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REPORT ON THE INTERNAL SECURITY FORCES IN ZIMBABWE

Geoffrey Feltoe*

I. INTRODUCTION

On 25th July 1990 the state of emergency that had been in operation throughout Zimbabwe for almost twenty-five years came to an end. Before the attainment of democratic rule the white minority regime had used the state of emergency to evoke a whole range of extreme powers to try to suppress the struggle for majority rule. Under emergency regulations, the regime was permitted to detain persons without trial. There were two types of detention: indefinite detention and thirty-day detention. The latter could be renewed for further thirty-day periods. The indefinite detention provisions were used mostly against black leaders. Short-term detention was used to hold persons suspected of collaboration with the liberation fighters. Large numbers of persons were detained under both provisions.

As the armed struggle intensified during the 1970s all Internal Security Forces (ISFs) of the regime became actively involved in the anti-insurgency war. Full-time regular Police Force members were increasingly used in a para-military capacity. The Special Branch of the Police was used as an intelligence gathering agency and conscripts were drafted into the Police Anti-Terrorist Unit. Torture was used extensively by the Special Branch and other units of the Police. It was also used by the Army both against captured guerrillas and civilians suspected of collaborating with the insurgents. Special units like the Central Intelligence Organisation and an Army unit called the Selous Scouts were formed to engage in dirty, clandestine warfare techniques against the insurgents. In addition to the state of emergency, the minority regime created a network of draconian security laws; the most notorious of which was the Law and Order (Maintenance) Act.

When the new democratic government assumed office in 1980 all the repressive powers which the previous regime had created were left intact. The interim British Administration decided that it was for the incoming Government to determine what sort of security legislation

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was necessary and appropriate. It was hoped, of course, that the new Government would move quickly to dismantle this array of oppressive provisions that had been used so cruelly against the black majority. This was not to be. Most of the repressive legislation remains intact and little changed to this day. However, at the beginning of 1994 the Supreme Court ruled the provision in the Law and Order (Maintenance) Act, relating to the control of public demonstrations to be unconstitutional insofar as it violated the guarantees of freedom of expression and assembly contained in the Constitution.

The policy of reconciliation applied by the incoming Government meant that many of the same personnel who had served in the internal security agencies of the previous regime remained in their positions. Many Police Officers that had known no other form of policing than under a state of emergency, under which extreme and extraordinary powers could be used, remained in the various ISFs. Many of the notorious torturers of the various intelligence units of the former regime also remained in office, some became the trainers of the new regime or the trainers of torturers of the new regime. The result of all this was that no clear break was made with the past. This would probably not have proved to be too detrimental in human rights terms if the years following independence had been peaceful, for, in that event, the new Government probably would have moved quickly to repeal the odious security legislation which had been used against many of the people who now formed the government, and the state of emergency would also probably have ended. But that was not to be. For a number of years following Independence Zimbabwe faced massive sabotage and destabilisation from South Africa, plus widespread banditry activity in the Southern and Western regions of the country. Because of these serious security problems the Government extended the state of emergency, and the internal security forces again became involved in a para-military role. Detention without trial was again used. Whites believed to be involved in South African inspired sabotage were picked up and some were tortured. Many people who were held in detention during the military campaigns in Matabeleland were ill treated or tortured. Civilians disappeared and were never found again. Numerous civilians were killed during the military campaigns. The Government did set up a

Commission of Inquiry to investigate these human rights abuses. Despite assurances by Mr. Mugabe (then the Prime Minister) that the findings of this Commission would be made public, the Government later refused to publish its findings. As a result of the Unity Accord in 1989, amnesties were granted for all actions taken by both the Government Forces and the insurgents. This meant that human rights abusers on both sides were granted immunity and were therefore not brought to justice. As will be seen below, amnesties have led to human rights abusers in the ISFs escaping justice. In some cases they have been immediately re-instated into their units without any disciplinary action against them.

All of these features impaired efforts to establish a new professional Police Force after Independence. Whilst the Police continued to have extreme powers and to employ strong-armed tactics in security operations, it was almost impossible to train recruits, and to retrain serving Police Officers, on the limits of police powers, the need for professional investigation techniques and the necessity to respect the fundamental human rights of the people.

Only when the state of emergency ended in 1990 could such training commence. At that time, the Police Force itself asked to receive lectures on its role in a non-emergency. An NGO, the Legal Resources Foundation of Zimbabwe (LRF) was then asked to mount seminars about the proper role and functions of the Police and the requirement that the Police respect human rights. Thus began a regular program of LRF seminars and workshops that continue today. This program has focused particularly on unlawful arrest and detention and what forms of interrogation are prohibited.

In the beginning, this program was also conducted for members of the Central Intelligence Organisation (CIO). When this organisation came under fire from the human rights bodies, the CIO pulled out of the program and stated that they had people within Government who could do this training.

Another major feature of policing in the post-Independence period was the continued use of the Police on a partisan basis to protect the interests of the ruling party—especially when Zimbabwe was heading in the direction of establishing a *de jure* one party state and when there was, as still there is, a complete blurring of the distinction between the

State and the ruling party. The members of the Police Force who had served under the old regime, were naturally reticent about trying to prevent illegal harassment of opponents by the ruling party's Youth League, its Women's League and the People's Militia. Many Police Officers left the Force after Independence. This was particularly the case at higher levels where there was a mass exodus of whites that had occupied all the senior ranking positions. Many of the recruits were ex-combatants whose experience lay in fighting a guerrilla war. Ruling party loyalists were placed in many of the top ranking positions. In the last few years when the issue of human rights has moved into the forefront, both internationally and domestically, and Zimbabweans having become far more aware of their rights and far less tolerant of abuses, the Government has felt constrained to ensure greater observance of human rights and to move in the direction of more professional, apolitical ISFs. For example, the CIO came in for tremendous criticism in 1991 as a result of revelations during the preliminary hearings of a criminal case involving the probable murder of a woman allegedly by its agents. Following the outcry over the nefarious activities of the CIO, the Government decided to withdraw its powers to arrest and detain persons.

One of the reasons why the Police have placed increased emphasis on instruction on what is required in order lawfully to arrest and detain persons is that the Police Force was frequently sued for unlawful arrest and detention and the responsible Ministry was having to pay out considerable sums of money to the claimants.

A. Declaration of emergencies

There is currently no state of emergency in operation in any part of Zimbabwe. Under Section 31J of the Constitution, the President may at any time declare a state of emergency countrywide or on a regional basis. This will only last for fourteen days if Parliament is sitting or thirty days if Parliament is not sitting unless within these periods the President's declaration is approved by Parliament. Parliament may resolve that a state of public emergency exists countrywide or in a particular region. This resolution only requires a simple majority of the votes by Parliament members. The state of emergency will last for

six months, but can be renewed for further unlimited periods of six months.

When a state of emergency is declared, the following fundamental rights are suspended: the right to personal liberty, protection from arbitrary search and seizure, freedom of expression, freedom of assembly and association, freedom of movement and protection from discrimination. During a state of emergency the Constitution allows for indefinite detention without trial. Certain safeguards apply when a person is detained. The most important of these is that the case must be referred to a tribunal within thirty days for review. If the tribunal recommends release of the detainee on the grounds that there is insufficient cause for detention, the detainee must be released unless the President directs otherwise. After the first review the case will be reviewed at intervals of 180 days.

II. THE STRUCTURE OF ISFs IN ZIMBABWE

The main internal security forces in Zimbabwe are the following:

- The Zimbabwe Republic Police (ZRP)
- The Police Support Unit
- The Special Constabulary
- The Support Unit and the Riot Squad
- The Police Internal Security and Intelligence unit (PISI)
- The Central Intelligence Organisation (CIO)
- The Presidential Guard (PG)
- The Intelligence Units of the Army and the Air Force
- The Youth Brigade of the ruling party
- The People's Militia
- The Women's League of the ruling party

This paper is primarily a study of the ZRP, the major internal security force in the country.

A. The Zimbabwe Republic Police (ZRP)

The ZRP, which is the regular Police Force in Zimbabwe, is established by the Constitution. Section 93 provides that the Police Force is established to preserve internal security and to maintain law and order. Each member of the Force is charged "with the general

duty of maintaining law and order, of taking all steps which on reasonable grounds appear to him to be necessary for preserving the peace, for preventing crime, for protecting property from malicious injury, for the detection of crime and for the apprehending of offenders and of suppressing all forms of civil commotion or disturbance that may occur in any part of Zimbabwe."

1. Command, structure, promotion, discipline and dismissal

The Police Force is under the overall command of the Commissioner of Police, but the President under §93(3) of the Constitution may give general, binding policy directives to him or her. Additionally, under §11 of the Police Act, the Minister of Home Affairs is empowered to give general directions of policy to the Commissioner, who is obliged to comply. The Minister can only give such directives where he considers this to be necessary in the public interest and only relating to the appointment, promotion, training and disposition of the Force and the maintenance of the Force in a high state of efficiency.

The Commissioner is appointed by the President after consultation with a Board consisting of the Chairman of the Police Service Commission, the retiring Commissioner of Police, if available, and another member appointed by the President from the Secretaries of Ministries (or two Secretaries of Ministries appointed by the President if the retiring Commissioner is not available). The Commissioner is appointed for four years and must resign thereafter. The President may extend his term for periods of not more than twelve months at a time. The Commissioner may be removed from office by the President for any reason, after consultation with the Cabinet. The President appoints all commissioned officers. The President also may promote, suspend, reduce in rank or discharge such officers, In exercising these powers the President must pay heed to, but is not bound by, the advice of the Minister of Home Affairs after the Minister has consulted with the Commissioner.

The Commissioner appoints non-commissioned officers in consultation with the Police Service Commission and is given the power to reprimand, suspend, reduce in rank or discharge non-

commissioned officers. The Commissioner may promote non-commissioned officers on the advice of Advisory Boards established to consider the suitability of such officers for promotion. However, the Minister of Home Affairs is empowered to give general directions with which the Commissioner must comply relating to the appointment, promotion, training and disposition of members of the Force, as well as for the maintenance of a high degree of efficiency. Officers who have served for more than two years may not be removed or reduced in rank except with the confirmation of the Police Service Commission. The Police Service Commission is provided for in Section 95 of the Constitution. It is headed by the Chairman of the Public Service Commission and two to four other members appointed by the President, one of whom must be a person who has held a senior ranking position in the Police for at least five years. The Constitution provides in Section 96 that this Commission may make regulations for the general well-being and good administration of the Force and the maintenance of the Force in a high state of efficiency and the conditions of members of the Force, which may include provision for the punishment of members found guilty of offences against discipline. It may also deal with complaints by members of the Force. In Section 55 of the Police Act it is provided that the Commission may make recommendations to the Minister regarding salaries and general conditions of service of Force members after consultation with the Police Commissioner.

The Commissioner, in consultation with the Minister of Home Affairs, may make Standing Orders regarding the discipline, regulation and orderly conduct of the affairs of the Police Force. Although the Police Force represents the authority of the State and is an arm of the State whose duty is to maintain law and order, the authority of the Police derives from the law, and it is governed by the law. Members of the Police Force should be duty bound to uphold and enforce the law. The Police Force should not be used as a political instrument of the State; it should never be used as an instrument of terror or intimidation by the ruling party against members of opposition parties who are lawfully exercising their political rights. The Police Force should thus be apolitical and should not be subjected to political interference by the ruling party.

In theory, the Police Force is a professional, apolitical force. Under the Police Act, it is an offence for any member of the Force to engage actively in politics, and this is defined to include: joining or associating with a political organisation or movement, canvassing in support of a political organisation, attending political meetings in uniform and publishing views of a political nature. In practice, some members of the Police Force have exercised their powers in a partisan fashion so as to support the ruling party and to discriminate against members of opposition parties. Thus the Police have, in the past, prevented or closed down meetings and rallies of opposition parties. In some instances, the Police have acted on the instructions of senior politicians. They have, on occasion, complied with instructions from politicians to arrest and detain people who have not committed any criminal offences but have merely been critical of the ruling party. There have also been instances where politicians have stopped or tried to stop Police investigations into criminal wrongdoing by the politicians themselves or their friends or relatives. On the other hand there have been a number of reported cases in which Police Officers have refused to comply with instructions from politicians because those officers believed that what they were being instructed to do was not lawful.

2. Arrest, interrogation and detention

The power of Police Officers to search, arrest and detain suspects derives from an Act of Parliament passed by the legislature, namely the Criminal Procedure and Evidence Act [Chapter 59]. These powers are only exercisable in limited and specifically defined circumstances. Broadly speaking they follow common law principles.

The Police may obviously question suspects both before and after they have been arrested. There has been a pronounced tendency for the Police to arrest first (often based on very flimsy evidence) and then to investigate after arrest. This practice has been severely criticised by the courts in a number of reported cases. There is a heavy reliance upon extracting confessions, rather than carrying out proper investigations. Frequently, there has been resort to unlawful methods of extracting confessions, including physical ill treatment. Efforts

have been made, however, to try to prevent such practices. Police officers have from time to time been prosecuted in the courts for culpable homicide and assault arising out of maltreatment of prisoners. The person detained is entitled to consult with his lawyer before making any statement. He is also entitled to have his lawyer present when he makes his statement. It was ruled in a recent Supreme Court case that the failure to accord the prisoner these rights would render the statement inadmissible as evidence. Most prisoners, however, cannot afford to bring in lawyers and the State legal aid system does not allow for lawyers to be assigned at the pre-trial stage. This applies no matter how serious the charges are.

The Criminal Procedure and Evidence Act provides for a mechanism to ensure that confessions are not unlawfully extracted by the Police: the procedure under which statements made by persons in custody are taken before magistrates for confirmation. There is an incentive to have statements judicially confirmed because once a statement is confirmed, the onus will then be on the accused at his trial to prove that the statement was not freely and voluntarily made. Of course, his failure to object at the confirmation proceedings will be held against him. On the other hand, if the statement was not confirmed the State will have to prove that it was made freely and voluntarily. At the confirmation proceedings the magistrate is supposed to probe carefully whether the statement was made freely and voluntarily. If the magistrate finds that it was not he will refuse to confirm the statement. However, in practice this investigation is often done very cursorily.

The Police are entitled to hold arrested persons at Police Stations. It has been held by the courts, however, that they are not permitted to move prisoners from Police Station to Police Station simply to frustrate efforts by their lawyers to gain access to their clients. They are also not entitled deliberately to move prisoners to far distant places to make it more difficult for the prisoners to have access to their lawyers. However, the Police often try to keep prisoners from having contact with their lawyers until they have extracted confessions. They may try to hinder access by denying that they are holding the prisoner at that particular Police Station or by moving the prisoner from one Police Station to another. Once prisoners have been taken before the

court and have been remanded in custody, they are supposed to be incarcerated in the remand prisons operated by the Prison Department. However, the Police may take such prisoners back to Police Stations if this is necessary for further investigations, such as the holding of identity parades.

The Police are obliged to inform the arrested person of the reasons for his arrest and to caution him. They are supposed to comply with any request by the arrested person to contact his lawyer or to inform relatives or friends of his arrest. In practice the Police often hold persons incommunicado until they have obtained a confession from them.

3. Training

Recruits go through an intensive training program at the Police Depot. In this course they are taught the rudiments of policing. They are trained in firearms, Police powers and duties, criminal law, evidence and procedure. A constable may sit for promotional exams from constable to sergeant only after he has served two years in the Force. There are further examinations for promotion from sergeant to inspector and from inspector to higher ranks. Officers attend courses at the Police Staff College before sitting for these examinations. The training has increasingly emphasised that Police Officers must respect the fundamental rights of all citizens as enshrined in the Bill of Rights to the Constitution of Zimbabwe. One reason for the intensification of training on fundamental rights is the increase in legal actions against the Police for unlawful arrest, detention and assault.

4. Control and oversight

In Zimbabwe there is no independent body that may receive and investigate complaints by members of the public that their rights have been abused by members of the Police Force. The Ombudsman does not have jurisdiction to deal with these complaints. Zimbabwe does not have a Human Rights Commission. Serious public allegations of human rights abuses might be taken up in Parliament by concerned Parliamentarians.

The control of the Police Force lies primarily with the Commissioner of Police, but the Minister of Home Affairs is expected to ensure that the Police do not abuse their powers. He, in theory, is answerable in Parliament if serious abuses do occur and if questions are raised in Parliament. As stated above, the President may give the Commissioner general directions as to policy and the Minister of Home Affairs may give general directions, with which the Commissioner must comply. These directions may relate to such matters as the training and the disposition of members of the Force. Additionally, the Police Service Commission may investigate complaints by members of the Force (but not members of the public) by carrying out an inquiry or investigation into the practices of the Police Force. The Commission may submit a special report to the Minister of Home Affairs on any matters that the Commission sees fit to report and may require him to present this report before Parliament. The control of finances is a matter for the officers in charge of the various sections. Where irregularities are discovered or suspected, the officer in charge can request an internal audit by the Auditor-General.

Offences against the Police Act aimed at financial control include: solicitation or acceptance of bribes, wilfully or negligently losing, destroying or damaging State property or property in the possession of the State or exhibits in criminal cases, and improperly appropriating such property, knowingly making false entries and returns and suppressing evidence. Cases of deliberate theft or corruption by Police Officers are to be placed before the ordinary criminal courts and not dealt with as internal disciplinary matters. There have been a number of criminal prosecutions of Police Officers for offences such as bribery and theft in the past. There is no code of conduct dealing with corruption. This malpractice is however punishable under the ordinary law and under the Police Act.

5. Codes of conduct

There are no codes of conduct for members of the ZRP except for the Standing Orders and certain provisions in the Police Act that lay down what types of conduct constitute punishable offences. These relate, mostly, to the efficient performance of their duties and their

relationship with other members of the Force. However, there are offences under this Act that relate to how members of the ZRP deal with members of the public—for instance it is an offence for a Police Officer to detain any person in custody unnecessarily, to use unnecessary violence or ill treat any person in custody, to neglect a person in custody or to use unnecessary violence towards any person he may come into contact with in the execution of his duties. There is little knowledge in Zimbabwe about the United Nations Code of Conduct for Law Enforcement Agencies and other relevant international instruments, and this Code is not used by any of the ISFs. However, the Legal Resources Foundation makes reference to this Code, and other relevant codes, such as the Minimum Standards for Prisoners, in its training program for Law Enforcement Agencies.

6. Accountability

There are no provisions in the Constitution or the Police Act, which *specifically* require commanding officers, and other members of the Police Force, to prevent violations of human rights and punish offenders. Such abuses would, however, constitute disciplinary offences as well as criminal and civil wrongs. The failure to prevent or to investigate such wrongs would constitute neglect of duty under the Police Act. Under the general law, failure of the person charged with preventing a prisoner being assaulted or killed would cause the Police Officer in charge to be liable under both criminal and civil law. The State would be vicariously liable for the civil wrong in any case where a death has occurred that is not due to natural causes. The Inquests Act requires that an inquest be held to determine what happened and if anyone was criminally responsible for causing the death. Thus, where a prisoner dies in Police custody and there is anything to suggest that the death was not caused naturally, the case should be taken before a magistrate under this Act. In practice, however, some deaths have not been fully and satisfactorily investigated. This has led to suspicions by the public that the causes of these deaths have been covered up. On the other hand, there are cases where Police Officers have been prosecuted for assault of prisoners and even homicide.

As noted, the Police Act sets out offences that might be committed by members of the Police Force, including offences that involve human rights abuse, such as unnecessarily detaining a person or using unnecessary violence. When a Police Officer commits any of these offences, the Police Act provides that the case can be referred either to the ordinary courts or to an internal Police disciplinary body. The person being charged can request that the case be dealt with in the ordinary courts. If the matter is dealt with internally, and the punishment imposed is considered to be inadequate, there is a procedure under which the matter can be referred to the Attorney-General who in turn may refer the case to the High Court which may, where appropriate, set aside the original penalty and impose a harsher sentence.

The practice which has apparently been adopted in the past is that where an officer has committed an offence against a member of the public or his property or involving corruption or misappropriation of State property, such cases will be referred to the ordinary court unless the offence was so minor that it could adequately be dealt with under the internal disciplinary processes.

The ordinary courts have the jurisdiction to deal with all criminal cases arising out of human rights abuses such as homicide, rape, kidnapping, indecent assault, assault and criminal *injuria*. They can entertain civil cases for loss of support due to the death, assault, unlawful arrest and unlawful imprisonment. There have been criminal and civil cases against Police Officers for all of these wrongs. However, the court that is most accessible to ordinary people, the Small Claims Court where claimants need not employ counsel, has no jurisdiction to try cases involving unlawful arrest and imprisonment.

The Attorney-General has power to prosecute Police Officers for any criminal offences and to direct the Commissioner of Police to investigate particular offences. This power was exercised a few years ago when allegations of corruption by the Commissioner of Police were brought to the attention of the Attorney-General. In this case, the Attorney-General's staff, carried out the investigations because it was realised that subordinate officers in the Police would be unable to pursue such an investigation against the head of the Force.

7. Civil liability

Victims of human rights abuse by Police personnel have the legal right to seek redress and compensation in the civil courts. However, there is widespread ignorance about the legal remedies of those who have been subject to abuses. Free legal aid is provided in relatively few cases and only to very poor persons. Lawyers' fees, in general, are expensive. This means that relatively few claims are brought against the Police and most claims are brought by more affluent members of society. In cases of unlawful imprisonment, which have come before the courts, sizeable amounts of damages have been awarded. In the first few years after Independence a number of whites, suspected of acting as agents for South Africa, were detained by the Police and held without trial. Some were tortured. A number of those detained, sued for damages after their release. In some of these cases the State refused to pay the damages awarded. Mr. Mugabe, then the Prime Minister, stated publicly that these person would not be paid essentially because this would be a waste of taxpayers' money, as these men had been South African agents and had only been acquitted by the courts on technicalities.

8. Transparency and access to records

The Police are obliged to keep official records of all arrests, searches and interrogations. They must also inform all persons they arrest of the reasons why they are being arrested. The public does not have access to arrest records. The legal representatives of prisoners have a right to know where their clients are being held and the reasons for their incarceration. They may also request access to relevant documentation and the courts can order the production of such records. In Zimbabwe there is no freedom of information legislation that requires public officials to provide relevant information and documentation on request.

Theoretically there are no legal restrictions on the press and NGOs in regards to monitoring the ISFs and investigating and publicising cases of human rights abuse. In practice, however, there are considerable barriers. As stated above, there is no legal obligation by the Police Force to supply information to any organisations.

Therefore, it is very difficult to establish the veracity of the allegations of wrongdoing. Those conducting investigations must be careful lest they contravene vaguely defined provisions in security legislation - such as a provision in the Law and Order (Maintenance) Act that makes it an offence to bring the Police into disrepute. However, in recent years the independent press and NGOs have been prepared to expose publicly police abuses where they believe the allegations to have substance. Human rights organisations have been permitted to bring actions on behalf of persons whose human rights are allegedly being infringed where it would not be possible for the persons affected to bring the actions themselves. Thus, they have been allowed to bring *habeas corpus* actions on behalf of persons alleged to be illegally detained or tortured. Where the courts discern a systematic pattern of human rights abuse they can order the appropriate authorities to take action to investigate and put a stop to such abuse, but the only persons and bodies entitled to order reforms of ISFs, to safeguard human rights, would be the Executive, particularly the Minister of Home Affairs, the Commissioner of Police and the Police Service Commission.

9. Superior orders

The law holds that the defence of superior orders does not avail where the order was so manifestly illegal that any reasonable person would realise that the order should not be obeyed. Thus, a person who obeys an order to shoot innocent civilians or to torture a person would not be able to escape liability on the basis of obedience to superior orders. This is laid down in a series of cases such as *S v Hamadripi*, High Court Case No 113 of 1989. This law relating to superior orders applies to the operations of all ISFs within Zimbabwe.

B. The Special Constabulary

This unit is an auxiliary force to the regular Police. Large numbers of persons have been recruited into it, without receiving the same level of instruction as members of the regular Police Force. The result was that poorly trained members of the Special Constabulary frequently misunderstood or abused their powers. Under the new Police Act, the

Minister of Home Affairs has been given the power to disband this unit if the circumstances require it.

Members of the Special Constabulary are governed by the Police Act and the ordinary law of the land in the same way as regular Police Officers are.

C. The Police Support Unit and the Riot Squad

These units are responsible for, among other things, riot control. Unfortunately, in the performance of their duties, it is quite clear that they have not been properly trained in the use of minimum force methods. On a number of occasions when the riot squad has come onto the University campus, they have engaged in indiscriminate brutality. They assaulted whichever students got in the way and tear-gassed halls of residences. This violence was not used to counteract student violence, but instead used to punish the students.

D. The Police Internal Security and Intelligence unit (PISI)

With respect to this unit and all the agencies dealt with below, the ordinary law of the land applies to theft activities. Members of these units can be prosecuted for the commission of crimes. They can also be sued under civil law and the State can be held civilly liable for theft actions based on the doctrine of vicarious liability. There are no special immunities with respect to actions taken against members of these units. In practice, however, it is very difficult to successfully bring legal actions against members of these units. The personnel operate in plain clothes and, at times, in a very clandestine manner. Therefore, identification of the specific unit from which the culprits came can be very difficult. PISI has its roots in the old Ground Cover division of the white minority regime. It is an internal security unit set up within the Police. It is not established under any legislative provisions and there are no regulations governing how it operates. The scope of its mandate is also unclear. During the Matabeland disturbances in the 1980s, PISI apparently assumed a major role in the Government's campaign against ZAPU and dissidents. Africa Watch reports that it carried out most of the arrests of ZAPU officials and its

supporters. Its treatment of detainees earned PISI a reputation for brutality matching that of the CIO, if not worse

E. The Central Intelligence Organization (CIO)

The CIO is not established or governed by any legislative provisions. This unit falls under the Ministry of State Security, which is responsible for regulating the activities. The role of the CIO is supposed to be to gather intelligence information as it relates to activities that may threaten the security of Zimbabwe. It is a carry-over from the white regime, under which it acquired a reputation for secrecy and brutality. Some of the personnel who were in this unit before Independence have remained after Independence. Its plain-clothed agents were in the forefront of the human rights abuses that occurred in the first decade after Independence. Whites accused of sabotage, ZAPU members and civilians detained during the Mataberland troubles, were often subjected to torture by members of the CIO. There were abductions and disappearances. In one case, a prisoner was shot in cold blood by a member of the CIO at a notorious detention camp in Mataberland. This officer was later tried for murder. He was convicted and sentenced to death but was immediately released under the amnesty which was declared when the political accord was struck between ZAPU (PF) and ZAPU. He was then immediately taken back into the CIO.

The ruling party has made extensive use of the CIO to keep under surveillance and to harass members of opposition parties and other vocal critics. These sorts of activities have been most intensive in the lead-up to general elections. Just before the 1985 elections, a senior CIO operative and a leader in the youth section of the ruling party attacked and attempted to kill a leader of one of the opposition parties. Some years later these two persons were put on trial for attempted murder. They were found guilty in the magistrate's court and sentenced to seven years imprisonment. In his judgement, the magistrate severely criticised the Police for failing to investigate the matter properly; he suggested that there might have been other people higher up who were behind this incident. He, also, roundly condemned the attitude on the part of some members of the ISFs that

opposition figures were enemies of the state against whom extreme action could be taken. He observed that this frame of mind is completely contrary to the tenets of a competitive democracy enshrined in the Constitution of Zimbabwe. The Supreme Court later rejected the appeal of these two men. However, only a few days later, the President granted them remissions of sentences.

From about 1991 onwards there has been increasing public criticism of the way in which the CIO operates. This started with a case in which members of the CIO were alleged to have kidnapped and killed a woman. After some time had elapsed, the CIO operatives who were believed to have been involved were prosecuted. Chief Inspector Chirume, who gave evidence in a preliminary hearing, asserted that the CIO was "the most fearful organisation in this country." He went on to say that it had taken more than a year to start investigations into the case because many of the Police Officers had been reluctant because of fears that they would be killed. Fear of the CIO had even led some officers to offer to resign rather than become involved in the investigation. Eventually the charges against the Police Officers were withdrawn, as the Attorney-General's office maintained that there was insufficient evidence to justify a prosecution. (One of the prominent accused had threatened to blow the whistle on higher ups if he was convicted.) After this case human rights organisations found the courage to voice condemnation of the CIO and make suggestions for holding this unit more accountable and less subject to political manipulation. This appears to have led to a realisation that blatant abuses will be exposed, and two years ago the President decided to remove the CIO's power to arrest and detain.

F. The Presidential Guard (PG)

The PG is a special battalion tasked with safeguarding the security of the State President and with carrying out various military functions on ceremonial occasions. From time to time members of this unit have, apparently, performed surveillance functions in relation to political opponents of the ruling party. There are reported instances where members of this unit have picked up people and handed them over to the Police or to the CIO.

G. The Intelligence Units of the Army and the Air Force

These units perform a variety of intelligence and security functions, mostly in relation to members of the Armed Forces, but from time to time they have engaged in intelligence gathering on persons in Zimbabwe who are not members of the Armed Forces.

H. The Youth Brigade and The Women's League

These wings of the ruling party can be said to perform an internal security role in a loose sense in that they keep members of opposition parties under surveillance and have in the past engaged in reprisals against them. The President has instructed members of the Brigade to engage in door-to-door campaigning in support of the ruling party in the lead-up to the coming general election. Opposition party members felt that this door-to-door campaigning would result in hostile steps being taken against them. Similar harassment by the Women's League has been reported.

I. The People's Militia

This unit operated during the periods when there was internal violence in the country. It was essentially the military wing of the Youth Brigade. Its members carried firearms, mostly automatic weapons. During the Mataberland troubles they committed human rights abuses against civilians. In other areas they were used to harass and intimidate members of opposition parties.

III. CONCLUSION

A. Institutional devices for the control of ISFs and for remedying abuses by ISF personnel

Few formal mechanisms exist for controlling the ISFs and those that do exist are weak and ineffectual. As indicated above, there is no Human Rights Commission or any other independent body established to deal with the complaints of abuse by ISF personnel. The

Ombudsman has no jurisdiction to investigate and remedy such abuses; such powers are explicitly excluded from his/her terms of reference. The author has, however, been reliably informed that the Government plans in the near future to extend the jurisdiction of the Ombudsman office and to allow this office to look into alleged abuses by members of the army, the Police and the Prison Service.

Two mechanisms currently exist for the control of ISF behaviour. The first is the Commissioner of Police. Complaints of Police abuse can be made to this office. The second is the court system. At present, civil actions can be brought in ordinary courts for harm caused by the illegal actions of ISFs.

There is no system of community involvement in the regulation of the Police, nor are civilians represented on bodies such as the Police Service Commission. However, the Police have set up a countrywide Police liaison system. Community Liaison Officers have the responsibility for assisting civilians in matters such as informal dispute resolution and mediation.

There is no Code of Conduct for ISFs, but the Police Act provides a Schedule of Offences that will lead to disciplinary actions being taken against Police Officers for infractions. The standing orders of the Police and Police training manuals also set out limits on Police powers. The Legal Resources Foundation has also produced a Law Enforcement Agency Manual, in which the constitutional provisions affecting policing and limiting their powers are discussed.

The work carried out on Police training has gone a long way towards inculcating the values necessary for the operation of an apolitical, professional force that understands its proper role in a democratic society. This role includes respecting human rights and exercising one's power responsibly and with restraint, but there continue to be reports of Police misconduct. Assaults on suspects still happen quite often. Rape still occurs occasionally. During the disturbances that occurred at the University in July 1995, the riot squad perpetrated many human rights abuses. They brutally beat students, staff and visitors to the university; dogs were set upon individuals as well. In most instances, the persons attacked were not engaged in any unlawful, riotous action.

Training programs with a strong human rights content need to be conducted on a regular basis. Additionally, senior officers in charge of Police operations need to take strong measures to ensure that human rights are not abused during the course of Police operations. Stringent disciplinary measures need to be taken against those officers who actually order or encourage their subordinates to behave in a fashion that is abusive of human rights.

There is an urgent need to establish independent institutional structures for effectively dealing with complaints of abuse by member of ISFs. These should be readily accessible to aggrieved members of the public. They should also operate without financial charge to the complainants. (Court actions are currently beyond the reach of most people, except where NGOs assist the complainants in bringing the action.) The complaint bodies must be truly independent and must be properly funded and staffed to carry out their duties.

Finally, NGOs must continue to conduct effective public human rights education programs to make the public aware that members of ISFs who abuse their rights are operating outside the bounds of what is acceptable. These programs should encourage persons not to tolerate such abuses, but to report them and pursue other remedies to seek redress for the violations.

Selective Bibliography

W. NCUBE, STATE SECURITY, THE RULE OF LAW AND POLITICS OF REPRESSION IN ZIMBABWE (1990) (Published as monograph by University of Oslo).

G. Feltoe, *A Feared Organisation* 4 LEGAL FORUM 11 (1992).

G.T. Chigwedere, *A Critical Analysis of the Role of the Central Intelligence Organisation in State Security and its Impact on Democracy in Zimbabwe* (1993) (Dissertation written as part of law degree in Zimbabwe).

RONALD WEITZER, TRANSFORMING SETTLER STATES: COMMUNAL CONFLICT AND INTERNAL SECURITY IN NORTHERN IRELAND AND ZIMBABWE (1990) (Published by the University of California Press).

JOHN HATCHARD, INDIVIDUAL FREEDOMS AND STATE SECURITY IN THE AFRICAN CONTEXT: THE CASE OF ZIMBABWE (1993) (Published by Baobab Books, Hatere, Zimbabwe).

RICHARD CARVER, ZIMBABWE, A BREAK WITH THE PAST? HUMAN RIGHTS AND POLITICAL UNITY (1989) (Published by Africa Watch Committee).

BILL BERKELEY, ZIMBABWE: THE WAGES OF WAR: A REPORT ON HUMAN RIGHTS (1986) (Published by Lawyers Committee for Human Rights).