

# **Zimbabwe After the Military Takeover:**

## **Prospects for Credible Elections and Human Rights Reforms**

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### **Introduction**

Thank you, Chairman Flake, Ranking Member Booker, and other members of this subcommittee for giving me the opportunity to testify on behalf of Human Rights Watch at this hearing on Zimbabwe. I would like to request that my statement in its entirety be submitted for the record.

My name is Dewa Mavhinga. I am Southern Africa director in the Africa Division of Human Rights Watch where I lead, among other duties, our human rights investigation work on Zimbabwe. I frequently travel to Zimbabwe and last month I was in Harare when the military takeover occurred on November 15, 2017. I have met with leaders of the main political parties, private media, and key civil society groups to assess human rights conditions since the military takeover and ahead of national elections scheduled for 2018. A Zimbabwean national myself, I maintain daily contact with local activists, and religious and business leaders in the country who regularly update me on the situation there.

Mr. Chairman, my testimony will first lay out the human rights situation in Zimbabwe since the military takeover of government functions on November 15, and then highlight key recommendations to the US government for action to press the new Zimbabwean government to ensure a rights-respecting environment leading to democratic, credible, transparent and peaceful elections and political stability thereafter.

## **I. Current Human Rights Situation**

### **The Military Takeover and Mugabe Ouster**

Following the military takeover, Robert Mugabe resigned as president on November 21 after 37 years of authoritarian rule marred by countless serious human rights violations. On November 24, Mugabe was replaced by his former deputy, Emmerson Mnangagwa, who has his own long record of rights violations. In his inaugural speech, Mnangagwa confirmed that elections will take place by August 2018 as scheduled, but he did not address critical issues, notably the security sector, media, and electoral reforms necessary to ensure credible, free, and fair elections. There has been no indication that the Mnangagwa administration intends to ensure the independence and enhance the professionalism of the Zimbabwe Electoral Commission (ZEC).

As reports of abuses by the military since the takeover began to emerge, the excitement and euphoria that many Zimbabweans greeted the end of Mugabe's rule quickly fizzled out to be replaced by uneasiness and uncertainty. Allegations are rife that between November 14 and 24, the army arrested and detained a number of Mugabe's associates without providing information about the arrests, or places and conditions of detention. Since the military takeover, soldiers have not returned to the barracks, but instead are now involved in policing the streets. This is the same military that has been credibly implicated in rights violations against the general population during the Mugabe years. Mugabe openly encouraged partisanship of the military as a tool for maintaining his grip on power. The new president, Mnangagwa, assumed office with military backing, and appointed two army generals to cabinet, Air Marshal Perence Shiri, and Maj. Gen. Sibusiso Moyo. This raised concerns about Mnangagwa's independence from the armed forces, suggests further entrenchment of the military in civilian affairs.

### **Legalization of Military Involvement in National Politics**

On November 24, High Court Judge George Chiweshe ruled that the military intervention that led to Mugabe's ouster was lawful under Zimbabwe's constitution. Whatever the merits of the ruling, the judgment could embolden the military to carry out further incursions in Zimbabwe's political or electoral affairs in the future. The highly partisan stance of Zimbabwe's military leadership, particularly without meaningful security sector reforms, significantly reduce the chances that free, fair and credible elections can be held.

The military has a long history of partisanship with the ruling party, ZANU-PF, interfering in the nation's political and electoral affairs in ways that adversely affected the ability of citizens to vote freely. The partisanship of the security forces' leadership has translated into abuses by these forces against civil society activists, journalists, and members and supporters of the opposition political party, the Movement for Democratic Change (MDC).

There is an urgent need, ahead of the elections, for Zimbabwe's Constitutional Court to review Judge Chiweshe's ruling, and ensure that members of the security forces observe strict political neutrality. Failure to ensure a professional, independent and non-partisan role for the security forces may make it difficult to deliver the elections needed to put Zimbabwe on a democratic and rights-respecting track.

### **Zimbabwe's Re-engagement with the International Community**

Following the military takeover, the leadership of the Southern African Development Community (SADC) called on all stakeholders in Zimbabwe to peacefully resolve the nation's political challenges. SADC leaders also welcomed Mugabe's decision to resign, pledging to support the 2018 elections.

While the African Union initially condemned the military takeover, the regional body later welcomed Mugabe's resignation. The AU said it recognized that the Zimbabwean people have expressed their will that there should be a peaceful transfer of power and Mugabe's decision to resign paved the way for a transition process, owned and led by the people of Zimbabwe.

The AU and SADC have yet, however, to address the need for the new administration to design a roadmap for democratic elections and the political neutrality and non-interference of the security forces in civilian and electoral affairs of the country.

In early December, the European Union ambassador to Zimbabwe, Phillipe van Damme, said the EU will not provide significant new funding to Zimbabwe until the country holds free, fair, and credible elections.

Human Rights Watch is of the view that full re-engagement with the Zimbabwean government should be based on a firm commitment from the interim administration in Harare that they will

institute measures that will ensure tangible and long overdue democratic and electoral reforms. A key benchmark for increased US government engagement should be an independent assessment of the environment in which the 2018 elections are conducted and the transfer of power to an elected civilian government. It is important now that the military leadership publicly announce its commitment to credible, free and fair elections and that it respects the outcome of the elections.

### **Accountability and Justice for Past Abuses**

Mnangagwa's government should be encouraged through public statements to demonstrate commitment to accountability, justice for human rights abuses, and respect for the rule of law in Zimbabwe. We believe that Mnangagwa's recent calls to "let bygones be bygones" should not extend to serious human rights violations since 1980, many of which implicate the military. The first post-independence overt military involvement in Zimbabwe's political affairs was during the period from 1982 to 1987 when the government deployed a section of the army, the Fifth Brigade, ostensibly to quell a military mutiny in the Midlands and Matabeleland provinces. The Fifth Brigade carried out widespread abuses including torture and unlawful killing of an estimated 20,000 people. In 1988 the government granted amnesty to all those involved in human rights violations committed between 1982 and 1987.

The military has also interfered in the nation's political and electoral affairs in ways that adversely affected the ability of Zimbabwean citizens to vote freely, particularly during the 2008 elections when the army engaged in numerous systematic abuses including political violence, torture, and arson targeting political opponents. That violence resulted in the killing of more than 200 people, the beating and torture of 5,000 more, and the displacement of about 36,000 people. ZANU-PF-affiliated military leaders who were implicated in the violence and abuses were never held to account. The military's historical record should not go unnoticed as Zimbabwe prepares for another election.

In October 2008, soldiers killed more than 200 people and committed other serious human rights abuses in Chiadzwa, a village in Marange district, eastern Zimbabwe, and violently seized control of the district's diamond fields. Human Rights Watch investigations showed that between 2008 and 2014 the government rotated army brigades into Marange to ensure that different

brigades had an opportunity to benefit from the diamond trade. Soldiers harassed and threatened miners and other civilians into forming syndicates so that the soldiers could control diamond mining and trade in Marange.

### **Independence of the Zimbabwe Electoral Commission**

Currently, the Zimbabwe Electoral Commission's secretariat – which is charged with overseeing the 2018 election process – is dominated by partisan state intelligence and military officials. Electoral reforms should start with making the Zimbabwe Electoral Commission independent and professional. The commission is compiling a new voters' register. Unlike countries like Botswana or Mozambique that guarantee the diaspora vote, there is no provision for Zimbabwean citizens in the diaspora to vote from outside the country, unless in diplomatic missions. In early December, the chairperson of the Zimbabwe Electoral Commission, Justice Rita Makarau, resigned from her post without stating reasons. Mnangagwa will replace Makarau with a former judge or a person qualified to be a judge. A key part of Zimbabwe's election credibility rests on ensuring that the chairperson is replaced by someone known to be independent, impartial, non-partisan and with the capacity to deliver a democratic election. If Makarau is replaced by a person aligned to the military, and lacking in independence and professionalism, a credible election will not be possible.

### **Restrictions on Rights to Freedom of Expression, Association, and Assembly**

The Mnangagwa government should also take steps to amend or repeal repressive laws such as the Access to Information and Protection of Privacy Act (AIPPA), the Public Order and Security Act (POSA), and the Criminal Law (Codification and Reform) Act. These laws were used under Mugabe to severely curtail basic rights through vague defamation clauses and draconian penalties. Partisan policing and prosecution has worsened the impact of the repressive provisions in the AIPPA and POSA laws. Failure to repeal or significantly revise these laws and to develop mechanisms to address the partisan conduct of the police leaves little chance of the full enjoyment of rights to freedom of association and peaceful assembly prior to and during the coming elections.

## II. Key Recommendations to the US Government

Historically, the US government has shown a strong interest in promoting respect for the rule of law, good governance and human rights in Africa. The Trump administration has yet to demonstrate leadership on human rights issues in Africa so it is more important than ever that Congress promotes human rights as a core pillar of US foreign policy. To that end, Congress should support the people of Zimbabwe by calling on the Mnangagwa government to set and implement a clear roadmap for democratic elections.

Specifically, Human Rights Watch urges Congress to:

1. Maintain existing US policy toward Zimbabwe until the military removes itself from politics and the 2018 elections are legitimately assessed to be peaceful, transparent, free and fair and that power is smoothly transmitted to the newly elected government.
2. Press, through public statements and support to nongovernmental organizations in Zimbabwe, for accountability and justice for past serious abuses and respect for the rule of law.
3. Urge the Trump administration to make Zimbabwe's transition a priority in the region and to work closely with SADC to press Zimbabwe's political leadership to:
  - ensure the political neutrality of the security forces;
  - impartially investigate and appropriately prosecute alleged abuses by military personnel;
  - provide for the timely and sufficient deployment of domestic and SADC-led international election observers to Zimbabwe to promote credible, free and fair elections, and maintain such monitors for a suitable period after the elections to deter violence and intimidation; and
  - ensure the repeal or amendment of repressive sections of the Criminal Law (Codification and Reform) Act, the Public Order and Security Act, and the Access to Information and Protection of Privacy Act.
4. Provide direct financial and technical support to the government that comes to power through credible, free and fair elections that is committed to strengthening democratic state institutions and promoting the rule of law, good governance, and human rights.

Mr. Chairman, my sincere thanks once again for the opportunity to address this subcommittee. I am happy to respond to any questions you or your colleagues may have.