to form the basis of the controversial “fast track” resettlement programme in July 2000, which initially aimed at acquiring over 3000 commercial farms – a total raised over the months to close to 7000 farms, totalling approx. 9 million hectares. The fast-track programme listed two models for resettlement: model A1, to benefit 160,000 beneficiaries from among the poor (with 20% officially reserved for war veterans) and model A2, the purpose of which was to create a cadre of 51,000 black commercial farmers. Within days of the result of the 2000 referendum, forcible occupations and often violent occupations, usually led by War veterans, started, first in Masvingo Province. It is estimated that in the course of 2000, approx. 1600 commercial farms (belonging mainly to white commercial farmers) were forcibly occupied at one stage or another; violent incidents have been extensively reported during the course of the land seizures. ZANU -PF militias very often helped with the invasions, and would use the farms as “political” base to harass the opposition. The laws were supplemented in June 2001 by the Rural Land Occupiers (Protection from Eviction) Act, which aimed at restricting any possible legal proceeding against occupiers on farms listed for acquisition.

In December 2000, the Commercial farmers' Union (CFU) filed a lawsuit in the Zimbabwe Supreme Court, challenging the legality of the fast track land reform system. The CFU was successful in obtaining an order from the Court, barring land distribution under the fast-track method because the method was held to be unconstitutional. This order was overturned one year later after, and the CFU was from then on barred from filing class-action lawsuits. Between the two judgments, a number of judges had been replaced, including the Chief Justice, by judges perceived to be closer to the ruling party.

In June 2001, the laws were supplemented in by the Rural Land Occupiers (Protection from Eviction) Act, which aims at restricting any possible legal proceeding against occupiers on farms listed for acquisition.

## **2. Systematic repression of human rights defenders in Zimbabwe**

2002 and 2003 were 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.

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, detaining them for periods often exceeding the legal 48 hours, shuttling detainees from one police station to the other, or subjecting them to ill-treatments. The Zimbabwe Lawyers for Human Rights (ZLHR), 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."*

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 destabilizing consequences in southern Africa (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 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 confirms this trend, and leaves little hope for a reversal of government policy for next years.

## **3. Status of Ratification of human rights instruments**

Zimbabwe has ratified the following international and regional human rights treaties:

**CEDAW**: Convention on the Elimination of All Forms of Discrimination against Women (1991)

**CERD**: Convention on the Elimination of All Forms of Racial Discrimination (1991)

**CRC**: Convention on the Rights of Child (1990)

**ICESCR**: International Covenant on Economic, Social and Cultural Rights (1991)

**ICCPR**: International Covenant on Civil and Political Rights (1991)

**ACHPR**: African Charter on Human and Peoples' Rights (1986)

## **II - PREPARATORY MISSION [20-23 February 2002]**

The preparatory mission took place from 20 to 23 February 2002 in Harare, Zimbabwe. In order to assess the feasibility of holding the workshop in Zimbabwe, the FIDH arranged for a pre-mission assessment visit by Ghalib Galant of the Human Rights Committee, the FIDH's South African affiliate, whilst ZimRights, the local FIDH member, handled the logistics and arrangements in Harare.

The preparatory mission was useful in understanding the most pressing human rights issues and preoccupations of human rights defenders, the civil society actors and government officials in Zimbabwe. The preparatory mission was held only three weeks before the presidential elections in March 2002.

The mission managed to meet with the following people:

- ◆ *European Commission Head of Delegation,*
- ◆ *British High Commissioner,*
- ◆ *French Ambassador,*
- ◆ *The Attorney-General,*
- ◆ *A Supreme Court Judge,*
- ◆ *Board members of the Zimbabwe Human Rights NGO Forum*
- ◆ *Harare Election Crisis Committee*
- ◆ *Zimbabwe Lawyers for Human Rights*

### **A. General situation**

Everywhere were signs of an extremely polarised society, the media was split along political lines with pro-government and pro-MDC (Movement for Democratic Change) newspapers vilifying each other on a daily basis. The printed media was an express site of struggle for the political parties with much of the electioneering taking place in the media. Both print and the audio-visual media were chasing sensational stories often at the expense of balanced, and responsible reporting. The divide between state-owned media and private-owned media was also very clear. Even a media-monitoring NGO was drawn into the fray by taking out a full-page advert in one of the dailies while the FIDH delegate was there calling for support for the MDC.

Though a clear political divide is to be seen, it has not taken on any overt racial or ethnic terms, except for the anti-white sentiment present in much of the ZANU -PF rhetoric.

Besides, ZANU -PF's approach to the electorate ("you are either with us or against us") led to labelling many NGOs who were critical of the government as opposition friendly. The fact that members of the MDC come from a number of civil society organisations (NGOs and trade unions) makes it an easy connection.

Opposition to the government was seen as subversive and treasonous. The 2002 alleged plot to assassinate President Mugabe reached a peak with the intervention of the public broadcaster.

Western governments critical of the regime were also roundly condemned by government sources. The mission arrived as soon after the withdrawal of the European Union observer mission to Zimbabwe. However, these governments were still committed to aiding Zimbabwe overcoming the myriad problems it faced – at the practical level.

Amongst parliamentarians, both MDC and ZANU -PF, as well as in sub-committees in Parliament, there seemed to be a genuine commitment to sorting out the issues of the day. On certain practical issues civil society and government agencies worked well together: the Zimbabwe Legal Resources Foundation (ZLRF) for instance produces the Zimbabwe Law Reports, and serves on the Law Development Commission to which all new legislation is referred. The ZLRF, Ministry of Justice and other civil society bodies work together on the Victim Friendly Courts programme. Similarly, government and civil society can interact during forums on issues of child welfare and gender.

### **B. Meeting with the actors**

The common refrain running through all of the interviews was that the feasibility and the focus of the LCP would depend both on the outcome of the election and on the aftermath of the election.

Two major obstacles also stood in the way of the successful implementation of an LCP in Zimbabwe:

- 1) The current antipathy between government structures and NGOs. Many participants felt that any LCP would have to look at how to revive a society where criticism is not equated with opposition.
- 2) The antipathy between the government and foreign (donor) governments

#### **- Meeting with the Attorney-General**

The Attorney-General, one of the most senior government officials, met with the delegation and offered his office's support for the idea of an LCP with the proviso that the programme not be antagonistic but rather constructive. He suggested that the role of institutions be examined – both government and NGO structures- in a post-election Zimbabwe.

#### **- Meeting with the foreign missions**

As for the timing, most of the foreign missions were sceptical of a programme happening two months only after the elections. They felt that the rumblings after the elections ought to simmer down first.

#### **- Meeting with NGOs**

NGOs, especially ZimRights, were keen for the LCP to take place sooner rather than later in order to take advantage of the momentum after the election. The key obstacle in this regard was getting sufficient buy-in from government officials to ensure the success of the LCP. However, the Zimbabwe Human Rights NGO Forum and other actors who were interviewed felt that holding the LCP in April or May would be premature and suggested a date in June or July, and were quite clear that an LCP would only be successful if both government and NGOs were present to talk and to open dialogue.

### **C. Conclusions**

The delegation assessed that even lower-level officials were guided by the governmental policy of the day and that it would be very difficult to get real commitment from their part if there were no significant change in government's posture. There were also real fears of being singled out as being overly-critical of the government and targeted in some or other way. However, there were individuals within the ruling party or within state structures daring to oppose the government's stance on a number of issues.

Following these meetings and after the outcome of the elections of 9-10 March 2002, the pre-mission established that meaningful dialogue between government and civil society was paramount and very possible in Zimbabwe. The preparatory mission hence resulted in the proposal of a seminar, which would draw participants from several government agencies, development and human rights organisations and to be facilitated by key people with skills and expertise in various human rights topics, drawn from local, regional and international experts.

Zimrights and the FIDH thus decided that the workshop would focus on the role of the Government and civil society in sustainable development, and would be held in December 2002.

### **III – SEMINAR: “THE ROLE OF THE GOVERNMENT AND CIVIL SOCIETY IN SUSTAINABLE DEVELOPMENT” [9-12 December 2002]**

#### **A. General Assessment**

From 9 - 12 December 2002, at Victoria Falls in Zimbabwe, about 40 members from national NGOs, together with government officials and donor representatives, convened an *indaba*<sup>1</sup> to explore the respective roles of government and civil society in sustainable development. The event was co-organised by ZimRights and the FIDH, with the participation of Solagral – a leading French NGO on food security issues. The seminar proved to be a success with participants showing enthusiasm throughout and commitment to resolving issues that were of current concern to all Zimbabweans.

The participants, members of national and international civil society, expressed their serious concern about the deteriorating situation of human rights in Zimbabwe, especially the breakdown of the rule of law, the increasing harassment of human rights defenders and the acute food shortage affecting the country.

The fact itself that this event could take place was considered as a very positive point. While the preparatory mission had underlined the general atmosphere of suspicion towards civil society, in particular international NGOs, the holding of the seminar restored trust between the different actors and could thus represent a new basis for constructive dialogue.

The presence of representatives of major ministries, such as the Ministry of Finance and Economic Development, the Ministry of Special Affairs and the Ministry of Lands, Agriculture and Rural Resettlement, helped holding balanced and constructive debates. Given the tense relations between the Zimbabwean government and civil society, this coming together constituted an important step forward and showed the need and the will of both the authorities and civil society to build a closer cooperation.

Besides, the main issues addressed during the seminar, such as the protection of human rights defenders - often assimilated to opponents-, the right to food and the land tenure in the framework of Economic and social rights, are burning questions in the country. It was thus all the more important that they could be openly discussed by all actors.

#### **B. Opening**

##### ***Arnold Tsunga, Zimrights Chairman secretary general***

The seminar was introduced by Mr Arnold Tsunga, who recalled this workshop was taking place during a special week in the history of human rights, as 10th December is the anniversary of the Universal Declaration of Human Rights. He also noted that this year was also very special for ZimRights as it marks its 10th year anniversary.

Mr. Tsunga said ZimRights was humbled and overwhelmed by the response of Government, the donor community and civil society to the call for such a workshop, at such a busy period of the year. He recognised that it showed a burning felt need in the country by everyone to move forward despite all the odds confronting Zimbabwe, manifesting itself in severe polarisation; politically, socially, culturally, economically and internationally. He emphasised the importance of strategic thinkers coming and meeting together to brainstorm, share ideas and views, break suspicion and hostility and build trust, confidence and peace.

Mr. Tsunga gave special mention to the Government, particularly Hon. John Nkomo and Ms. Muleya, from the Ministry of Special Affairs, for agreeing to engage with civil society in such an environment. He also extended his thanks to ZimRights' staff who worked extensively in the preparation of this seminar. He thanked the FIDH for organising this meeting.

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<sup>1</sup>In Ndebele tradition, an indaba is a gathering of chiefs and stakeholders discussing matters of critical public interest.

***Mr. Bidi, National Director, Zimrights***

Mr Bidi observed that, although there were signs of an extremely polarised society in Zimbabwe, there however exist some meaningful partnerships between some government departments and some civil society organisations, also amongst Parliamentarians where ZANU -PF and MDC sit together in sub-committees. Ministries of Education, Health, Justice and other Government Departments like the Election Supervisory Committee, Police and Courts, have meaningful relations with some NGOs and aid organisations.

Mr. Bidi concluded by saying that he hoped the workshop would be the platform it was intended to be: for collaborative dialogue and coalition building.

***Anne-Christine Hubbard, Secretary General of the FIDH***

Ms. Hubbard said she was very happy to have the privilege to be at the seminar on the eve of the Universal Declaration of Human Rights Day and the 80th Anniversary of FIDH.

She drew attention to the fact that the FIDH programme in Africa is the most extensive as the FIDH has for the first time an African President, and she presented the LCP programme funded by the European Commission, the French Ministry for Foreign Affairs and the Westminster Foundation.

She outlined the FIDH priorities as: human rights defenders, the fight against impunity and globalisation and human rights. The two key words by which FIDH is guided are indivisibility and responsibility: that is the indivisibility of rights where there is no separation between rights, such that one cannot benefit from one set of rights if you do not benefit from the other. For instance, economic and social empowerment cannot be achieved if there is no appropriation of the basic resources. The aspect of responsibility is advocated by FIDH where it seeks to hold all Governments to their word where they freely ratify human rights treaties.

**C. Introduction: Promotion and Protection of Human Rights**

The workshop started with an overview of the national, international and regional human rights instruments. This reflexion, conducted by African and European human rights experts and activists, appeared to be all the more necessary and useful that many participants admitted that they were not fully aware of the mechanisms and procedures of the international and regional human rights protection system. It was moreover identified during the course of the debates that there is a lot of work to be done to rebuild the public's knowledge of human rights.

**1. Overview of the promotion and the protection of HR at international and regional levels – Ghalib Galant, South African Human Rights Committee**

Mr Galant took participants through a brief history of the forms of promotion and protection of human rights at international level. He outlined the Universal Declaration of Human Rights, noting that it marked human rights becoming an aspect of legitimate international concern, and presented briefly some of the important international Conventions, as well as the international organs created to check the protection of the rights, such as the Committee on Economic, Social and Cultural Rights (CESCR) or the UN Committee on Human Rights (UNCHR).

The promotion and protection of human rights at the regional level in Africa is achieved mainly through the African Charter on Human & People's Rights, which covers basic civil and political rights and some economic, social and cultural rights. The Charter also encompasses rights-based duties on States and individuals and promotes the indivisibility and interdependence of these rights. Mr. Galant highlighted some of the problems experienced by the African Commission, aimed at guaranteeing the protection of the rights stated in the Charter, such as the defaulting in reporting, the delays in dealing with communications and the difficulties in enforcement.

**Discussions**

Participants considered that, although Zimbabwe has ratified some international conventions and that some of these rights were provided for in the Zimbabwean Constitution, the enforcement mechanism of these

rights was inexistent at the national level and deplored the unavailability of remedies.

Participants highlighted the loss of confidence in the domestic law enforcement processes. It was proposed that issues be referred to the African Commission.

A number of participants conceded that they were not well informed of the African Commission. It was resolved to pursue the need for NGOs to be trained in the area of admissibility of issues and on procedure in the African system.

Participants highlighted the need for the implementation of the existing human rights conventions in national laws. They noted that international conventions, such as the International Criminal Court Statute and the United Nations Torture Convention had not been ratified by Zimbabwe.

## 2. State reporting procedures within the African Commission on Human and People's Rights – Noel Kututwa, Deputy Director of the Human Rights Trust of Southern Africa (SAHRIT)

Mr Kututwa presented the background of the 1981 African Charter on Human and Peoples Rights and described briefly the procedure applicable to communications before the Commission.

Article 62 of the Charter establishes the duty for States to submit State party reports. 'Simplified Guidelines for State Reporting' were adopted in order to facilitate the reporting procedure, so that the report includes the measures taken by the State to implement rights specified by the Charter, how the State is promoting human rights through teaching, education and publication, and how far the State uses the Charter in its relations with other State parties or subjects of international law.

Mr. Kututwa noted that it is regrettable that only States can submit reports. Indeed, he noted that most States reports are not self-reflective and critical, making it necessary for civil society to prepare a shadow report. NGOs therefore need to prepare a shadow report, which needs to be submitted at the same time than the State's, so that the Commission can compare the two reports.

### **Discussions**

Participants noted that there is a need for the Commissioners to be full time and not part time. It was also suggested that lessons could be learnt by comparing the African system with the UN system. It was found to be encouraging that the Commission has made a statement to the effect that some States may be barred if they fail to submit reports.

The appointment of Commissioners in the African Commission proves to be fraught with irregularities, especially that they are not meant to be agents of their States, and yet politicians and Ambassadors are appointed. For instance, the Attorney General of Zimbabwe has been appointed to be a Commissioner.

It is also necessary to make States more responsible and that NGO assist them in reporting. It is also important for civil society to appreciate and take advantage of the right to produce shadow reports. It was proposed that NGOs come together and come up with a shadow report for the next reporting period.

FIDH's experience with the African Commission has been disappointing as there has been a lack of activity of the Commission, due to political interference. FIDH is in the process of pushing for the establishment of the African Court, which has (at the time of the seminar) only 6 ratifications, where 15 are needed. It was recognised that NGOs need to lobby the Government to ratify the Protocol for an African Court.

Participants noted and agreed that the African Commission's system needed more efficiency and publicity. They deplored the lack of information in Zimbabwe on the Commission.

## 3. Monitoring and Enforcement of Human Rights within the African Regional System – Arnold Tsunga, Chairman secretary general of Zimrights

Zimbabwe is a signatory and ratified the African Charter on Human and Peoples' Rights in 1986. Mr. Tsunga recognised that it is important to focus on the African regional human rights system as it gives a

possibility of external remedies where there is loss of confidence in the internal systems.

Mr. Tsunga looked at the role of NGOs in the communication procedure. A communication was described as a mechanism where a State party can initiate a process for remedies against another State party. NGOs also have capacity to lodge a communication. In September 2000 the first communication against Zimbabwe was lodged by the Human Rights NGO Forum for violations of the Charter, but the communication have not been decided yet in respect to its admissibility.

There are strict conditions that must be met before the communication is considered by the Commission. Rule 102 of the communication procedure requires that a prima facie case be established. There is need that the communication focuses on particular identifiable violations and remedies, and has to mention specific perpetrators and victims. Independent verifiable evidence is also required for the communication to be admissible – the communication must not be based on press reports for instance – as well as considering if there are domestic remedies which have been considered before accessing the regional system. Article 56 of the Charter stipulates that disclosure of the author of the communication is essential. Also, Article 56 of the Charter provides that a communication must be submitted within a reasonable period from the time the violation has occurred.

Once the conditions are met, there arises a complication with regard to the unanimity rule, as matters may never be resolved where it is not possible to get unanimity. Where the communication is admissible, issues need to be resolved amicably. A decision has to be made on the merits and recommendations made, although they are not legally binding or enforceable.

### **Discussion**

The process before the Commission is very lengthy. For instance, the first communication against Zimbabwe, which was lodged in 2000, is still outstanding (at the time of the seminar).

Participants considered that the Commission does not have legal strength but has political strength. It was noted that it is not possible to have decisions against political parties but only against State parties. It was suggested that special courts, such as the African Court would help in addressing violations by political institutions.

Participants also considered the impartiality and conflict of interest where the Attorney-General is also a Commissioner.. They noted that the Attorney-General has been recusing himself in matters directly affecting Zimbabwe. The participants demanded that NGO be consulted in the appointment of Commissioner and referred to Ghana, where a human rights activist was elected as Commissioner. Participants however said that the challenge is to confidence-build with Government so that it consults NGOs in the future.

Participants asked whether it was possible to lodge communications in incidences of serious human rights violations as in the Matabeleland/Midlands massacres, where the capacity to pursue domestic remedies is out of time in terms of the prescription laws. The aspect of prescription would need to be dealt with first so as to pursue it with the African Commission. Therefore the matter can only be taken to the Commission when it can be proved that there are no domestic remedies available.

### **4. Domestic Monitoring and Enforcement of Human Rights – Albert Musarurwa, Chairman of the Human Rights NGO Forum**

Mr. Musarurwa stressed that dealing with domestic remedies is key before deciding to lodge a complaint to the African Commission. Within the Zimbabwean context human rights are enshrined in the Bill of Rights of the Constitution. Part IV of the Constitution provides for, inter alia, the rights to life, to liberty, to trial within a reasonable time, freedom of movement, freedom of expression, freedom of assembly and association, protection from slavery and forced labour and protection from inhuman treatment. These rights should not be violated, as the Constitution is the supreme law of the land. Individuals who consider that one of their rights has been violated can have recourse to the Supreme Court, which also sits as a Constitutional Court.

He said that national laws play a dual role. Firstly the enforcement of the Bill of rights is achieved through national laws. For instance, the right to a fair trial is provided for in the Criminal Procedure and Evidence

Act, which is intended to facilitate the observance of the right. The second role of national laws is to ensure that principles enshrined in international human rights instruments find their way into the national legal system. Enforcement is achieved through local courts, such as the High Court, Labour Relations Officer and Tribunals, Chiefs Courts and Administrative Courts.

Mr Musarurwa said that there is a need for a comprehensive Constitution that gives full recognition to the rights of individuals. He said that there existed limitations to most rights or freedoms in declaration of rights, such as the right to life, which is overridden by capital punishment. There have been national laws recently promulgated which erode constitutionally enshrined fundamental rights, such as the Access to Information and Protection of Privacy Act (AIPPA), which has effectively undermined the freedom of expression, and the Public Order and Security Act (POSA), which has taken away the freedom of assembly, association and expression.

It is important that any Judicial or law enforcement system must have an impartial police force which treats all individuals fairly and equally. There have been incidences of selective arrests of individuals suspected of being anti-Government, political opponents and selective enforcement of court orders by the police.

Concerning the independence of the Judiciary, the selection and appointment of judges in Zimbabwe has become rather controversial with at least six judges having resigned and the vacancies being occupied by partisan judges, even though some judges have remained impartial.

Mr Musarurwa highlighted that, whilst the Attorney General has the full authority to determine the prosecution of all cases on behalf of the State, he also sits in the Cabinet. It is reasonable to expect that he is influenced in his work by positions and perceptions expressed in the Cabinet and is therefore not autonomous or independent.

The observance and enforcement of human rights and freedoms must be continuously and closely monitored and audited, by for instance, an independent human rights watchdog, such as a Human Rights Commission. Zimbabwe's Constitution provides for an office of the Ombudsman. This mechanism has no effective enforcement tools, it only deals with public officials and the aspect of impartiality due to the appointment conditions of the ombudsman.

The public relies on the press for exposure of human rights violations and yet the press has been involved in human rights violations by concealing such violations or implicating innocent persons in such activities.

## **Discussion**

What other alternatives has civil society advanced for individuals to enjoy human rights to the full? ZimRights has, for example, embarked in a programme where it helps the public in instituting proceedings where there have been violations. A participant proposed the positive disobedience of unjust laws and uniting in solidarity to oppose oppressive laws.

It was further noted that hatred and bitterness is rampant in Zimbabwe, for example, where the leadership and the voice of 'individual history' is playing a role in a number of actions. Participants agreed to the proposal to stop merely highlighting problems but to come up with solutions as well. Participants were in consent as to the approach of not taking a confrontational stance. Education of the masses was noted as key, so that there would be a public outcry where there are violations of human rights.

It was considered that one of the transitional processes could be that Government could come up with a consultative forum, which is similar to the Human Rights Commission of South Africa. Restoration of confidence could be achieved by creation of a tripartite organ to pursue specific cases in respect of human rights, with an equal number of representatives from Government, NGOs and the Judiciary in dealing with matters of apparent impunity.

It was further proposed a civil society legal fund be created and used to represent specific civil cases with the assistance of the Legal Resources Foundation (LRF). This fund could also be used to fund litigation in regards to legislation such as AIPPA and POSA.

It was identified that there is a lot of work to be done to rebuild the public's knowledge of human rights. It was further acknowledged that there is a lot of counselling needed for people who have been traumatised. NGOs were called to pull together with individual NGOs concentrating on specific issues.

The need to continuously dialogue with Government was emphasised by participants.

#### 5. Recommendations adopted by the participants on the promotion and protection of human rights

*To the Zimbabwean government:*

1. To establish an omnibus independent national institution whose mandate would be to monitor the realisation of human rights by the relevant government structures, promote a culture of human rights and protect those very rights;
2. In the immediate future, to set up a platform for dialogue with a view to integrating Zimbabwe's international obligations in the field of human rights at national level and in particular, for the right to food, taking all administrative, judicial, political, economic and social measures to ensure short- and long-term food security.

*To the international community:*

1. To provide technical assistance in terms of article 2(1) of the International Covenant on Economic Social & Cultural Rights to the government of Zimbabwe in the establishment of its national institutions.<sup>2</sup>

Participants, members of civil society, recommended that the Zimbabwean government ratify and observe the outstanding international instruments, in particular the UN Convention against Torture, and implement international law; that Zimbabwean government should comply with its obligations to report before the treaty bodies.

Furthermore, participants recommended that the government of Zimbabwe commit itself to the fight against impunity, notably by ratifying the statute of the International Criminal Court and promoting the creation of an African Court of Human Rights.

#### **D. Economic and social rights**

The indivisibility of rights in the context of the globalisation of human rights is one of the main priority of the FIDH. Addressing the issue of economic and social rights as a key topic during the workshop, in the light of the experience of FIDH, was all the more necessary that the economic situation of Zimbabwe has dramatically worsened in the recent years, provoking an important social crisis.

Two debates were organised in order to present economic and social rights and their African context. The discussions then focused on the specific problem of the right to food, which has become one of the most urgent problems in Zimbabwe. The issue of the food shortage, linked with the question of land tenure and distribution, thus received the full attention of the participants. Another workshop was organised on HIV-AIDS, in the framework of the right to health and health care.

##### 1. Introduction to economic and social rights – Anne-Christine Habbard, Secretary general of the FIDH

Ms. Habbard introduced the economic and social rights by distinguishing them from civil and political rights. Whilst the Universal Declaration of Human Rights recognises both sets of rights, two separate Covenants, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR) were promulgated. She noted that, even if more countries have ratified the ICESCR than the ICCPR, States feel less committed to implement the ICESCR. The

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<sup>2</sup> Article 2(1) of the International Covenant on Economic, Social and Cultural Rights provides that “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

ideology of a free market makes it difficult for economic and social rights to be recognised as legal rights.

It should be noted that the enjoyment of economic and social rights requires both active participation of the State and non-interference by the State. Public authorities have to concentrate on capability and individual empowerment. The individual is therefore the active subject of all economic development.

Ms. Hubbard recognised that there are still outstanding issues, that is, of the justiciability of economic and social rights at the domestic level. There is need for administrative measures and social action. Economic and social rights require international co-operation, that is, social justice at the international level where rich countries help the poor.

The problems being faced regarding the implementation of the ICESCR include: the vagueness of the wording of the Covenant, the weak international monetary measures and the fact that there is no complaints procedure, there are only reporting procedures. There is however other protection for instance in the ICCPR and in the Convention Against Torture, as well as other complaints procedures (ILO complaint procedure, the UNESCO inter-State complaints procedure). There have also been a growing number of thematic procedures within the UN system on economic and social rights, such as the Special Rapporteur of Education.

Economic and social rights have suddenly come back to the fore in the last 2 years, as there are growing concerns of most groups due to globalisation - where globalisation of economies have also triggered violations of economic and social rights. Indeed, new actors in the field of human rights, such as the WTO, IMF and big corporates are not accountable, whereas States are accountable.

There is also the privatisation in general and its impact on economic and social rights, such as the systems of health and education. As a result, economic and social rights are perceived more as services instead of rights and the notion of public service is ignored.

## **Discussion**

It was identified that the debate on economic and social rights is of fundamental importance and that Corporates need to be more responsible. The aspect of ecological debt, where the North accesses the South in respect to plundering of African resources, initiated the possibility of quantifying environmental damage. Ms. Hubbard commented that Western States are hypocritical; when they talk about globalisation they do not open up their markets but expect Third World countries to do so. It is a very unilateral process and not really multi-globalisation.

It was articulated that servicing of debts by Zimbabwe to the IMF is more expensive than the loss of environmental resources, therefore violating human rights in that respect.

The globalisation of economic and social rights shows lack of respect for the local construction of the economic process. Zimbabwe needs to therefore find its own way and not be dictated to by international actors. Ms. Hubbard recognised that globalisation has difficulties as it tends to entail standardisation of ways of life yet there is need to keep cultural specificity.

## 2. Economic Rights in the African context – *John Vant' Hoff, Zimrights Advisory board member*

Mr. Vant' Hoff looked at how the process of globalisation translates at the local level. He noted that since independence, the economic dependence of Zimbabwe has increased and deepened. Zimbabwe was the breadbasket of the region and yet is now traumatised under the weight of far-reaching changes in land ownership, even as the region as a whole is groaning under severe depredations of food shortage and HIV/AIDS. This is on the backdrop of South Africa, the economic and political giant of the region, leading a global campaign for a new kind of partnership with the developed countries – the New Partnership for Africa's Development (NEPAD).

Mr. Vant' Hoff considered that it is necessary to move forward and to provide constructive suggestions of how a future may be crafted that answers to the basic human rights of the people of the region.

To this extent, in 1996, the Zimbabwe Congress of Trade Unions (ZCTU) carried out a critical study of the Economic Structural Adjustment Programme (ESAP) of the Government, and argued that the ESAP lay at the root cause of increasing crisis in the country. The study came up with alternative strategies in order to change the fortunes of the people. These were documented as the Recommendations on Commerce and Industry to the National Working People's Convention of February 1999.

Mr. Vant Hoff remarked that Governments of the region are evidently takers not makers of the decisions for globalisation. The region is split apart, where South Africa has engineered a separate agreement with the European Union; dividing the region as a result.

The Earth Summit in Rio de Janeiro marked an ambitious programme where rich countries pledged 0.7% of their GDP in aid, but nothing materialised as only 5 countries have fulfilled their pledge. The market doctrine became dominant at the World Summit on Sustainable Development in Johannesburg, where it was made clear to developing nations that there was only one way for sustainable development; that is to go to private direct markets. This was not withstanding the East Asian crises in 1997/1998. NEPAD was designed in this context, with plans for 7% annual growth rate for Africa and reduction by half of Africa's poverty by 2015.

### **Discussion**

Participants suggested that there is need to put pressure on Government in regards to NEPAD to involve all stakeholders in making any decision in respect to this policy

It was noted that part of the problems being faced by Zimbabwe are faced by all developing countries as developed countries have their own agenda making it difficult not to depend on the external forces such as the International Monetary Fund (IMF) or the World Bank. Participants suggested that alliances with other countries could be entered into with support from the civil society. The use of organisations such as the World Trade Organisation (WTO), to which Zimbabwe is a member, could be an alternative to IMF and the World Bank.

The balance of payment agreements entered into by Government under ESAP was considered to be a capitalist plan to prohibit development. ESAP also brought about devaluation of currency and retrenchment of workers resulting in massive unemployment and poverty.

It was identified that there is need to make a follow up on the Recommendations on Commerce and Industry to the National Working People's Convention and to find out the outcomes to these recommendations.

### 3. Food shortages and poverty in Africa – Karine Tavernier, Solagral

Ms. Tavernier said food rights are one particular aspect of economic and social rights. She discussed the emergence of this right in the international human rights framework, since its first recognition in the Universal Declaration of Human Rights in 1948. In 1966, the right to food was more detailed in the International Covenant on Economic, Social and Cultural rights which states that: Everyone should have an adequate standard of living, including adequate food, clothing and housing, and that the fundamental right to freedom from hunger and malnutrition may require more immediate steps than other rights.

In 1996 a World Food Summit was held which sought to clarify the right to 'adequate food'. In 1999 the General Comment No. 12 in ICESCR was issued. The 2002 World Food Summit undertook that voluntary guidelines should be elaborated within 2 years in order to achieve the progressive realisation of the right to adequate food. A Special Rapporteur on the right to food was appointed.

Ms. Tavernier explained that the meaning of right to food is based on General Comment No. 12 which States that, *'the right to adequate food is realised when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement'*. She noted that the right to food included the availability of food in quantity and quality, and the accessibility of food, both economically and physically. However, beyond this notion, there was also the notion of sustainability, which meant that food should be available for both present and future generations.

The obligations of States are established as follows:

- Obligation to respect, by not taking any measures that result in preventing access to food;
- Obligation to protect where States should implement measures to ensure that enterprises or individuals do not deprive individuals of their access to adequate food;
- Obligation to fulfil by facilitating people's access to and utilisation of resources and means to ensure their food security. States must provide this right to food directly for people unable to enjoy the right to adequate food.

Implications for the States at national level entail the obligation to ensure the right to feed oneself. The implications for the rural population are, firstly access to resources such as water, credit, seeds, land and also access to the market. This implies a good distribution system (States must also ensure that food is equitably distributed between areas of production and the rest of the country), a market price, which is fair and sufficient, and no unfair competition. The implications in regards to the urban population necessitate the provision of sufficient revenue to buy food and reasonable cost of food. Concerning the disabled (persons who are unable to access food, definitively or temporarily), the State has an obligation to provide food by safety net systems and food aid. In all cases, States have an obligation to ensure food safety and good nutritional quality of food.

At the international level, one State has responsibility of the impact of its own policies on the food situation of another State.

Ms. Tavernier took participants through a case study of South Africa where she explained that the right to food is entrenched in the African Human Rights Constitution. She referred to the Grootboom case, in which it was mentioned that the South African Government had violated the Constitution by not making 'reasonable' provision for persons in desperate need.

Ms. Tavernier concluded her presentation by suggesting that the FAO working group on voluntary guidelines does not result in good intentions at the international level and called the civil society for vigilance in that respect, even though the guidelines are not binding. At the national level, the implementation of a poverty reduction strategy and raising awareness on the Right to food was discussed.

## **Discussion**

Ms. Tavernier commented that there is a conflict between interest of EU farmers and those of other countries in respect of food security. There should be support of Agriculture in Europe provided it does not have adverse consequences in other countries. The main concern being starvation experienced by third-world countries yet food stocks in Europe are being destroyed.

Participants were concerned about the situation where food is being used as a campaign tool, by allowing the situation where food is being distributed on party bases. They explained that some reports showed that access to food is dependent on political affiliation. Ms. Muleya, representing government clarified the position and stated that it is not Government policy to deny people access to food and the Government does not deny permits to import food. She dismissed the newspaper reports which suggested that a certain Trust had been denied an import permit, as false and a distortion. She advised that the Trust involved had now formerly submitted an application which was still being considered. It was further clarified that, Church organisations have applied and been granted permits. Permits are necessary for the compliance with import and internal standards.

Participants deplored that the FAO provisions are merely voluntary guidelines and are not legally binding, making it a rather weak resolution.

Participants were concerned with the issue of Genetically Modified Organisms (GMO) and were wondering if this affected the States' responsibility on the right to food and safety. Ms. Tavernier confirmed that there is presently no study which demonstrates that GMOs are bad for ones health, neither are there studies to show that they do not have good effects. There are however concerns about the impact GMOs have on the environment, such as the loss of bio-diversity due to contamination. A problem arises where GMO are offered as food aid. It is difficult to observe the precautionary principle under emergency conditions.

Awareness raising is needed at community level. There is need for a plan and to focus on the social

responsibility of individuals to ensure that the population has adequate food. It was also recognised that if the right to food is not legislated on locally, nothing can be done, though NGOs and civil society have a responsibility to raise awareness.

Participants noted that the international community should be involved, in particular there is a need with regard to the regional inter-governmental organisations and the civil society. Participants proposed to intervene at the regional level by the lobbying of, for example, SADC/NEPAD or use the African Union.

They noted that there is a need to consider this issue directly to the Executive, as emergency food distribution must be a shared responsibility. Participants said that a special committee needed to be appointed in order to dialogue with the Government. Participants considered that the problem will not be solved merely by humanitarian response, there is need for a longer term process of agricultural development and respect of all related rights.

According to them, a fact-finding mission needed to be established, through human rights organisations, to find the causes and the possible solutions to the problem, which implied the need to address the donor community for intervention.

#### 4. Health care / HIV-AIDS – Mr G. Zuze

HIV/AIDS is a problem in Zimbabwe as it is affecting families and the social fabric, the economy and the youth. There is statistical information, personal knowledge and publicity given to the problem at international and national levels. Participants considered that there was no cure for AIDS, and that other problems occur, such as the difficulties to control due to how it is spread, the myths, the fact that only prevention is possible.

The factors which were considered as increasing the risk of HIV infection were as follows: promiscuity, ignorance/lack of awareness, poverty, cultural practices and beliefs, negative awareness, fear, pressure, use of condoms, alcohol and drug abuse. Poverty makes people especially at risk of AIDS, particularly because of the vulnerability to sex or crime and because there is little or no assistance from the public/community

Statistics pertaining to the HIV/AIDS pandemic were used to demonstrate the extent of the problem. A programme focusing on the youth who are highly infected, through initiatives from churches, schools, media and the community was proposed.

#### **Discussions**

Access to anti-retroviral drugs was considered as they are protected under patents, and it is therefore difficult to reproduce drugs of a lower cost. There is a need to balance the protection of property and health issues as a human right. A specific recommendation was made that the Zimbabwean Government use the exemption clauses of the WTO/TRIPS to acquire anti-retroviral drugs at a cheaper and more affordable cost. Participants referred to the situation in Brazil, which declared AIDS a national crisis such that they are no longer observing the TRIPS agreement and as a result purchasing anti-retrovirals cheaper. NGOs were considered essential to lobby the international community to support Governments on this question.

The application of the death penalty for men who rape infants was questioned. Some participants argued that most men who rape infants know that they are infected, therefore there was a need to push for the introduction of stiffer sentences such as life imprisonment. Participants also said that human rights organisations/activists do not believe in the death penalty as it cannot be justified that it promotes rehabilitation nor a justified means to correct a misdeed. The compensation of victims was also suggested.

Participants agreed that home based care facilities should be increased and that people should be encouraged to participate in such a programme which is an opportunity to reduce unemployment. The role of women as home caregivers of those affected by AIDS needs to be accorded recognition and the necessary support and assistance.

It was noted that good Government policies are already in place. The President declared a state of emergency for a 6-month period which has since expired. There is therefore a need to extend this period. There was a

call to monitor Governments as to what they are doing.

Participants advocated for policies that promote the right to health especially for women who are mostly disadvantaged. It was established that clarification from the Ministry of Health is necessary and the need for more research was identified so as to establish the exact position of the Government policy in this regard.

There is need for increased focus being placed on child-headed families which have arisen as a result of HIV/AIDS.

Participants were called upon to focus on, in the context of this Indaba, what is this workshop bringing to the HIV/AIDS agenda to constitute dialogue. The need to therefore develop a human rights agenda for dialogue was discussed. The specific role of human rights organisations in regards to the HIV/AIDS agenda and the protection of the right to health was suggested for attention and consideration.

#### 4. Recommendations adopted by the participants on economic and social rights

##### ***To the Zimbabwean government***

###### ***- Food shortages and the right to food***

*As regards the current food crisis:*

1. To ensure a fair and impartial distribution of food not based on political affiliation;
2. To allow humanitarian agencies (*international, national, non-governmental and inter-governmental*) unrestricted access to all affected areas;
3. to open channels of communication and dialogue with civil society to establish a genuine and effective partnership for the resolution of the current crisis, and
4. To initiate a broad consultation on the acceptability of genetically modified organisms with the full participation of all stakeholders.

*As regards the long-term realisation of the right to food:*

1. to entrench the right to food in the Constitution and to enact national legislation for its realisation;
2. to define and implement an effective poverty reduction strategy with a strong agricultural component;

###### ***- HIV/AIDS and the right to health***

- 1) Mobilise financial and other resources for a nation-wide campaign on HIV/AIDS
- 2) Establish transparent and democratic mechanisms for the use of the HIV/AIDS Fund with the collaboration of civil society;
- 3) Initiate dialogue with other governments in the region with a view to establishing a global and co-ordinated strategy against HIV/AIDS
- 4) Make use of the exemption clauses allowed for by the TRIPS agreements within the WTO to access affordable drugs

##### ***To the international community***

###### ***- Food shortages and the right to food***

1. to respect the principle of international co-operation enshrined in the International Covenant on Economic Social & Cultural Rights, especially at regional level;
2. to strengthen the partnership with civil society actors within Zimbabwe to ensure adequate food distribution.
3. To respect the decision of the Zimbabwean population with regard to genetically modified organisms.

###### ***- HIV/AIDS and the right to health***

1. To provide Zimbabwe with affordable anti-retroviral drugs; and
2. In the ongoing negotiations around TRIPS within the WTO to ensure that provisions adopted do not prevent developing countries from fulfilling their international obligations in relation to the right to health. In practice this means they should not prevent developing countries from accessing affordable and essential medication.

### **E. The protection of human rights defenders**

As human rights defenders in Zimbabwe are currently subjected to an increasing pressure and harassment by the government, their protection appeared as an emergency topic in the framework of the workshop. The participants considered the enforcement of the existing international instruments, such as the 1998 Declaration on protection of human rights defenders, as determining for a close cooperation between civil society and the Government.

In order to address this burning question, several sessions (presentations and workshop) were organised in order to provide the participants with the basic informations and issues, and led to the adoption of recommendations.

#### **1. Protection of Human Rights Defenders, the Observatory – Marceau Sivieude, FIDH Africa desk**

The FIDH's definition of the Human rights defenders is : *“those persons who individually or collectively compromise themselves and act in favour of the application of the Universal Declaration on Human Rights and other international human rights instruments, and in conformity with these instruments”*. The definition therefore embraces lawyers, journalists, magistrates, trade unionists and not only human rights activists.

Mr Sivieude noted that there has been an increased number of human rights activists in Africa with NGOs which appear now to be an unavoidable partner with Governments, due to their impact on national and international scenes. NGOs are however too often seen as opponents and even terrorists, as they are at the forefront of in exposing human rights abuses by Governments. As such their members are victims of human rights violations: individually they suffer intimidation, harassment, dismissal, arbitrarily arrests, detention and even executions. Collectively, their rights to freedom of speech, assembly and demonstration are violated.

Conscious of the problem, the UN Human Rights Commission set up in 1985 a working group on the issue of the protection of human rights defenders. After a lot of lobbying from NGOs, notably the FIDH, a the Final declaration on protection of human rights defenders was adopted in December 1998, marking a very important step in the protection of individuals at risk for carrying out human rights activities. Mr. Sivieude proceeded to give a brief discussion on the Declaration. He also looked at the mechanism created to ensure that governments respect this declaration: in 2000, the UN Commission on Human rights created the post of the UN Secretary general Representative for human rights defenders. However, the lack of fund and material facilities has made it difficult to implement her mandate. Many NGOs like the FIDH have tried to create a mechanism at a regional level in Africa, but this has not materialised despite the persistent lobbying.

To support and protection human rights defenders, the FIDH in collaboration with the OMCT has created a programme called the Observatory on the protection of human rights defenders. It tries to respond to urgent incidents of violations, by creating a network of NGO to collect information on violations of the rights of human rights defender and making urgent appeals and press releases to get attention. The Observatory has been quite successful, making more than 300 urgent appeals only in 2001. It focuses on urgent situations and undertakes long-term solutions, drafting reports to publicise violations, such as in Ethiopia and Rwanda. The Observatory also carries out missions of investigations and undertake trial observations in areas where violations are occurring.

Mr. Sivieude in conclusion said he hoped that Zimbabwe on human rights defenders would, in the future, use the mechanism of the Observatory to address some of the problems they face.

### **Discussion**

Participants were concerned with the situation in Zimbabwe where human rights activists have been labelled

enemies of the State resulting in a massive dis-enfranchisement of the public. They were keen to find out how human rights activists can use the Observatory mechanism to their benefit.

Mr. Sivieude advised that international pressure is an important tool that complement internal pressure, for example as in the Democratic Republic of Congo (DRC) where people were facing arbitrary arrests, FIDH applied pressure on the Government. Success was mainly achieved through the publicising of violations that were not otherwise known by the international community.

## 2. Zimbabwean Experience on protection of Human rights defenders – Douglas Mwonozora

Mr. Mwonozora defined human rights defender as “all those people and institutions that deal with promotion, protection and enforcement of fundamental rights”, therefore including the judicial officers, the police, the office of the Ombudsman, Human Rights NGOs, student movements and labour movements.

He explained that in terms of the Constitution of Zimbabwe, all members of the Judiciary, including the Attorney General, are under the control of the President. For instance, the President appoints the judges of the Supreme Court and the High Court after consulting with the judicial Commission, itself appointed by the President. Mr. Mwonozora gave examples of incidents of interference by the executive and demonstrated how Judicial Officers as enforcers of human rights have received little or no protection from the State.

Every NGO has to be registered under the Private Voluntary Organisation Act (PVO Act). The government thus reserves the right to deregister them. Leaders of genuine human rights organisations have been arrested under the old Law and Order Maintenance Act and the new draconian Public Order and Security Act. The POSA has effectively barred the freedom of expression and assembly. Public meetings of civic organisations have effectively been banned and can only take place with the approval of Government. Mr Mwonozora also deplored that national media were not independent, and therefore not accessible to NGOs.

Mr. Mwonozora also sought to address the issue of harassment of NGOs by colleagues. He noted that NGOs compete for donations and in doing so, they engage in destructive campaigns against each other. He however emphasised that, civil society has to unite towards common and complementary goals of national salvation. He said he saluted ZimRights for affording participants the chance to meet between civic society and officials as such endeavours are of great historical significance.

## **Discussion**

Mr. Davinder, a participant from Kenya suggested civic reform movements to champion a double-sided democracy between Government and civil society. He stated that the initiative would need to be long term and made an invitation to the National Constitutional Assembly (NCA) to share and network with the Kenyan Constitutional Council involved in similar work.

It was further suggested that a grouping of civil society be formed to address the issue of the oppressive laws and come up with strong recommendations. Another tactic suggested for judicial reformation was the scrutiny of the Constitution and call for the amendment of unconstitutional provisions. Progressive parliamentarians should be encouraged to oppose unjust laws when they are being proposed in parliament.

It was recognised that there is need to first iron out differences between NGOs, so that they are complementary of each other. This could be achieved by donors curbing the mushrooming of organisations by pushing for NGOs to collaborate on initiatives. A review of tactics was suggested as being necessary as it would appear that those currently in use and for the previous 2 years are not working.

One of the shortcomings that affect outcomes was identified as people not knowing their rights, thus requiring the training and education of people in the grass roots. It was further recommended that citizens be encouraged to use the weapon of 'positive disobedience' of unjust laws.

It was suggested that the Attorney Generals position regarding the sustained incarceration of human rights defenders needs to be sought, with the intention of having the situation addressed.

Ms. Muleya noted that there is need for a paradigm shift by all stakeholders. She used an analogy of a

marriage and the exercise of compromises, for the way forward. Whilst she conceded it is not yet clear what to do about the continued incarcerations, Government has conceded that they might have made mistakes and progressed by setting up a Ministry of Special Affairs, which has already met with Church leaders and carried out consultations. The Ministry is also in the process of arranging a meeting with NGOs and certain Ministers.

### 3. Freedoms of Assembly and Association – *Mr Douglas Mwonzora, Chief Justice*

Participants established the framework of the legislation pertaining to the freedoms of assembly and association. Specific sections of the Public Order and Security Act (POSA) and the Private Voluntary Organisations Act (PVO Act) were discussed in regards to how the two freedoms are compromised.

The POS Act provides that people must not invade the rights of others, and that a person who violates this right could be sentenced up to \$15 000.00 and 10 years of imprisonment. Lots of sections of the POS Act also limit the freedom of association, in that they limit public gatherings.

Similarly, the PVO Act limits the freedom of association and gives a limited definition of a private and voluntary organisation.

### ***Discussion***

Participants highlighted the need for a constitutional reform as the POS Act is an exception to the freedom of Assembly and Association. Participants called for vigorous national campaigns against repressive laws, and said that a constitutional challenge should be launched through the Supreme Court.

They also considered that NGOs needed to lobby the Parliamentary Legal Committee and Ministry of Special Affairs in the President's Office on that matter.

### 4. Civil society in Zimbabwe – *Bob Muchabaiwa, National Association of Non-Governmental Organisation (NANGO)*

Mr. Muchabaiwa representing the NANGO said he valued the process of dialogue being undertaken by the indaba. He however stated that dialogue without commitment to the truth is a sheer waste of time. He looked at the relevance of the indaba on the backdrop of the prevailing environment of donor fatigue, diversity within the civil society and dominance of civil society.

He outlined NANGO's position based on three key issues:

1. To begin to look at the NGO operating environment. Participants resolved that it is important to engage Government at all levels by meeting with relevant Ministries; the Ministries of Labour, Justice and Information. Consideration of how far NGOs can assist with the food crisis. NANGO's strategy in this regard is to initiate dialogue at the low levels; at provincial level, District Administrators and Chiefs. NANGO seeks to have Government appreciate the role of NGOs.

2. NGO legislation

Mr. Muchabaiwa reported that Government has admitted that current NGO legislation is flawed as it is less enabling and is therefore in need of reform. Government has confided that it is working on a new NGO law, although it is not sure what it is. He noted that NANGO as the co-ordinating body of NGOs advised Government that it needed to be involved in the drafting of this new law. Government was in agreement and a Committee was established on 13 December 2002. NANGO engaged consultants to draft and submit a proposal to Government by the end of the year. A copy of the draft is available and a hotline opened to receive input from stakeholders.

3. Internal governance

The crafting of a code of ethics was proposed and NANGO would like to avoid undue interference from Government as was the case with the Media Commission, set up to legislate on how a media house and journalist are expected to work. The proposed NGO Code of Ethics is intended to be a self-regulatory tool.

Addressing the question of 'how strategic are we as NGOs', it was noted that the indaba was one such strategic move. Looking introspectively requires NGOs to consider to what extent they are creating feasible options, analyse their competitive advantage so as to be able to forge strategic alliances with other

organisations.

## **Discussion**

A need to come up with a multifaceted, strategic process in lobbying Government was identified. It was proposed that this could be achieved by engaging organisations like UNDP to exert pressure for enabling legislation.

Mr. Muchabaiwa advised that a code of conduct is a test case for NGOs' image building and transparency. It allows for self-regulation as opposed to State regulation.

### 5. Recommendations adopted by the participants on the situation of human rights defenders

Participants expressed concern at the rising incidence of harassment and intimidation of human rights defenders that has resulted in numerous cases of arbitrary detention especially during peaceful demonstrations. Such practices are contrary to the ICCPR to which Zimbabwe is a party, to the African Charter on Human and Peoples Rights and furthermore violate the 1998 UN Declaration on Human Rights Defenders.

Participants reminded the government that a strong and critical civil society is an intrinsic component of a truly democratic society and is crucial to the future prosperity of Zimbabwe. Participants reiterated their will to establish a substantive partnership with the authorities in order to realise all human rights for all.

#### *Recommendations*

##### *To the Zimbabwean government*

1. To cease immediately the harassment and intimidation of human rights defenders;
2. To cease immediately the practice of arbitrary arrest and detention of human rights defenders;
3. To withdraw the notice asking NGOs not registered according to the PVO Act to urgently stop their operations until they regularise their registration;
4. To propose a comprehensive NGO legislation that respects the autonomy of NGOs and the principle of self-regulation;
5. To amend POS Act to allow for the peaceful expression and exercise of all freedoms at the core of the activities of human rights defenders.

Participants members of civil society, expressed their decision to establish a litigation fund for the protection of human rights defenders.

Furthermore, participants expressed their decision to initiate a dialogue with donors in order to better harmonise the efforts of Zimbabwean NGOs.

##### *To the International Community*

1. To support and help Zimbabwean civil society.
2. In particular, to the UN Secretary-General's Special Representative on Human Rights Defenders, to take up the case of Zimbabwe during the course of her investigation within the next year.

## **F. Closing ceremony**

**Mr. Bidi** gave a vote of thanks to all the participants, especially the internationally based participants, who took time to be part of the indaba. He said that he had confidence that this would bring about positive change. He also gave special mention to Ms. Muleya's efforts in organising the attendance of representatives from different Government agencies. Mr. Bidi conveyed his appreciation on behalf of ZimRights, for the support from participants.

**Mr. Vant' Hoff** on behalf of the ZimRights Advisory Board said he believed the indaba played an incredible role in determining a clear view of what is to be achieved. He said he was appreciative of all the recommendations arrived at and to be achieved by the task team. Mr. Vant' Hoff thanked the delegation from

FIDH and Karine Tavernier of Solagral, for all the efforts to make the indaba a success; the organisation, well-focused and good programme and all the helpful contributions. Other participants of special mention were Ghalib Galant from South Africa and Mr. Davinder, whom he wished well in his endeavours in Kenya.

*Anne-Christine Hubbard* in her capacity as Secretary General of FIDH addressed participants briefly saying she felt joy and was impressed by the courage and strength of the Zimbabwean people, who still managed to laugh and maintain their humour even in time of crisis. She said whilst the FIDH representatives came to the indaba as experts they are returning as students from all that they learnt.

## **G. Resolutions and recommendations**

### **A. The severe situation of economic & social rights**

#### *Preamble*

The participants noted that the government of Zimbabwe does not comply with its obligations under the International Covenant on Economic Social & Cultural Rights, the African Charter on Human & Peoples' Rights and other international and regional instruments to which it is a party. In particular the participants noted that the authorities have violated the fundamental principle of non-regression with respect to economic and social rights.

The participants remind the government that human rights are indivisible, interrelated and interdependent. Zimbabwe's obligations to respect, protect and fulfil economic and social rights are absolute. Furthermore, derogating from one affects all negatively.

#### *- Food Shortages & the right to food*

The participants noted that the right to food is both a prerequisite to the enjoyment of other rights (such as the right to an adequate standard of living, the right to health etc.) and is dependent on the realisation of other rights, such as:

- property rights which in the Zimbabwean context means the right to a fair and secure distribution of land that is planned and properly implemented according to law;
- access to water;
- access to seeds;
- access to credit; and
- access to related inputs

The participants noted that the government bears the responsibility for the current food shortage, which is further aggravated by the intolerable politicisation of the distribution of food and emergency food aid.

The participants further noted that democratic control, especially the respect for the right to participation in decision-making and access to information and justice, is fundamental to dealing with the current crisis. Long-term realisation of the right to food will require such democratic control.

#### Recommendations:

##### *To the Zimbabwean government*

##### *As regards the current food crisis:*

1. To ensure a fair and impartial distribution of food not based on political affiliation;
2. To allow humanitarian agencies (*international, national, non-governmental and inter-governmental*) unrestricted access to all affected areas;
3. to open channels of communication and dialogue with civil society to establish a genuine and effective partnership for the resolution of the current crisis, and
4. To initiate a broad consultation on the acceptability of genetically modified organisms with the full participation of all stakeholders.

##### *As regards the long-term realisation of the right to food:*

1. to entrench the right to food in the Constitution and to enact national legislation for its realisation;
2. to define and implement an effective poverty reduction strategy with a strong agricultural component;

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*To the international community:*

1. to respect the principle of international co-operation enshrined in the International Covenant on Economic Social & Cultural Rights, especially at regional level;
2. to strengthen the partnership with civil society actors within Zimbabwe to ensure adequate food distribution.
3. To respect the decision of the Zimbabwean population with regard to genetically modified organisms.

The participants express their decision to

1. undertake a national fact-finding mission on the present situation on the right to food in Zimbabwe;
2. establish a civil society mechanism to mobilise urgent responses;
3. enhance international advocacy to ensure emergency food availability;

*- HIV/AIDS and the right to health*

The participants expressed their dismay at the level of incidence of HIV/AIDS in Zimbabwe, currently at 36%, the second highest in Africa. They deplored the serious impact HIV/AIDS has on the social fabric, productive capacity, the economy in general and future generations. The incidence of HIV/AIDS amounts to a serious violation of the right to health. The participants welcomed the government's expression of its willingness to dialogue around measures to combat the AIDS pandemic.

Recommendations:

*To the Zimbabwean government:*

1. Mobilise financial and other resources for a nation-wide campaign on HIV/AIDS
2. Establish transparent and democratic mechanisms for the use of the HIV/AIDS Fund with the collaboration of civil society;
3. Initiate dialogue with other governments in the region with a view to establishing a global and co-ordinated strategy against HIV/AIDS
4. Make use of the exemption clauses allowed for by the TRIPS agreements within the WTO to access affordable drugs

*To the international community*

1. To provide Zimbabwe with affordable anti-retroviral drugs; and
2. In the ongoing negotiations around TRIPS within the WTO to ensure that provisions adopted do not prevent developing countries from fulfilling their international obligations in relation to the right to health. In practice this means they should not prevent developing countries from accessing affordable and essential medication.

**B. Harassment of human rights defenders**

The participants expressed concern at the rising incidence of harassment and intimidation of human rights defenders that has resulted in numerous cases of arbitrary detention especially during peaceful demonstrations. Such practices are contrary to the ICCPR to which Zimbabwe is a party, to the African Charter on Human and Peoples Rights and furthermore violate the 1998 UN Declaration on Human Rights Defenders.

The participants reminded the government that a strong and critical civil society is an intrinsic component of a truly democratic society and is crucial to the future prosperity of Zimbabwe. The participants reiterated their will to establish a substantive partnership with the authorities in order to realise all human rights for all.

Recommendations:

*To the Zimbabwean government:*

1. To cease immediately the harassment and intimidation of human rights defenders
2. To cease immediately the practice of arbitrary arrest and detention of human rights defenders;

3. To withdraw the notice asking NGOs not registered according to the PVO Act to urgently stop their operations until they regularise their registration;
4. To propose a comprehensive NGO legislation that respects the autonomy of NGOs and the principle of self-regulation;
5. To amend POS Act to allow for the peaceful expression and exercise of all freedoms at the core of the activities of human rights defenders.

The participants, members of civil society, expressed their decision to establish a litigation fund for the protection of human rights defenders.

Furthermore, the participants expressed their decision to initiate a dialogue with donors in order to better harmonise the efforts of Zimbabwean NGOs.

*To the International Community:*

1. To support and help Zimbabwean civil society.
2. In particular, to the UN Secretary-General's Special Representative on Human Rights Defenders, to take up the case of Zimbabwe during the course of her investigation within the next year.

### C. The urgent need for human rights institution-building

The participants deplored the absence of national institutions devoted to the monitoring, protection, promotion of, and education in human rights. The participants expressed their will in assisting the government with the establishment of such national institutions. The participants called specifically for the establishment of an independent national human rights commission for Zimbabwe.

Recommendations:

*To the Zimbabwean government:*

1. To establish an omnibus independent national institution whose mandate would be to monitor the realisation of human rights by the relevant government structures, promote a culture of human rights and protect those very rights. Such an institution should be in conformity with the Paris principles.
2. In the immediate future, to set up a platform for dialogue with a view to integrating Zimbabwe's international obligations in the field of human rights at national level and in particular, for the right to food, taking all administrative, judicial, political, economic and social measures to ensure short- and long-term food security.

*To the international community:*

1. To provide technical assistance in terms of article 2(1) of the International Covenant on Economic Social & Cultural Rights to the government of Zimbabwe in the establishment of its national institutions;

Finally,

The participants, members of civil society, recommend that the Zimbabwean government ratify and observe the outstanding international instruments, in particular the UN Convention against Torture, and implement international law.

The Zimbabwean government should comply with its obligations to report before the treaty bodies.

Furthermore the participants recommend that the government of Zimbabwe commit itself to the fight against impunity, notably by ratifying the statute of the International Criminal Court and promoting the creation of an African Court of Human Rights.

#### **IV - FOLLOW-UP MISSION [27<sup>th</sup> August - 3<sup>rd</sup> September 2003]**

The purpose of the last phase of the Legal Cooperation Programme in Zimbabwe was to monitor the progress in the implementation of the recommendations adopted at the seminar held at Victoria Falls in December 2002. In order to do so, the FIDH mandated a follow-up mission in Zimbabwe, that was conducted from 27<sup>th</sup> August to 3<sup>rd</sup> September 2003 by Ms Anne-Christine Habbard, FIDH Secretary General, and Mr Ghalib Galant, South African Human Rights Committee Trust.

##### **A. General Assessment**

The FIDH delegation noted the lack of follow-up regarding most of the recommendations adopted during the seminar, whether on human rights defenders, whose situation dramatically worsened in recent months, or on economic and social rights.

Because of the pre-electoral context (local council elections and parliamentary by-elections in Hurungwe West, Mashonaland West province, and Insiza, Matabeleland South province took place in September), the mission could not meet with all the government representatives it had planned. The political context was thus very tense again, and human rights activists were at the front line of a wide repression wave.

The issue of land rights was also particularly focused on by the delegation, in the framework of economic and social rights. With the increase in food shortages and the spreading discontent in the population, the government took numerous legislative and administrative changes. The growing politicisation of the issue, today used as a political tool by the Mugabe regime, and its disastrous effect on the standard of living of the population, was strongly underlined by the mission.

Given the situation in Zimbabwe, and despite the non-respect of the recommendations adopted at the seminar in December 2002, the mission and the persons met concluded on the necessity of pursuing the programme. They also noted its very positive impact in terms of collaboration, since it allowed a closer cooperation between the FIDH and Zimbabwean civil society actors, and in particular ZimRights. The organisations who participated in the programme could better assess, and thus use the work of the FIDH, while the FIDH itself increase the number of its interventions in the country (press releases, articles, urgent appeals...).

##### **B. Land right and food shortage**

The report of the follow-up mission also largely focused on the issue of land right, which had been considered during the seminar as the root cause of the actual food crisis in Zimbabwe. The delegation stated the disastrous impact of the government policy, aggravated by the regional draught, and the growing politisation of food distribution.

###### **1. The “fast-track” land reform**

According to the Commercial Farmers’ Union (CFU), by mid-2003,  
79 % of commercial farms had been closed down in Mashonaland central  
72% in Mashonaland East  
72% in Mashonaland West  
61% in Matabeleland Province  
52% in Masvingo Province  
25% in Manicaland Province  
and 30% in the Midlands.

A land review committee set up by President Mugabe submitted a report in August 2003 (the “Utete report”, after the name of the head of committee, Charles Utete) on the allocation of land during the fast track reform process: it indicated that 2.1 million hectares (1,672 farms) had been allocated under the A2 scheme, and 4.2 million under the A1 – far less than the total of 11 million hectares repeatedly announced by the government. The government stated to the FIDH delegation late 2003 that the fast-track reform is now over, and that “*it is time to turn to a true agrarian reform*” - De facto, occupations have ebbed to a near standstill. Approximately 400 privately-owned farms remain in the hands of white farmers, accounting for 3% of the land, but they are not fully functional because of a lack of supplies, seeds and fertilisers, as well as the

departure of many farm workers, scared away by war veterans or ZANU -PF controlled militias. The report by the presidential committee estimated in August 2003 that there was only a 66% take-up rate, meaning that the examining 34% of available farmland lay fallow.

In December 2003, a law was passed allowing the government to “compulsorily acquire” farm equipment or material. In January 2004, the government passed another amendment to the Land Acquisition Act, further relaxing the legal process to seize land from the remaining commercial farms: the new amendment allows the government to compulsorily acquire farms after having gazetted them, thus eliminating the previous requirement of a preliminary notice personally served on the landowner. The chaotic land reform has also triggered a continuous exodus of white farmers to neighbouring countries, and, more generally, a “brain drain”, which seems to be accelerating.

The paradox of such a failed land reform is that the first victims have been those for whom the programme was designed in the first place. *“It is one of the ironies of the Fast Track land reform that black commercial farmers and women in Zimbabwe have been disadvantaged by the collapse of land markets and loss of agricultural markets including mortgage financing at the same time that government has committed itself to their advancement”* writes Michael Roth, of the Land Tenure Center, Univ. of Wisconsin. But the most hit have been the poor black rural population – the farm workers. Many of those who worked in the commercial farms have been evicted, in spite of a change of policy in mid-2002 allowing the farm workers to remain on the farm in coexistence with the settlers: *“The new settlers say we are traitors because we used to work on white-owned farms”*, says one, *“and they accuse us of being MDC supporters”*. For those allowed to stay, the income is usually around 50% lower than with the previous owners. As of mid-2003, their monthly income was estimated at 1000 Z\$ - around the price of a loaf of bread at the time. Prior to the inception of the fast-track programme, farm-workers were estimated to number between 300 and 350,000 – many of those have now gone unemployed or barely sustaining themselves with piece work; their number is now estimated at around 80,000: the UN estimated in mid-2003 that 270,000 of them had lost their jobs.

According to the Farm Community trust, the effects of the land reform on farm workers livelihood in case of eviction are multiple and extreme:

1. Loss of home
2. Loss of permanent income and secondary casual / seasonal income from agricultural work
3. Loss of access to land and inputs for own crop production
4. Loss of access to fishing grounds
5. Loss of access to subsidised foodstuffs at the farm store, and loss of credit facilities
6. Loss of access to education and health services

A disproportionately small number of them have been allocated land under the fast-track programme: less than 1%, according to a presidential land review of the fast track programme. Furthermore, an estimated 25 to 30 % of them were of foreign origin (Malawi, Mozambique, Zambia...): the newly-adopted Citizenship Act has disenfranchised them, making them in effect stateless individuals, with no rights in Zimbabwe. By the end of 2002, it was estimated that there were about 100,000 internally displaced people in Zimbabwe due to the land reform – consisting mainly of evicted farm workers. Says G. Magaramombe, head of the Farm Community Trust, *“The fast-track land reform programme created a class of Zimbabwean citizens whose lives resemble that of refugees. First, they were displaced from the only homes they had known for whole generations, and what is now emerging is that the former farm workers are finding it difficult to regain stable employment”*.

Land reform not only has not empowered the very victims of the previous injustice, it has made them even more vulnerable. Says an NGO official working on relief for the farm-workers: *“farm-workers used to be the poorest of the poor in Zimbabwe- and now things have gone even worse for them”*.

**Case study:**

**The case of Roy Bennett, MDC MP from Chimanimani, farmer.**

The forcible land seizures have continued unabated since 2000, marked by violence on the white farmers, on the farm workers, police failure to protect the victims, and a clear politicisation of the violence: any farmer perceived to be siding with the opposition will be specifically targeted. A case in point is that of Roy Bennett, elected MDC MP in Chimanimani in 2000.

In early May 2000, his farm was invaded for the first time: between 30 and 50 ZANU -PF activists came to his farm, reportedly transported and deployed by the local ZANU -PF candidate in the area, Mr. Mutiru, the owner of Authentic Engineering Trucks. The ZANU -PF activists invaded the land, took over the main office from which all staff and employees were evicted, and held a political meeting denouncing Roy Bennett. They also pushed and shoved Mrs Bennett, who was pregnant at the time (she lost the child the next day), and beat up farm workers. They then went on to damage and loot the house. They also stole the trucks and tractors, which are now reportedly used in the very constituency by ZANU -PF local activists. The cattle was also killed. The local coordinator of ZANU -PF, Mr Nzama, was reportedly present during the whole invasion.

The invaders eventually left – but only to come back, a few months later – in total, Mr Bennett reports 6 attempts at invading his farm. The second invasion was the most brutal, he reports: farm workers were beaten, tortured, arrested and paraded through the city. An army post was originally set up on the very farm, then later moved out. Roy Bennett saw 100 tons of maize confiscated at gunpoint, while they threatened to kill him.

Meanwhile, the MDC office in town has been ransacked three times, while MDC activists have continually been harassed and abused.

On 30 September 2002, Roy Bennett was arrested with two of his assistants, Mr Magwaza and Mr Gowan, and taken to a police station. All three report having been beaten and tortured, before being transferred to Chipangai during the night. Mr Bennett was first charged under POSA, then under Section 8 of the Land Acquisition Act, and finally under the Electoral Act. He was acquitted on 20 December 2002.

Mr Bennett, in spite of four court orders in his favour (his farm does not satisfy any of the criteria for acquisition), had to move out and lease a new farm near Harare; this new farm has itself been invaded four times. Roy Bennett had to leave the place in October 2002, and he now lives in hiding, with his family. He reports receiving death threats on a daily basis.

In a particularly violent occurrence in March 2003, a state agent named Richard Sauta came to his farm and took away three security guards; all three were severely beaten and accused of having stolen weapons; one of the security guards, Steven Turneza, died of his injuries, while another was badly injured. Turneza's body was later abandoned at the police station: in spite of a complaint immediately filed to the police, the affidavit on Turneza's body was done only 6 months after his death – and so far, no indictments have been pronounced.

The day after R. Sauta's visit to the farm, three army carriers, full of military, and reportedly led by ZANU -PF activist Timber Maliswa, showed up at the farm, where they brutalised the whole work force (working under N. Gardener in the absence of Roy Bennett); many of them ended up in hospital.

In April 2003, Roy Bennett filed an urgent application to evict the settlers from his Chimanimani farm. The very day he filed, 26 armed police and military came to his farm, forced all staff and farm workers out of the property, using his vehicles, and emptied the whole house.

Similarly, in May 2003, a group of 9 youth militias came to the farm near Harare, led by ZANU -PF candidate in Hatfield, Tendai Gurira: during three days, they looted the house, stole all the seeds and equipment, slaughtered the cattle. When Roy Bennett complained to the police, the complaint was not registered till four days after the event.

In June 2004, the government announced that it would nationalise all acquired land under the fast-track programme: *"In the end all land shall be state land and there will be no such thing called private land"*, the Lands minister, John Nkomo, has been quoted as saying on 22 June 2004. Plans are reportedly under way to abolish all deeds and replace them with 99-year long leases. This will further endanger tenure security, and is likely to have a negative impact on economic growth and livelihood.

## 2. Land reform and property rights

Property rights represent a most peculiar case among human rights: it is the only of all rights enshrined in the UDHR not to figure in either the ICCPR or the ICESCR. Such peculiarity has both historical reasons (the protracted dispute between the "West", privileging civil and political rights, and the Soviet Union, favouring

economic and social rights) and theoretical ones: the right to property can either be understood as the right to *enjoy one's property* without interference *or* the right to *accede to property* in order to enjoy a decent standard of living. The tension between the two interpretations is at the core of most land reform disputes: how to reconcile the right to private property *and* social justice, *i.e.* how to achieve a fair distribution of land in such a manner that all citizens see all their rights realised and respected?

The way this tension has been solved has been to put forward a set of conditions for the acquisition of private property, as for instance in article 14 of the African Charter on Human and Peoples' Rights (to which Zimbabwe is party): "*The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws*".

In effect, the conditions for the acquisition of private property are usually considered to be the following:

1. The acquisition has to be undertaken by public authorities
2. It has to be undertaken in the public interest
3. It has to follow a principle of fair compensation to the expropriated individuals
4. The acquisition has to follow due process of law.
5. and respect the principle of non-discrimination, in accordance with article 26 of the ICCPR, to which Zimbabwe is party.

If all observers agree that land acquisition was eminently justified in Zimbabwe, because of the vastly unfair distribution during colonial times, the current government in Zimbabwe has failed dismally at living up to these conditions; this has been especially true in the last few years, where land distribution has become a disorderly, often violent and heavily politicised process:

- The land redistribution programme, if officially undertaken in the name of public interest, has followed a pattern of narrow political interest and benefited political allies
- Due process has not been followed
- The expropriated individuals have not always been fairly compensated for their loss
- and the principle of non-discrimination has not been respected, as the distribution programme has disproportionately favoured allies and friends. It has also disadvantaged women, in contradiction with article 16 of CEDAW, to which Zimbabwe is party.

#### ***A disorderly process, undertaken following a narrow political interest***

The Mugabe regime has undoubtedly used land as a political tool. In the words of a prominent NGO leader, "*the land reform was meant to salvage [Mugabe's] dwindling popularity and win support from other African countries. But because of the haphazard manner in which it has been conducted, all it has led to is chaos*". Unfortunately, it does not appear that the general interest was in Mugabe's mind when he launched the fast-track land reform process: everything points to a reform hastily set up, in order to bolster a flailing regime, and designed in part to weaken opposition politicians. The now almost complete confusion between the government and the ruling party further skew the notion of "general interest" – now limited to the party's and the regime's interests.

De facto, the occupations benefited mainly the "war veterans", and targeted the farms of perceived MDC sympathisers; observers further confirm the near-exclusive use of political party channels to get access to the forms for applying for allocation of land. Over the last few years, the regime has also used the land distribution programme (especially under model A2) to reward "deserving" allies – judges who would rule in favour of the government or ZANU -PF, ZANU -PF officials, etc... In the words of a human rights lawyer: "*We now face a new legal problem in Zimbabwe: how can we ask litigants on land issues to appear before judges who themselves have benefited from the land seizures?*" Among the judges reported to have been handed a farm: Mr Sansole, Mr Malaba, and the Chief Justice, Mr. Chidyausiku. Some absurd situations occur: for example, in 2003, Francis Beke, President of the administrative court in Mutare, was called to rule on a land which he himself had received – instead of declaring a conflict of interest, he decided to "postpone" the ruling! The Utete report acknowledged that a number of top ZANU -PF officials owned multiple farms, among which many had been compulsorily acquired under the fast track programme.

Numerous testimonies gathered by journalists and human rights observers confirm that the ruling party,

ZANU -PF, has been extensively involved in the farm invasions, and that the invaded farms were often used as “political bases” to harass the opposition in the district.

A high-ranking official says that “*the situation is getting more and more out of hands, as certain settlers from 2000 or 2001 are now being themselves evicted and replaced by other settlers*”. It has been widely reported that in many cases, the occupiers received help from the government, in the form of supplies, transportation in government trucks, money, or agricultural supplies. Furthermore, a large number of farmers reported complete police inaction during the occupations, and, more often than not, the refusal to register complaints; political interference with police work seems to have been the rule.

### ***The absence of due process***

The whole land reform process has been characterised by a complete short-circuit of legal procedures.

According to the land policy statement adopted in 1990, the criteria for land acquisition were that the land had to be: derelict, under-utilised, owned by a farmer with more than one farm, foreign-owned or contiguous to communal areas – de facto, these criteria have simply been abandoned during the fast-track programme. Political criteria seem to have been applied – farms gazetted when the owner was a prominent MDC supporter, etc. Says a white farmer now evicted, “*in practice, they would just take any farm, even when they had not been previously gazetted, even if none of the land policy criteria applied – they would just come and settle and there was nothing we could do*”. The Utete report acknowledged that a significant number of commercial farms owning several farms had approached the authorities to voluntarily surrender all but a single property, but still had lost all their land. Similarly, owners of just one farm also saw their farm compulsorily acquired, even if they met all the required conditions to keep it.

The CFU perceives the Land Acquisition Act as “*fundamentally flawed*”: owners are usually served a “Section 5 Notice” (in reference to the Section 5 of the Act), which is a preliminary notice of acquisition; then a “section 8 Notice”, which gives the owner 45 days to stop all activities on his farm and another 45 days to move out – thus “skipping” section 7, which provides for a fair hearing in Court about the legality of the seizure. The owners are thus left in a situation of *fait accompli*, having to resort to the courts *after* their land has been – often unlawfully – seized. Sometimes, the farmers were given 48 hours to leave their land, contrary to the provisions of the Land Acquisition Act. A lawyer involved in land issues says only 10% of the cases of land seizures have been solved – 90% remain unsolved. He adds that “*it will be extremely difficult to legitimise the occupations into ownership, because everything has been done in such an illegal manner that there is no way they can make it legal now*”. The lack of legal security has also hampered the new settlers, less willing to invest significantly in a farm, which they are not guaranteed to keep – and indeed, several settlers have been evicted to be replaced by others.

The government has implemented retroactive laws to create a semblance of legality to the process: for example, the Rural Land Occupiers (Protection from Eviction) Act, adopted in June 2001 aimed at protecting from eviction for a year the individuals who had occupied land before January 2001 without following proper procedures, and suspended the court orders for eviction. In November 2001, President Mugabe also used his “presidential powers” to further amend the Land Acquisition Act, with retroactive effect to May 2000. In October 2000, he had already used the very same powers to issue an amnesty for politically motivated crimes committed between January 1, 2000 and July, 31, 2001 – though this amnesty law was used mainly to cover political crimes committed by ZANU -PF supporters during the electoral campaigns (for the February referendum and the June parliamentary elections), it did in some instances shield some settlers from prosecution. “*The government is simply trying to legalise the illegal*”, says a CFU official. Furthermore, even when a court order was handed in favour of the original owner, ordering the eviction of the settlers, it was not necessarily implemented, as the government repeatedly failed to abide by court orders.

The massive and extensive use of violence, war veterans and youth militias commonly known as the “Green Bombers”, to intimidate and force farmers off their land, is well documented. “*It is a process of orchestrated fear*”, says a human rights lawyer, “*in order to violently force the farmers off their properties. Nothing would be further from a due process of expropriation!*” Such groups act in a near complete impunity. A white farmer from Chimanimani, whose land has been invaded several times since 2001, reports having been intimidated, threatened, then arrested and tortured; his cattle, equipment and 100 tons of maize has been taken “*at gunpoint*”, and his farm-workers have been targeted as well – at least two of them have been killed

by the youth militias. He says: *“they act in total impunity. There is definitely a selective application of the law: the perpetrators are portrayed as the victims, and the ones who have been evicted, harassed, tortured, be they white or black, are considered to be the real criminals!”* The Commercial Farmers’ Union (CFU) reports an increase in the violence on the farms in the last year, averaging between 800 and 1000 “violent or hostile” incidents taking place in commercial farms in the course of the resettlement.

### ***No proper compensation***

Few farmers have received compensation in cases where farms have been ceded to the government, most farmers have not received any compensation for the seizure of their land. Though a provision of 4.5 billion Z\$ had been included in the 2003 government budget for compensation for acquired properties, according to the CFU, *“at current property valuations this amount is sufficient to cover the purchase price of roughly 30 farms”*.

### ***The principle of non-discrimination has not been respected***

The fast-track programme has disproportionately favoured allies and friends of the regime, first and foremost ZANU -PF members and war veterans. Most often, local elected officials have been short-circuited in favour of local ZANU -PF activists, who would be de facto sovereign in the allocation of land, apart from helping with the seizures. Land has seldom been given to the landless, or according to objective criteria, but almost exclusively to supporters of the regime – not only war veterans and ZANU -PF supporters, but also police, army, etc... There is no doubt that the selection of beneficiaries is highly politicised. Opaque procedures used for the allocation of land (no published selection of applicants).

The land reform has also disadvantaged women, in contradiction with article 16 of CEDAW, to which Zimbabwe is party. Not only have they not been allocated land for themselves, but inheritance laws prevent them from keeping them when their husbands die. Furthermore, a number of reports show that some women have been forced to exchange sexual favours in order to get land.

### ***The consequences: multiple and serious violations of other human rights***

One of the most serious consequences of the dismal handling by the Mugabe government of the land reform has been a massive food crisis, the regions most affected being Matabeleland South and the Midlands. According to food-security experts, malnutrition is higher in the newly-resettled areas than elsewhere. Aid agencies forecast that up to 7.5 million people (out of a total population of 13 millions) will suffer from severe food shortages in the coming months – a dramatic increase from the earlier estimate of 5.5 million. Zimbabwe is expected to produce only 38% of its food requirements in the current growing season, according to the Famine Early Warning Systems Network (FEWSNET). The economic crisis has triggered a massive inflation (around 600%), with the price of a loaf of bread rising to Z\$ 3500 – less than the average daily salary of a farm worker – and the price of a 50 kg bag of maize sold by the GMB jumping from Z\$ 580 last year to Z\$9,000, up to Z\$40,000 this year. During the nine months up to 31 December 2003, FEWSNET recorded a cereal deficit of approx. 174,000 metric tons.

If a regional draught has definitely aggravated problems, there is little doubt that the land reform is at the root of the food crisis: implemented in a precipitated, chaotic manner, and for political purposes favouring political allies, there was no coherent programme to allow for the new settlers to properly benefit from the land they were getting. Many of the settlers were not familiarised with farming prior to the occupations, and had little idea about how to run a farm (the government has stated, though, that it had invested 350 million Z\$ for the training of the new farmers through the National Farmer Training board since early 2003); thus agricultural productivity has fallen drastically in the last few years, due also to the lack of equipment, fertilisers and seeds. For example, in 2003, only an estimated 6% of the winter wheat crop had been planted, and a 80% drop in the coffee crop was reported. According to an observer, an estimated 90% of the farms acquired under the A2 model are under-utilised, if at all. *“Many beneficiaries under the fast track programme (...) are poor and lack the farm management skills and wherewithal to do little more than engage in subsistence agriculture”*, writes Michael Roth, of the Land Tenure Center, Univ. of Wisconsin. The situation has also worsened in urban areas.

Zimbabwe has thus relied extensively on food aid in the last few years. This, however, has in no way solved

the problem, as food distribution has suffered from a massive politicisation: the ruling party, ZANU -PF, has used food at every election to obtain the votes it so desperately needed. There is now ample evidence that food distribution is subject to a discrimination based strictly on political affiliation, as testified by numerous witnesses stating that they had to show their ZANU -PF card in order to get their allocation of food aid. Several MDC MPs stated having been forced to leave local meetings where food distribution was being organised. The ruling party has thus used food distribution and its timing to reap a maximum electoral profit. According to the Food Security Network (FOSENET), *“the factors most commonly cited to be linked to food insecurity were poor harvests, inability to afford food costs, seizure of maize grain by police at road blocks and difficulties for particular groups to access food. Those reported to have problems accessing food included former farm workers, civil servants (teachers and nurses), children, disabled ill or elderly people and opposition party supporters”*.

International and national NGOs as well as international donors have fought hard to preserve their independence, and there has been a constant tug-of-war between them and the government to prevent government organs from monopolising food aid. *“There has clearly been a hardening of the government towards all international agencies in the last year, especially in rural areas”*, says a high-ranking official of one such agency, *“the hardliners in the government have clearly won the battle”*.

In July 2003, new operational guidelines for food distribution were issued, making it mandatory to go through state channels. Though following the important public and international outcry, the government later retracted, stating that the guidelines were to be ignored, such a step nonetheless created serious concern, since the guidelines have not officially been annulled. The head of an NGO working on food security stated 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”*. A government official met by the FIDH delegation explained, with little conviction, that the guidelines were intended *“solely to know where the NGOs are working, in order to better coordinate the relief efforts”*... 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; the pressure reached such heights that they deemed not to be able to work in all independence, and had to withdraw from certain areas, leaving food distribution solely in the hands of government agents. Such pressure on NGO appears also to be part of a wider effort by the government to rein in independent organisations.

Furthermore, the government has turned the state Grain Marketing Board (GMB) (the channel for the government-sponsored food programme) into a political tool: since the government has complete discretion about the GMB’s reserves of maize, to which the farmers are legally forced to sell their crops. The government can then distribute them at will, without any external control – FOSENET notes that GMB deliveries have reported to have fallen during all of 2003, to have been erratic, or sometimes not to have been made at all in 49% of all districts of the country. FOSENET further notes that *“political barriers are commonly reported in access to GMB food”*. The GMB can also sell its reserves – indeed, numerous and credible allegations show that individuals in the government sell the GMB reserves on the black market or to outside countries for their personal profit: *“it is a fact that today food is imported in Zimbabwe solely to be re-exported at the benefit of a few individuals”*, says a food-security specialist, who adds that *“the GMB monopoly has been a disaster”*. The economic crisis has thus fuelled massive corruption and an ever-expanding black market. A lawyer working on food security issues stated that extensive powers had been given to the police to seize truckloads of maize, supposedly to prevent the MDC to use them for buying votes – but, in the words of an observer, *“given the economic crisis, and the lack of control over the police, everything they seize ends up in their own hands – and then they re-sell the rest to their own profit”*.

Though the government consistently denies any politicisation of food aid, blaming irresponsible and uncontrolled local officials, this version does not seem compatible with the considerable extent in time and space of such practices. On the contrary, it appears to be a concerted, coordinated policy by the government.

### **C. The situation of human rights defenders**

All the persons met by the delegation confirmed the hardening of the situation in Zimbabwe since the 2002 presidential elections. There is a systematic intimidation of civil society actors and human rights defenders in the country are vulnerable.

This vulnerability is further reinforced by the growing lack of independence of the judiciary, combined with other tactics such as the corruption of judges or the systematic delaying of verdicts. The Zimbabwe Lawyers for Human Rights, an NGO met by the mission, stated 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 in Zimbabwe has steadily worsened in recent months, the regime doggedly entrenched itself in State-sponsored violence, committed by State security forces and youth militias under the control of the ruling party. Arbitrary arrests and detention, as well as physical intimidation especially target human rights defenders, magistrates suspected of sympathy toward the opposition, journalists and trade-unionists. The general polarisation of the society, as stated by both the preparatory mission and the seminar, was further confirmed: any critic addressed to the government and its policy is interpreted by the authorities as treasonous and subversive, undermining any attempt of democratic dialogue. Most of the activists met by the delegation asserted how difficult it had become to carry on their activities and to make them public.

The situation has been made even more difficult by the adoption of extremely repressive legislation: the delegation expressed its concern at the increasing use of the POSA, of the AIPPA and of the PVO Act, which provisions became the most drastic tool of the government to constrain fundamental freedoms. This legislation is incompatible with both the general provisions of international human rights law and with Zimbabwe's obligations under the international instruments it ratified, such as the African Charter on Human and People's Rights and the International Covenant on Civil and Political Rights.

These statements were completed by an exhaustive list of the violations against human rights defenders, NGOs activists, lawyers and magistrates, journalists and trade unionists.

The numerous cases of harassment and arbitrary detentions of human rights defenders induced the delegates to edit a specific report on the situation of human rights defenders in the country.<sup>3</sup> This report was published by the Observatory for the Protection of Human Rights Defenders, a joint programme of the FIDH and the World organisation against torture (OMCT) in February 2004, and was included in the Observatory's annual Report 2003.

This report was presented by the FIDH at the 60<sup>th</sup> Session of the Commission on Human Rights, held in Geneva from 15<sup>th</sup> March to 23<sup>rd</sup> April 2004, and at the 35<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, which took place in Banjul, The Gambia, from the 21<sup>st</sup> May to the 4<sup>th</sup> June 2004.

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<sup>3</sup>« 2003: systematic repression of human rights defenders in Zimbabwe », The Observatory for the Protection of Human Rights, February 2004

## **V. Conclusion and Recommendations**

At the time of the preparatory mission of the FIDH Legal Cooperation Programme, the tense political and economic context, though it justified the existence of such an initiative, could have been a threat to the feasibility of the Programme. The holding and course of the workshop in December 2002 proved that these obstacles could be overcome, and that interlocutors were to be found in the country despite the tense and polarised political context.

Indeed, the FIDH Legal Cooperation Programme in Zimbabwe has made the creation of a space for dialogue between civil society and government possible. The establishment of a follow-up committee, the “Indaba Steering Committee”, where civil society actors sit together with official representatives, constitutes a positive sign of the shared will to build a constructive collaboration. This newly established cooperation represents a step forward in the democratic process in Zimbabwe, and has been warmly welcomed by all the participants in the Programme. It also strengthened the communication between the FIDH and Zimbabwean civil society activists, notably ZimRights. A more efficient network could thus be established, in order to ensure a better protection of human rights defenders and to advocate for the respect of human rights in the country. Since this seminar, ZimRights members have been invited to participate in the 33<sup>rd</sup>, 34<sup>th</sup> and 35<sup>th</sup> sessions of the African Commission on Human and Peoples' Rights, as well as to the 59<sup>th</sup> and 60<sup>th</sup> sessions of the United Nations Commission on Human Rights, where they could present joint written and oral interventions as well as resolution projects with the FIDH.

However, the conclusions of the follow-up mission pointed out the intense pressure to which such initiatives are subjected by the government of Zimbabwe. The positive results of the seminar, underlined by all participants, are to be carried on in order to consolidate and to give concrete expression to the efforts initiated by the Legal Cooperation Programme.

### **The FIDH calls upon the Government of Zimbabwe to:**

- Ratify and observe the outstanding international instruments, in particular the UN Convention against Torture and the Protocol to the African Charter on Human and People's Rights creating the African Court, and implement international law;
- Respect the provisions of the Declaration of human rights defenders, adopted by the General Assembly of the United Nations on 9 December 1998, and to cease immediately all harassment, intimidation, practice of arbitrary arrest and detention of human rights defenders;
- Amend POS Act to allow for the peaceful expression and exercise of all freedoms at the core of the activities of human rights defenders;
- To open channels of communication and dialogue with civil society to establish a genuine and effective partnership for the resolution of the current crisis;
- Ensure a fair and impartial distribution of food not based on political affiliation;
- Allow international, national, non-governmental and inter-governmental humanitarian agencies unrestricted access to all affected areas;

### **The FIDH calls upon the international community to:**

- Respect the principle of international co-operation enshrined in the International Covenant on Economic Social & Cultural Rights, especially at regional level;
- Provide technical assistance in terms of article 2(1) of the International Covenant on Economic Social & Cultural Rights to the government of Zimbabwe in the establishment of its national institutions;
- Strengthen the partnership with civil society actors within Zimbabwe to ensure adequate food distribution;

**The FIDH recommends to the Zimbabwean civil society to:**

- Submit shadow reports on the human rights situation in Zimbabwe to the African Commission.

# FIDH represents 141 Human Rights organisations

## 141 organisations

- Afrique du Sud**-Human Rights Committee of South Africa  
**Albanie**-Albanian Human Rights Group  
**Algérie**-Ligue Algérienne de Défense des Droits de L'Homme  
**Algérie**-Ligue Algérienne des Droits de L'Homme  
**Allemagne**-Internationale Liga fur Menschenrechte  
**Argentine**-Centro de Estudios Legales y Sociales  
**Argentine**-Comite de Accion Juridica  
**Argentine**-Liga Argentina por los Derechos del Hombre  
**Autriche**-Osterreichische Liga fur Menschenrechte  
**Azerbaïjan**-Human Rights Center of Azerbaijan  
**Bahrein**-Bahrain Human Rights Society  
**Bangladesh**-Odhikar  
**Bélarus**-Human Rights Center Viasna  
**Belgique**-Liga Voor Menschenrechten  
**Belgique**-Ligue des Droits de L'Homme  
**Bénin**-Ligue pour la Defense des Droits de L'Homme Au Bénin  
**Bhutan**-People's Forum for Human Rights in Bhutan (Nepal)  
**Bolivie**-Asamblea Permanente de los Derechos Humanos de Bolivia  
**Brésil**-Centro de Justicia Global  
**Brésil**-Movimento Nacional de Direitos Humanos  
**Burkina Faso**-Mouvement Burkinabe des Droits de L'Homme & des Peuples  
**Burundi**-Ligue Burundaise des Droits de L'Homme  
**Cambodge**-Cambodian Human Rights and Development Association  
**Cambodge**-Ligue Cambodgienne de Défense des Droits de L'Homme  
**Laos (France)**-Mouvement Lao pour Les Droits de L'Homme  
**Cameroun**-Maison des Droits de L'Homme  
**Cameroun (France)**-Ligue Camerounaise des Droits de L'Homme  
**Canada**-Ligue des Droits et des Libertés du Quebec  
**Centrafrique**-Ligue Centrafricaine des Droits de L'Homme  
**Chili**-Comite de Defensa de los Derechos del Pueblo  
**Chine**-Human Rights in China  
**Colombie**-Comite Permanente por la Defensa de los Derechos Humanos  
**Colombie**-Corporacion Colectiva de Abogados Jose Alvear Restrepo  
**Colombie**-Instituto Latinoamericano de Servicios Legales Alternativos  
**Congo Brazzaville**-Observatoire Congolais des Droits de L'Homme  
**Côte d'Ivoire**-Ligue Ivoirienne des Droits de L'Homme  
**Côte d'Ivoire**-Mouvement Ivoirien des Droits de L'Homme  
**Croatie**-Civic Committee for Human Rights  
**Cuba**-Comision Cubana de Derechos Humanos y Reconciliacion National  
**Ecosse**-Scottish Human Rights Centre  
**Egypte**-Egyptian Organization for Human Rights  
**Egypte**-Human Rights Association for the Assistance of Prisoners  
**El Salvador**-Comision de Derechos Humanos de El Salvador  
**Equateur**-Centro de Derechos Economicos y Sociales  
**Equateur**-Comision Ecumenica de Derechos Humanos  
**Equateur**-Fundacion Regional de Asesoría en Derechos Humanos  
**Espagne**-Asociacion Pro Derechos Humanos  
**Espagne**-Federacion de Asociaciones de Defensa y Promocion de los Derechos Humanos  
**Etats Unis**-Center for Constitutional Rights  
**Ethiopie**-Ethiopian Human Rights Council  
**Finlande**-Finnish League for Human Rights  
**France**-Ligue des Droits de L'Homme et du Citoyen  
**Georgie**-Human Rights Information and Documentation Center  
**Grèce**-Ligue Hellenique des Droits de L'Homme  
**Guatemala**-Centro Para la Accion Legal en Derechos Humanos  
**Guatemala**-Comision de Derechos Humanos de Guatemala  
**Guinée**-Organisation Guineenne pour la Defense des Droits de L'Homme  
**Guinée Bissau**-Liga Guineense dos Direitos do Homen  
**Irak (Royaume Uni)**-Iraqi Network for Human Rights Culture and Development  
**Iran**-Centre des Defendeurs des Droits de L'Homme en Iran  
**Iran (France)**-Ligue de Defense des Droits de L'Homme en Iran  
**Irlande**-Irish Council for Civil Liberties  
**Irlande du Nord**-Committee On the Administration of Justice  
**Israël**-Adalah  
**Israël**-Association for Civil Rights in Israel  
**Israël**-B'tselem  
**Israël**-Public Committee Against Torture in Israel  
**Italie**-Liga Italiana Dei Diritti Dell'uomo  
**Italie**-Unione Forense Per la Tutela Dei Diritti Dell'uomo  
**Jordanie**-Amman Center for Human Rights Studies  
**Jordanie**-Jordan Society for Human Rights  
**Kenya**-Kenya Human Rights Commission  
**Kosovo**-Conseil pour la Defense des Droits de L'Homme et des Libertés  
**Kyrgistan**-Kyrgyz Committee for Human Rights  
**Lettonie**-Latvian Human Rights Committee  
**Liban**-Association Libanaise des Droits de L'Homme  
**Liban**-Foundation for Human and Humanitarian Rights in Lebanon  
**Liban**-Palestinian Human Rights Organization  
**Liberia**-Liberia Watch for Human Rights  
**Libye (Suisse)**-Libyan League for Human Rights  
**Lithuanie**-Lithuanian Human Rights Association  
**Malaisie**-Suaram  
**Mali**-Association Malienne des Droits de L'Homme  
**Malte**-Malta Association of Human Rights  
**Maroc**-Association Marocaine des Droits Humains  
**Maroc**-Organisation Marocaine des Droits Humains  
**Mauritanie**-Association Mauritanienne des Droits de L'Homme  
**Mexique**-Comision Mexicana de Defensa y Promocion de los Derechos Humanos  
**Mexique**-Liga Mexicana por la Defensa de los Derechos Humanos  
**Moldavie**-League for the Defence of Human Rights  
**Mozambique**-Liga Mocancicana Dos Direitos Humanos  
**Nicaragua**-Centro Nicaraguense de Derechos Humanos  
**Niger**-Association Nigérienne des Droits de L'Homme  
**Nigeria**-Civil Liberties Organisation  
**Nouvelle Calédonie**-Ligue des Droits de L'Homme de Nouvelle Calédonie  
**Ouganda**-Foundation for Human Rights Initiative  
**Pakistan**-Human Rights Commission of Pakistan  
**Palestine**-Al Haq  
**Palestine**-Palestinian Centre for Human Rights  
**Panama**-Centro de Capacitacion Social  
**Pays Bas**-Liga Voor de Rechten Van de Mens  
**Pérou**-Asociacion Pro Derechos Humanos  
**Pérou**-Centro de Asesoría Laboral  
**Philippines**-Philippine Alliance of Human Rights Advocates  
**Polynésie Française**-Ligue Polynésienne des Droits Humains  
**Portugal**-Civitas  
**RDC**-Ligue des Electeurs  
**RDC**-Association Africaine des Droits de L'Homme  
**RDC**-Groupe Lotus  
**République de Djibouti**-Ligue Djiboutienne des Droits Humains  
**République Tchèque**-Human Rights League  
**Roumanie**-Ligue pour la Defense des Droits de L'Homme  
**Royaume-Uni**-Liberty  
**Russie**-Citizen's Watch  
**Russie**-Moscow Research Center for Human Rights  
**Rwanda**-Association pour la Defense des Droits des Personnes et Libertés Publiques  
**Rwanda**-Collectif des Ligues pour la Defense des Droits de L'Homme Au Rwanda  
**Rwanda**-Ligue Rwandaise pour la Promotion et la Defense des Droits de L'Homme  
**Sénégal**-Organisation Nationale des Droits de L'Homme  
**Sénégal**-Rencontre Africaine pour la Defense des Droits de L'Homme  
**Serbie et Montenegro**-Center for Antirwar Action - Council for Human Rights  
**Soudan (Royaume Uni)**-Sudan Organisation Against Torture  
**Soudan (Royaume-Uni)**-Sudan Human Rights Organization  
**Suisse**-Ligue Suisse des Droits de L'Homme  
**Syrie**-Comite pour la Defense des Droits de L'Homme en Syrie  
**Tanzanie**-The Legal & Human Rights Centre  
**Tchad**-Association Tchadienne pour la Promotion et la Defense des Droits de L'Homme  
**Tchad**-Ligue Tchadienne des Droits de L'Homme  
**Thaïlande**-Union for Civil Liberty  
**Togo**-Ligue Togolaise des Droits de L'Homme  
**Tunisie**-Conseil National pour Les Libertés en Tunisie  
**Tunisie**-Ligue Tunisienne des Droits de L'Homme  
**Turquie**-Human Rights Foundation of Turkey  
**Turquie**-Insan Haklari Dernegi / Ankara  
**Turquie**-Insan Haklari Dernegi / Diyarbakir  
**Union européenne**-FIDH AE  
**Uzbekistan**-Legal Aid Society  
**Vietnam (France)**-Comite Vietnam pour la Defense des Droits de L'Homme  
**Yemen**-Human Rights Information and Training Center  
**Yemen**-Sisters' Arabic Forum for Human Rights  
**Zimbabwe**-Zimbabwe Human Rights Association Zimrights

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