John Hatchard

Individual Freedoms & State Security

in the African Context

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Individual Freedoms & State Security in the African Context

Dedication

To My Mother and Father
Vera and Stephen Hatchard

Preface

This book started life as a short note on a preventive detention case in Zimbabwe. Its growth was a result of my realisation that states of emergency are a common phenomenon in Africa and that during them, governments enjoy frighteningly wide powers which significantly affect the lives of every citizen. Clearly, unbridled power cannot be tolerated and some safeguards are necessary. This book therefore examines the relationship between emergency powers and individual freedoms in Africa using Zimbabwe as a case study. I hope it will shed some light on the intricate relationship between the two and also promote greater national and international awareness of the problems and dangers posed by states of emergency.

I would like to thank James Currey for working to make this book available throughout Africa. Special thanks must go to Beverley Hargrove for her invaluable assistance in getting the manuscript typeset and ready for press.

To my wife Trinah I owe an enormous debt of gratitude. It was only due to her understanding and support during the research and writing that the book was finished. Thanks also to my children, Sam, Simbidzayi, Zohra and Prudie for letting me complete the project in peace and quiet.

Finally, I must thank my computer with whom I have sat for so many hours during the writing of the book. It has never failed me and has meticulously corrected all my spelling errors. May your cursor continue to blink for many years to come.

John Hatchard
Harare, Zimbabwe

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1 Emergency Powers & Individual Freedoms: An Overview

Introduction

There comes a time in the life of almost every nation when a situation arises which threatens its security. Even in peacetime a government may legitimately declare a state of emergency and obtain additional powers in order to combat some grave danger. In this respect it is the international law equivalent of an individual's right to self-defence under the criminal law. Inevitably, the use of these powers has serious implications for individual freedoms which are often curtailed or abrogated as a result. In this book the term 'individual freedoms' covers those categories of human rights which are internationally accepted as requiring protection but which are often endangered by State action in times of national crisis. These are, the right to life and liberty, freedom of movement, association, and conscience, protection from torture and other inhuman treatment, and protection of the law.

This book is a case study of the relationship between individual freedoms and emergency powers in Zimbabwe and seeks to highlight some of the problems associated with the use of such powers in contemporary Africa. A study on Zimbabwe is particularly pertinent because the country was under a continual state of emergency for twenty-five years, during which time the question of the protection of individual freedoms was of considerable concern, both domestically and internationally. Originally introduced in the then white-ruled Rhodesia in 1965, the state of emergency was retained after independence in 1980 and was only finally lifted in July 1990. In view of the dangers posed to individual freedoms by emergency powers, the book examines in particular (i) the justification for the declaration/retention of a state of emergency; (ii) the scope of emergency regulations and their impact on individual freedoms; and (iii) what safeguards are necessary in order to protect those freedoms during a period of emergency. It is asserted that even if a state of emergency is justified, this does not necessitate or justify the complete abrogation or curtailment of the exercise of individual freedoms. Such justification must be considered in the light of the fact that the worst abuses frequently occur when the State has abandoned its commitment to individual freedoms in favour of protecting security interests. Throughout the book, a comparison with other African jurisdictions is made whilst the model which is proposed for the protection of individual freedoms during a state of emergency is one which is potentially applicable to the entire continent.

The relationship between individual freedoms and emergency powers is studied from a legal and political perspective and entails an examination of the role law has played, is playing and may play in this respect. These issues are particularly significant because emergency powers have been a central feature of many contemporary African nations and especially those characterised by executive, centralised, authoritarian regimes. A study of Zimbabwe is thus important because it remains a multi-party State with a constitution

which provides for executive accountability, the protection of individual freedoms and an independent judiciary. If emergency powers can undermine individual freedoms in these circumstances, then this has grave implications for constitutionalism and the rule of law in other African States. In order to put the Zimbabwean situation in perspective, this chapter now provides an overview of states of emergency in both international law and domestic law in sub-Saharan Africa. The following chapter then examines the state of emergency in Rhodesia which was highly influential in the development of security laws in Zimbabwe.

States of Emergency in International Law

Given the variety of situations encompassed and the differing political circumstances in which the declaration is made, it is extremely difficult to define what constitutes a state of emergency. Indeed, according to the African Conference on the Rule of Law there is no way of defining a state of emergency or of reducing it to any criteria. The matter is further clouded in that many unproclaimed states of emergency exist when the ordinary law-making procedures are used to pass 'quasi' emergency laws in the shape of wide-ranging security legislation. However it is generally accepted that the only circumstances which justify a derogation of individual freedoms are those which threaten the life of the nation. The African Conference has noted that it is only possible to specify certain conditions without which a state of emergency cannot be proclaimed, the main one being that:

> the regular operation of authority [is] impossible, but that so long as a situation exists where the authorities can operate and the problems arising can be overcome, a state of emergency may not be declared.[1]

Whatever the definitional difficulties, it is important to seek practical parameters to the issue. In general there are at least five situations which can justifiably give rise to a state of emergency: (i) a state of war or preparations to meet its imminent outbreak. Here extremely wide powers are required and these will almost inevitably affect most facets of national life; (ii) armed internal rebellion or subversion. This situation is sometimes linked with (i) above but does not necessarily require the taking of such wide-ranging powers concerning, for example, external relations or restrictions on non-nationals; (iii) civil unrest on a localised scale. Here additional law and order provisions, applicable only to those areas affected by the unrest, are all that are normally required to deal with the threat; (iv) an economic emergency, notably one relating to problems of underdevelopment. Here the parlous state of the national economy may require the taking of emergency powers aimed at preventing the economic collapse of the country. The necessary powers are very different to those discussed above.[2] (v) natural disasters (*force majeure*). Here the government may need to take immediate steps to counter the problem by requisitioning transportation for example. Specific types of powers are necessary and these will almost certainly be of a temporary nature.[3]

The right of a State to derogate certain individual freedoms during an emergency situation is well established in international law. Article 4 of the International Covenant on Civil and Political Rights (ICCPR) states that:

> In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures do

not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.[4]

Four elements are contained here: (i) the public emergency must be actual and imminent; (ii) its effects must involve the whole nation, although arguably the emergency may apply to events of a more localised nature; (iii) the continuance of the organised life of the community must be threatened; (iv) the crisis must be exceptional.[5] In this connection, the United Nations Human Rights Committee has emphasised that measures taken under the ICCPR are of an exceptional and temporary nature and may only last as long as the life of the nation is threatened. It has further noted that it is precisely during times of emergency that the protection of individual freedoms becomes all important and that this is especially true for those rights not subject to abrogation.[6] The term 'threatening the life of the nation' is particularly significant here. Its natural and customary meaning refers to an exceptional situation of crisis or emergency which affects the population and constitutes a threat to the organised life of the community of which the State is composed. In *Re Lawless*[7] the European Court of Human Rights found that such a situation existed in Ireland in July 1957 from a combination of several factors i.e. the existence on its territory of the Irish Republican Army (IRA), a secret organisation engaged in unconstitutional activities and using violence to attain its purposes; the steady and alarming increase in terrorist activities between 1956 and 1957; and the fact that the IRA was operating extra-territorially, thus seriously jeopardising relations between the Republic of Ireland and Northern Ireland. In contrast, in Greece in 1967, the European Commission on Human Rights considered that the threat of a communist take-over of the legitimate government by force; the state of public order; and a constitutional crisis did not constitute a public emergency threatening the life of the nation. This was because (i) there was no evidence of an imminent displacement of the lawful government by the communists; (ii) the presence of industrial unrest was similar to that in other European countries; and (iii) the Commission did not agree that there was an imminent threat of such political instability and disorder that the organised life of the community could not be carried on.[8]

Even if the declaration of an emergency is justified, it does not necessarily mean that the use of wide-ranging emergency measures is warranted. As the European Commission on Human Rights has pointed out, a link is required between the facts of the emergency and the measures chosen to deal with it. Thus, under the European Convention although individual governments may decide the scope of the emergency powers, the European Court of Human Rights may determine whether any action has gone beyond that which is strictly required by the exigencies of the situation. This provides a useful safeguard and ensures international publicity on the use of such powers. As is seen later, in practice, the real danger to individual freedoms is the wide-scale and excessive use of emergency powers in circumstances which have little to do with the reasons for the declaration of the emergency. This approach is substantially repeated in other regional documents such as the American Convention of Human Rights, the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention) and the European Social Charter.[9] Whilst Zimbabwe has not ratified the ICCPR, the state of emergency was justified by the government in terms of Article 4 of the ICCPR and thus it is on this basis that the state of emergency in Zimbabwe will be examined.[10]

Zimbabwe has ratified the African Charter on Human and Peoples' Rights which provides for the protection of all individual freedoms and contains no specific power permitting a State to derogate from its obligations. However, several provisions contain 'clawback' clauses[11] i.e. provisions which permit a State to restrict certain individual freedoms in circumstances provided for in domestic law.[12] As Gittleman points out, such

clauses restrict a State's freedom of action in that they limit the circumstances in which derogation may occur and also define rights which are never subject to abrogation.[13] Even so, such clauses are a poor substitute for the derogation provisions in the ICCPR in that they permit States to arbitrarily determine if and how its citizens may exercise their individual freedoms. In this respect, the African Charter arguably places too much emphasis on 'peoples' rights at the expense of 'individual' rights.[14]

States of Emergency in Domestic Law in Africa

In Africa, some States have attempted to specify the grounds for the proclamation of a state of emergency. In Ghana, section 26 of the Second Republican Constitution defined a state of emergency as one which was 'calculated to deprive the community of the essentials of life, or which renders necessary the taking of measures which are requisite for securing public safety, the defence of Ghana and the maintenance of public order and supplies and services essential to the life of the community'. In South Africa, a proclamation can be made if there is a serious threat to the safety of the public or maintenance of public order which cannot be brought under control by the ordinary law of the land.[15] The Namibian Constitution of 1990 provides that the President may only declare a state of emergency at a time of national disaster, during a period of national defence or a public emergency threatening the life of the nation or the constitutional order.[16] Other countries have attempted a more detailed analysis. In both the 1979 and 1989 Nigerian Constitutions the grounds for the declaration of a state of emergency are: war; a clear and present danger of or an actual breakdown of public order and public safety to such an extent as to require extraordinary measures to restore peace and security; the imminent danger or occurrence of any disaster or national calamity affecting the community; or any other public danger which clearly constitutes a threat to the existence of the Federation.[17] In Tanzania, the grounds include 'a definite danger of great magnitude, to the extent that peace will be disrupted and public safety will be endangered [so that] the situation can only be contained by resorting to extraordinary steps' and 'other dangers that are obviously a threat to the country'.[18] Although this terminology is uncomfortably vague, it is clear that domestic constitutions also recognise that the declaration or renewal of a state of emergency is restricted to extraordinary situations when the very foundations of society are threatened.[19]

The constitutional documents used by Britain for most of her former African colonies contained no criteria for the declaration of a state of emergency. Thus, for example, in Zambia, Sierra Leone, Kenya, Botswana and The Gambia, the President is empowered to proclaim a state of emergency without any need to fit the reasons into any constitutional formula. Even so, in practice the need to obtain the approval of the legislature for such action means that reasons justifying the introduction or continuation of a state of emergency are normally given.[20]

States of Emergency in Africa

One of the characteristics of the colonial period in Africa was the complete absence of individual freedoms for the indigenous population and the use of legal and political institutions to maintain white supremacy. As Read points out, in anglophonic Africa, colonial rule was essentially authoritarian and even the introduction of English law as the basis for local legal systems did not result in the colonial subjects enjoying the full rights of liberty, due process, free speech and the rest which the common law is said to guarantee an

Englishman himself.[21] In the post-1945 period in particular, the imperial powers often used emergency regulations in an effort to retain political and economic control and to stem the tide of African nationalism. For example, in 1952 in Kenya, and following the onset of the Mau Mau rebellion, a state of emergency was declared and emergency regulations ousted the jurisdiction of the courts in some cases, reduced judicial safeguards in others and imposed detention without trial.[22] The effect of the regulations 'was to place the person and property of the inhabitants of the Central Province utterly at the mercy of the administration and during the early years of the emergency, the administration showed little mercy'.[23] Similarly, during the prolonged struggle for Namibian independence, the South African authorities used a wide array of emergency powers against its political opponents. These included the widespread use of detention without trial and the imposition of curfews.

In contemporary Africa the colonial example has been widely followed. The use of emergency powers remains a common feature of national life and is frequently accompanied by abuses of individual freedoms. In recent years some eighteen sub-Saharan African nations have declared a state of emergency, namely: Ethiopia; Lesotho; The Gambia; Ghana; Kenya; Madagascar; Mauritius; Nigeria; Liberia; The Sudan; Somalia; Senegal; Sierra Leone; South Africa; Swaziland; Zaire; Zambia and Zimbabwe. Despite the sophisticated international and domestic safeguards, the tendency has been towards the use of states of emergency to entrench political power and to curtail the legitimate exercise of individual freedoms. For example, in Lesotho in 1970, Chief Leabua Jonathan and his ruling party were defeated in a general election. Unwilling to renounce power, he declared a state of emergency and detained without trial leading members of the successful Basotho National Party.

The problem is exacerbated in that some African countries, especially those without a justiciable Declaration of Rights, have passed 'quasi' emergency laws using the ordinary legislative process. In practice, these give the government the sort of powers normally associated with a state of emergency. For instance, in Tanzania, the Preventive Detention Act provides for indefinite detention without trial without any need to declare a state of emergency. The Ghanaian Preventive Detention Act 1958 was also part of the permanent legislation. In force until the overthrow of the Nkrumah regime in 1966, it was used to detain hundreds of political opponents. Other quasi-emergency measures have imposed severe restrictions on the freedom of information and introduced new 'crimes against the State'.[24] For example, in Botswana, the National Security Act 1986[25] prohibits the carrying out of acts which are considered prejudicial to the safety or interests of Botswana. This is punishable by up to thirty years imprisonment and is intended to counter acts of terrorism and sabotage in the country by South African agents. The Act also provides that 'Where it appears to a police officer of or above the rank of Sergeant . . . that the case is one of great emergency and that in the interests of Botswana immediate action is necessary, he may search [any premises] without a warrant.'[26] The terms of such legislation are very reminiscent of emergency laws. In reality, the use of such laws can also create a permanent 'state of emergency' or even martial law, without the need for an emergency declaration. In South Africa, in 1960, a declared state of emergency made under the Public Safety Act 1953, lasted some five months. It was not until July 1985 that it was renewed and this lasted only eight months. The last emergency proclamation was made in June 1986 and finally lifted in 1990. The draconian nature of the 'ordinary' security laws explains why the unbroken security crisis since 1960 was not countered by the constant use of emergency powers. For example, under the 'ordinary' law, citizens may be banned or detained by official decree for committing vague security offences, whilst powers of censorship, proscription of organisations and the control of meetings are also readily available. Under the Defence Act

1957, members of the South African Defence Forces may be employed for the prevention or suppression of terrorism or internal disorder in the Republic. There are also powers to requisition transportation, commandeer property and control access to ports and airports. An extensive indemnity for members of the South African Defence Forces is also permanently in place. In fact, Mathews argues that the 1986 declaration of a state of emergency was an 'inadvertent emergency' since it was only promulgated because amendments to the Public Safety Act were frustrated in parliament.[27] Whilst international criticism of the continued state of emergency was well founded, it should not be forgotten that it is only when the whole apparatus of state security laws is removed that the permanent 'state of emergency' will end.

Many African States have also experienced a military coup, with some, such as Ghana and Nigeria, having suffered a succession of such interventions. Emergency-style powers in the form of military decrees are frequently introduced following such coups and almost inevitably lead to the dismantling of the constitutional processes and restrictions on the enjoyment of individual freedoms. For example, following the 1984 military coup in Nigeria, the Constitution (Suspension and Modification) Decree No. 1 of 1984 provided for the suspension of much of the 1979 Constitution. The restricted definition of 'period of emergency' in section 41 and the safeguards for arrested or detained persons were suspended, thus in effect legalising the indefinite detention of persons.[28] In addition provision was made to oust the jurisdiction of the courts[29] and to set up military tribunals to try criminal offences.[30] A somewhat similar situation exists in Sudan. In 1989 the Revolutionary Command Council for National Salvation issued Constitutional Decree No. 2 which proclaimed a state of emergency throughout the country. This empowers the President of the Council, *inter alia*, to compulsorily acquire land; to control the movement of goods and persons; and to control workers, including the right to terminate the contract of any government employee. The ordinary law courts are prohibited from hearing any case involving actions taken under Decree No. 2 and are replaced by special courts. The Emergency Regulations 1989, which complement the decree, provide that any person violating any of its provisions may be punished with death or imprisonment for up to twenty years. The operative constitutional decrees do not contain any provisions protecting the rights referred to in the International Covenant on Civil and Political Rights. Neither is there a separate Bill of Rights to serve a similar purpose.[31]

Overview

The right and duty of a government to use emergency and security laws in times of national crisis is undeniable. However as Machan points out, national emergencies do not justify systematic abuses of individual freedoms any more than personal emergencies permit individuals to commit crimes.[32] Accordingly both international and domestic laws seek to lay down parameters to the declaration of a state of emergency in an attempt to safeguard individual freedoms. Thus measures taken during a state of emergency must be directly connected to the emergency situation, must be suitable to lessen or at least control the situation, must be utilised only in the absence of less drastic alternatives and must be accompanied by domestic safeguards against abuses.

In practice the real threat posed by emergency powers to individual freedoms is not so much their use *per se* as their abuse. In Africa, many governments have sought to use such powers improperly in order to entrench their own political power and to eliminate dissent. This is a continent-wide problem affecting countries with civilian governments of all political hues as well those with military regimes.[33] Preventing abuses of power by legal

means is extremely difficult if a government is intent on unjustifiably maintaining power by every available means and is prepared to disregard any constitutional and other legal constraints in doing so. Nevertheless the political changes in 1989 and 1990 in Eastern Europe indicate that a new impetus for western-style democracy and the protection of individual freedoms is taking place. Africa is not excluded from these new 'winds of change' or, as President Mugabe has put it, 'gales of change'.[34] For example, in 1990 Zambia became a multi-party democracy after years of one-party rule and in October 1991 achieved a peaceful transition of power through free and fair elections. The new government of the Movement for Multi-Party Democracy then immediately lifted the state of emergency. In Cape Verde a peaceful change of government was also achieved whilst in Namibia one of the most enlightened constitutional documents ever seen in Africa came into effect in March 1990 bringing with it real hope for the effective protection of individual freedoms there. Francophonic Africa has also witnessed remarkable changes leading to a return to multi-party politics and the introduction of new constitutions designed to protect individual freedoms.[35]

The need then is to build on this platform by developing effective constitutional and legal frameworks in which an acceptable and realistic balance is struck between the needs of the State and the protection of individual freedoms. The intention of this book is to investigate how to achieve such a balance.

Notes

1. *African Conference on the Rule of Law 1961, Report on the Proceedings* p.162. This is also the view of Marks who states that an emergency situation is one which places 'institutions of the State in a precarious position and which leads the authorities to feel justified in suspending the application of certain principles': Marks, 1982, p.175.
2. This point is discussed in detail in Chapter 11.
3. For a brief but helpful examination of this point see Groves, 1961, p.1 and Rossiter, 1948, p.6.
4. Article 4(1). These are the generally recognised criteria for the declaration of a state of emergency and are thus an influential guide, even though Zimbabwe has not ratified the convention.
5. European Court of Justice in *Denmark, Norway, Sweden & Netherlands v Greece* (3321–3/67; 3344/67) Report: 5 November 1969.
6. GC 5/13, HRC 36, p.110.
7. Case 322/57; Judgment 1 EHRR 15. See also *X v Ireland* (493/59) CD 7, p.85.
8. See note 5.
9. See also Mangan, 1988, p.376, who argues that an emergency situation does not, by itself, justify systematic human rights violations and that a government must consider the magnitude of the emergency and whether the deprivation of human rights can be avoided.
10. It was also justified as being in accordance with Article 15 of the European Convention: see *Parliamentary Debates*, 13 July 1982. Zimbabwe finally ratified the International Covenants in 1991.
11. Higgins, 1978, p.281, states that a 'clawback' clause is one which 'permits, in normal circumstances, a breach of an obligation for a specified number of reasons'. Compare Hartman, 1981, at p.6.
12. For example, Article 6 provides for the right to liberty 'except for reasons and conditions previously laid down by law'. This enables the State to continue with detention without trial so long as this is provided for in its own domestic law.
13. Gittleman, 1984, p.157.
14. This point is also noted by Ojo and Sesay, 1986, p.99.
15. Section 2(1) Public Safety Act (South Africa).
16. Article 26(1).
17. Section 265(3). The section is extant despite the military coup and the suspension of much of the Constitution.
18. Section 32(2) Law of the Fifth Amendment of the State Constitution of 1984.
19. Some writers assert that a serious economic crisis should also be covered by an emergency proclamation. See, for instance, Mathews, 1971, p.39. This is discussed in a later chapter.
20. Although this safeguard was avoided in some countries, such as Zambia and Kenya, by the maintenance of a virtually perpetual state of emergency (see below).
21. Read, 1973, p.29. A similar point is made by Ghai and McAuslan, 1970, pp.407–8. The position elsewhere was similarly repressive and as one writer asserts, 'The savagery of Belgian colonialism portrays a picture of almost total human degradation, and within that context it is little wonder that the semblance of legality imported from Western civilization had little or no meaning.' Eze, 1984, p.18.
22. Emergency regulations also empowered the courts to impose the death sentence, see, for example, *Kuruma v R* [1955] AC 197.

23. Ghai and McAuslan, pp.159–160. Although Cameroon experienced a somewhat similar armed struggle, independence was still achieved through negotiation.
24. See Criminal Code 1960 section 183 as amended. For a full analysis, see International Commission of Jurists, 1983, p.105.
25. Act 11 of 1986.
26. Section 11(2).
27. Mathews, 1986, p.195.
28. Section 41 provided that emergency measures were only constitutional if 'reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency'. For a full discussion on the 1984 Decree see Ojo, 1987, p.254 *et seq*.
29. For instance, the State Security (Detention of Persons) Decree No. 13 of 1984 and Public Property (Special Military Tribunals) Decree No. 2 of 1984. See Ojo, 1987, p.261.
30. For instance, the Robbery and Firearms (Special Provisions) Decree No. 20 of 1984 and Recovery of Public Property (Special Military Tribunals) Decree No. 3 of 1984. See Ojo, 1987, p.265.
31. For a full account of the decree see United Nations document CCPR/C/45/Add.3 dated 28 February 1991.
32. See Machan, 1975, p.222.
33. It is not intended to assert that military governments are in any way an acceptable alternative to civilian governments. As Liebenow points out, the *modus operandi* of the military dictates against constant bargaining, open-ended discussion, and absence of closure that are requisites of a functioning democratic society. However at times, there is little difference between the actions of so-called civilian governments and their military counterparts. See Liebenow, 1986, p.261.
34. See text of speech given by President Mugabe at the opening of the Commonwealth Heads of Government meeting in Harare, Zimbabwe, October 1991.
35. See Reyntjens, 1991, p.29.

2 Constitutional Development & the State of Emergency in Rhodesia: An Overview

Constitutional Developments up to 1961

Zimbabwe (formerly Southern Rhodesia) was originally inhabited by descendants of the great southern migration which peopled most of Central and Southern Africa. A well organised Shona-speaking State developed with a tradition of self-government and independence going back to the Kingdom of Monomotapa (Munhumutapa). In about 1830 the Ndebele, an off-shoot of the Zulu nation, crossed the Limpopo River from the south and established a centralised State in the south-west. By 1888 Lobengula, the Ndebele king, claimed sovereignty over all the territory which now forms Zimbabwe.

In October 1889 Cecil Rhodes obtained a Royal Charter setting up the British South Africa Company (BSAC). This enabled the Company to exercise powers of government in its 'field of operations' i.e. immediately to the north of Bechuanaland, north and west of the Transvaal and west of Portuguese Mozambique. No northern boundary was specified. In 1890 Mashonaland was occupied by BSAC forces who founded the capital in Salisbury (now Harare) and in the following year the territory was declared a British Protectorate. In 1893 hostilities between the Company and the Ndebele led to the occupation of Matabeleland and the flight of Lobengula to the north. Attempts to capture him failed but reports of his death led the British to declare the Matabele kingdom at an end. As a result, in 1895 the entire territory was named Rhodesia. The first *Chimurenga* war, which took place between 1896 and 1897, was a countrywide rebellion against the occupation although there were essentially separate revolts in Matebeleland and Mashonaland. With considerable difficulty, the Company regained control of the country but the war was highly influential in the later freedom struggle.

Until 1923, the Colony of Southern Rhodesia, as it became known from 1898, was administered by the BSAC. By 1922 the settlers had obtained a majority in the Legislative Assembly over the representatives of the Company and were seeking a new constitutional structure. A referendum was then held to determine whether, on the termination of the Company's administration, the territory should be incorporated into the Union of South Africa or become a colony enjoying 'responsible government'. By a majority of 8,744 to 5,989 the latter option was chosen. It is unlikely that the number of African voters exceeded 60 (out of an estimated population of around 900,000).[1] Accordingly, under the terms of the Southern Rhodesia Constitution Letters Patent 1923, the country became a self-governing colony. Thus the overwhelming black majority found themselves governed under the loosest of imperial supervision by ministers responsible to a legislature elected by the local whites and under the day to day control of an adminstration staffed by locally recruited Europeans. As in all other colonial possessions, there were no entrenched protections of individual freedoms although Britain did retain some supervisory powers by means of the 'reserved clauses' which required imperial consent to legislation passed by the colony on