



25 April 2012

A commentary on the April 2012 Zimbabwe Operational Guidance Note

This commentary identifies what the ‘Still Human Still Here’ coalition considers to be the main inconsistencies and omissions between the currently available country of origin information (COI) and case law on Zimbabwe and the conclusions reached in the April 2012 Zimbabwe Operational Guidance Note (OGN), issued by the UK Border Agency. Where we believe inconsistencies have been identified, the relevant section of the OGN is highlighted in blue.

An index of full sources of the COI referred to in this commentary is also provided at the end of the document.

This commentary is a guide for legal practitioners and decision-makers in respect of the relevant COI, by reference to the sections of the Operational Guidance Note on Zimbabwe issued in April 2012. To access the complete OGN on Zimbabwe go to:

<http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylum/policyogns/>

The document should be used as a tool to help to identify relevant COI and the COI referred to can be considered by decision makers in assessing asylum applications and appeals. This document should not be submitted as evidence to the UK Border Agency, the Tribunal or other decision makers in asylum applications or appeals. However, legal representatives are welcome to submit the COI referred to in this document to decision makers (including judges) to help in the accurate determination of an asylum claim or appeal.

The COI referred to in this document is not exhaustive and should always be complemented by case-specific COI research.

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3.6 MDC supporters, human rights defenders and other perceived opponents of ZANU-PF

Situation in Harare

Excerpt from the April 2012 OGN

3.6.7 The Tribunal found that there were differences in risks between urban and rural areas (and the situation is not uniform across the rural areas) as follows:

(iii) In respect of Harare, the Tribunal found that “there are difficulties faced by those living in high density areas not faced by those living in other urban areas: there is a greater prevalence of criminal disorder and reduced personal security; where it is available at all accommodation will be very crowded and a lower standard; street traders working in the informal economy may be the subject of harassment from state officials; persons perceived to be active in MDC politics may face the risk of targeted reprisals [paragraph 200 of judgment]. The Tribunal further concluded that “at the present time, although a person having no significant MDC profile returning to a high-density area of Harare is likely to face more difficulties than someone returning to a low-density area, he or she would not at present face a real risk of having to prove loyalty to ZANU-PF in order to avoid serious ill-treatment [para 204 of judgment]....Whether any individual having to live rough in shanty accommodation or other grossly overcrowded and insecure arrangements would be exposed to treatment of this level of severity would depend on an individual assessment of circumstances including age, gender, health, earning capacity, social assistance arrangements, the presence of young children and the like.” [para 204 of judgment]. [...]

3.6.15 **Conclusion.** Assessing who may be at real risk from politically motivated violence is not simply a matter of the level of political activity in which the individual has engaged. **Violence tends to be targeted at those with a political profile, not necessarily of a high level, and those perceived to be active in MDC politics or other opposition groups.** [...]

3.6.17 As regards major urban areas, a returnee to Harare will face difficulties living in high density areas not faced by those living in other urban areas and those persons perceived to be active in MDC politics may face the risk of targeted reprisals. However, at the present time, although a person having no significant MDC profile returning to a high-density area of Harare is likely to face more difficulties than someone returning to a low-density area, he or she would not at present face a real risk of having to prove loyalty to ZANU-PF in order to avoid serious ill-treatment. Returnees to Bulawayo will in general not suffer the adverse attention of ZANU-PF, including the security forces, even if he or she does have a significant MDC profile.

3.6.18 MDC supporters, human rights defenders and other perceived opponents of ZANU-PF who are able to establish that their political opinions or perceived activities in MDC politics in Zimbabwe and/or the UK mean that they are at real risk of persecution or serious harm from ZANU-PF or its supporters and who cannot avoid that risk by internally relocating will have a well-founded fear of persecution.

This section of the OGN relies heavily upon the findings of [EM and Others \(Returnees\) Zimbabwe CG \[2011\] UKUT 98 \(IAC\)](#). Limited COI is presented in the OGN which details the current nature of political violence in Harare. Recent COI which post-dates the final hearing of *EM and Others* demonstrates that it is not only persons with a political profile, or those perceived to be active in MDC politics who are at risk of ill-treatment in Harare, as per the *Concluding* guidance above, but also persons perceived to support or perceived to be affiliated with the MDC. There is also evidence of ZANU-PF aligned bases operating in Harare. This latter point is relevant given that the Tribunal in *EM and Others* found that a lack of militia bases in Harare was one of the factors that distinguished the situation in Harare from that in certain rural areas (emphasis added):

[EM and Others \(Returnees\) Zimbabwe CG \[2011\] UKUT 98 \(IAC\)](#)

Harare and Bulawayo [...]

202. We accept W80’s point that, since ZANU-PF does indeed remain in de facto control of the army, police and similar services, it is wrong to speak of any particular area of Zimbabwe as being “controlled” by the MDC. Nevertheless, it is apparent that in his response to the FFM team, W80 was

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describing the present position, where in practice it is indeed “difficult for ZANU-PF supporters to harm MDC supporters in MDC-dominated areas”. The position might, of course, be different if, immediately prior to an election, Mugabe and ZANU-PF were to launch a significant campaign of violence in Harare, such as in 2008. That is not, however, the position at present.

203. We say this, having particular regard to the latest evidence, from January 2011, concerning various disturbances in Harare, which are said to have been instigated by ZANU-PF elements. **The alleged establishment in high-density areas of campaign bases in the homes of ZANU-PF leaders falls significantly short of the kind of militia bases described in the evidence in relation to certain rural areas. There continues to be an absence of reliable evidence that militia bases have been established in Harare.** The setting up of campaign bases in peoples’ homes is, if anything, an indication of the relative weakness of ZANU-PF in the capital. The report of 26 January 2011 that carried the story of these bases referred to ZANU-PF and MDC youths being engaged in clashes, which, again, differs from the descriptions of what is going on in rural areas, where the picture is often one of villagers being coerced into silent submission by a ZANU-PF gang. Overall, we find that this and the other most recent evidence underscores the position that emerges from the earlier evidence, which is that the focus of such current ZANU-PF activity as there is in the high-density areas of Harare is on MDC activists, as opposed to the general population.

Whilst case-specific research that takes account of an individual’s circumstances is always required, non-exhaustive COI from 2012 provided on the following issues is illustrative of the current situation in Harare for perceived MDC supporters:

[*Ill-treatment of persons perceived to support the MDC*](#)

[*Evidence of ZANU-PF militia bases in Harare*](#)

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III-treatment of persons perceived to support the MDC

➤ [SW Radio Africa, Violent Chipangano gang campaigning for ZANU PF, 13/04/2012](#)

[...] The violent ZANU PF youth gang that has terrorised residents of Mbare suburb in Harare has reportedly started campaigning for the party, forcing innocent civilians to reveal their personal details and ordering them to vote for Robert Mugabe in the next election.

The Chipangano gang, who operate with impunity and with the support of top ZANU PF officials, have been regularly forcing local residents, vendors and passersby to attend ZANU PF rallies held on open grounds in the area.

The most recent incident occurred last Saturday at Number Five grounds near Mbare Netball Complex, where people with no identity documents were told to reveal their details to the group, on the promise that Chipangano would approach the Registrar General for help in registering them to vote.

Givemore Chipere from the community radio station CORAH told SW Radio Africa that residents in the area confirmed that the rally was addressed by youth militia and ZANU PF officials, who ordered them to prepare for elections by registering and to make sure they voted for Robert Mugabe.

"There are quite a number of residents there who don't have identity cards and they were promised that the Registrar General would come to Mbare and they would be given documents with their names so they can vote," Chipere explained.

He added that there is also an element of fear because anyone who refuses is accused of being a supporter of the MDC formations. "This is very dangerous in Mbare because if you support the MDC you are considered an enemy and can be targeted," Chipere said.

The activist said violence by Chipangano in Mbare has intensified but there has not been much coverage of incidents in the mainstream media. According to Chipere, the gang has gained so much power that even the police are too scared to interfere.

His description of the situation in the high density suburb of Harare confirms reports previously made to this radio station by the MP for the area, Piniel Denga, who has said the constituency is controlled by the ZANU PF youths with support from top party officials and the police. Denga said victims who report to the police end up getting arrested. [...]

➤ [SW Radio Africa, MDC-T worried about upsurge in violence countrywide, 05/04/2012](#)

[...] The MDC-T said on Thursday there is an upsurge in violence countrywide and very little reaction from the police.

Party spokesman Douglas Mwonzora told a press conference in Harare that most of those being targeted are the urban poor, mainly residing in high density suburbs.

'In Harare for example, market vendors in Mbare and Highfields are being targeted by Chipangano. This group led by Hubert Nyanhongo, (ZANU PF MP, Harare South) has confirmed that it is behind most of the violence in Harare,' Mwonzora said. The Nyanga North MP said his party will appeal to the inclusive government to deal with the issue of violence before they start talking about elections. [...]

➤ [International Crisis Group, Crisis Watch No 104, 01/04/2012](#)

[...] Zimbabwe 1 killed, several injured 10 March when Zanu-PF linked Chipangano militia attacked MDC-T rally, Sunningdale; police failed to prevent clashes. [...]

➤ [Zimbabwe Peace Project, ZPP Monthly Monitor - February 2012, 30/03/2012](#)

[...] The political situation in Harare Province has remained tense with violations continuing to be recorded and concentrated in Mbare and Epworth. There was an increase in incidents of politically motivated human rights violations from 18 in January to 31 cases during the month under review. The Zanu PF Chipangano militia group allegedly stopped the construction of a service station and food outlet in Mbare accusing the businessman behind the venture of belonging to the MDC-T. Chipangano is arguing that only Zanu PF supporters should be allowed to invest in Mbare. This is despite a High Court order ordering the victim to go ahead with the construction.

President Mugabe's announcement that elections should be held this year has also triggered conflict with the major political parties of Zanu PF and MDC-T as aspiring candidates jostle for power.

There are also reports of physical threats of violence and intimidation targeting Caledonia residents by rogue Zanu PF war veterans who continually harass and assault people perceived to support other parties

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other than Zanu PF. Six uniformed soldiers allegedly assaulted four Msasa residents at Msasa trading Bar on February 26. The victims were assaulted after they were heard joking about President Mugabe's advanced age. [...]

- [SW Radio Africa, ZPF's violent Chipangano gang running "parallel Council" in Harare, 28/03/2012](#)
[...] The violent gang of ZANU PF youths known as Chipangano have reportedly taken over many council properties in Harare and are now collecting huge sums of money illegally from vendors and minibus drivers. According to NewsDay newspaper, Chipangano is practically running a "parallel Council". The gang started a few years ago as young hired guns that did the dirty work for politicians in Mbare during elections. But with impunity and support from police and top party officials, they ventured into illegal businesses like collecting fees from kombi drivers and market vendors in Harare. It has now been reported that Chipangano has overtaken Harare's City Council and are illegally collecting large sums of money from revenue sources that the council has authority over. [...]
- [Human Rights Watch, Six Sentenced for Watching Arab Spring Video, 21/03/2012](#)
[...] The government of Zimbabwe should drop all charges against six civil society activists convicted for watching a video of Arab Spring protests in 2011, Human Rights Watch said today. The six, who alleged they were tortured to confess to planning violence, were sentenced to two-year suspended sentences, a US\$500 fine, and 420 hours of community service on March 21, 2012. [...]
"In the Middle East people get arrested for taking part in peaceful protests, but in Zimbabwe they get sent to prison just for watching them on video," said Leslie Lefkow, deputy Africa director at Human Rights Watch. "The government should immediately set these outrageous convictions aside and exonerate all six." The six activists were among a group of 46 people arrested on February 19, 2011, for watching a video on the Arab uprising at a seminar in Harare. The authorities initially charged the activists with treason and attempting to overthrow the government by unconstitutional means, but later dropped charges against 40 defendants. The six activists spent three weeks in detention before they were released on bail. The case was marred by due process concerns, Human Rights Watch said. Lawyers told Human Rights Watch that they were denied access to the defendants during their first days of detention, and the court failed to investigate the defendants' allegations of torture, beatings, and other ill-treatment in detention. [...]
- [Zimbabwe Peace Project, ZPP Monthly Monitor - January 2012, 13/03/2012](#)
[...] Police officers and state security agents have continued to show their partisan support for Zanu PF in Harare Province when they raided vendors in the Central business District accusing the vendors of being MDC-T activists disguising as vendors. More than forty policemen came and rounded vendors around Nelson Mandela and First Street in the CBD and assaulted them for vending, the vendors fought back and overpowered the police officers who took refuge at a police post along First Street which was destroyed by the vendors. Police had to call for reinforcement of more than two hundred riot police in riot gear who controlled the situation as people were now running away, police arrested about thirteen vendors and came back the following day and raided harvest house and arrested about ten people whom they accused of being MDC-T supporters disguising as vendors. There have also been reports of violence by the Zanu PF militia, Chipangano, since last year but they have never been arrested which gives them room to terrorize people at will. Since Zanu PF is advocating for early elections, there are reports of intra party violence within Zanu PF as politicians fight to get an opportunity to represent the party in the next elections. [...]
- [Zimbabwe Election Support Network, Ballot Update, Issue 2: February-March 2012](#)
[...] Chipangano and citizen freedoms
The notorious Chipangano group which has continued to violate citizens' rights to free speech, assembly has escalated its operations in 2012. ZESN notes with concern the group's disturbance of MDC meetings and rallies. The youth militia is also threatening people not to vote for the MDC as this will have great repercussions for them. While the GPA provides for the restoration of freedoms by parties to canvass for support and to organise, this has been largely curtailed in Mbare and other surrounding constituencies by the activities of this group. The police have done nothing to put a halt to this group, consequently, the have become a law unto themselves. ZESN continues to call for the disbanding of the group as it ha

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debilitating effects on respect for diversity, political tolerance, freedom of assembly, association among others. [...]

Human rights and fundamental freedoms

[...] In Harare West observers have reported on the unequal distribution of market stalls, flea markets and industrial space. [...]

➤ [Human Rights Watch, EU Keep Sanctions on Mugabe's Inner Circle, 17/02/2012](#)

[...] "Mugabe's ZANU-PF is committing grave human rights abuses against all perceived opponents," said Daniel Bekele, Africa director at Human Rights Watch. "Easing the sanctions now would send the wrong message and reinforce the repression and impunity in Zimbabwe."

Human Rights Watch's ongoing research in Zimbabwe shows that while the country's economic situation has significantly improved since the power-sharing government's inception, there has been little progress on promised human rights reforms or respect for the rule of law. A human rights commission which was set up three years ago still does not have a statute that would allow it to become operational, and state institutions such as the Office of the Attorney General and the police force remain highly partisan. Human rights defenders and other critics of the government are arbitrarily arrested and detained and otherwise harassed. [...]

➤ [International Crisis Group, Crisis Watch No 102, 01/02/2012](#)

[...] Zimbabwe Constitution drafters missed 19 Jan draft deadline; delay blamed on ZANU-PF reversal on death penalty. Electoral Commission Chairman Simpson Mtambanengwe 19 Jan said Registrar General Office, criticised for favouring ZANU-PF, should operate under Commission supervision for next elections. Following 11 Jan clashes with vendors, police raided Harare HQ of former opposition MDC-T arresting activists, employees; MDC accused ZANU-PF of using police to destabilize party ahead of elections. [...]

➤ [International Crisis Group, Crisis Watch No 101, 01/01/2012](#)

[...] Zimbabwe ZANU-PF conference 10 Dec resolved to clamp down on and de-register international NGOs suspected of supporting "regime change"; President Mugabe said he will lead ZANU-PF in elections. Justice Minister Patrick Chinamasa 20 Dec said Mugabe may dissolve Parliament in order to force elections 2012. [...] Joint Monitoring and Implementation Committee (JOMIC) 6 Dec again asked to meet with Police Commissioner Augustine Chihuri to discuss political violence, allegedly partisan police enforcement. 2 Media Monitoring Project Zimbabwe (MMPZ) advocates and chairman of public information rights forum arrested 5 Dec; police 6 Dec raided offices of MMPZ, detained director for several hours. [...]

Evidence of ZANU-PF militia bases in Harare

➤ [Sokwanele, Zimbabwe Inclusive Government Watch – Issue 37, 05/04/2012](#)

[...] The Zanu-PF-sponsored Chipangano gang has instilled fear into residents of the high-density suburb Mbare, outside Harare, rendering them political and physical hostages. Resistance to the gang's orders invites severe beatings, banishment from the suburb or even death. Victims who dare resist are often dragged off to torture bases such as Carter House – a council property forcibly seized. Attempts by the council to evict the gang have met with violent resistance, and the partisan police force refuses to intervene. [...]

➤ [The Standard, Political thuggery enslaves Mbare, 18/02/2012](#)

[...] ROWDY young men and women move from house to house ordering residents to attend Zanu PF meetings regardless of their political affiliation. Street vendors quickly close their stalls as word of a meeting spreads in the neighbourhood. Many here fear that the slogan-chanting militia would beat them up or confiscate their wares for defying their directive. Because of the militia's activities, some long-distance travellers now shun boarding buses in the suburb, lest they risk being force-marched to meetings, which serve as a platform for intimidation and sloganeering. This is the extent to which the Zanu PF-

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sponsored militia group, Chipangano, has managed to instill fear into the hearts of residents of Mbare, virtually rendering them political hostages in their own backyard. Resistance to Chipangano's orders usually invites severe beatings, banishment from the suburb or even death. Those who try to resist are dragged to the militia's bases dotted around the suburb where they are tortured. One such base is Carter House -- a council property that was forcibly seized by the group. [...]

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Situation in other urban areas of Zimbabwe

It should be noted that the Country Guidance case law in *EM and Others* identifies the relevance of power structures in applicants' rural village home areas and the securing of a new election date as relevant factors to consider in Zimbabwean cases (emphasis added):

[EM and Others \(Returnees\) Zimbabwe CG \[2011\] UKUT 98 \(IAC\)](#)

265. [...] **If, after promulgation of this determination, evidence emerges that elections will be held at a particular time, without any of the safeguards and other countervailing features we have described, then the structures underpinning the country guidance system ensure that judicial fact-finders will be required to have regard to the new state of affairs, in reaching determinations on Zimbabwe cases.** The effect of Practice Direction 12.2 is such that a country guidance case is authoritative in a subsequent appeal, only so far as that appeal relates to the country guidance issue in question and depends upon the same or similar evidence (our emphasis). By the same token, we would expect the respondent to take account of that situation, both in reaching decisions on asylum claims involving Zimbabwe (including fresh claims under paragraph 353 of the Immigration Rules) and in deciding whether to give directions for a person's removal to Zimbabwe.

267. In the light of our findings, evaluating the position as at the end of January 2011, the following country guidance replaces that in RN, as follows: [...]

(2) The position is, however, likely to be otherwise in the case of a person without ZANU-PF connections, returning from the United Kingdom after a significant absence to a rural area of Zimbabwe, other than Matabeleland North or Matabeleland South. Such a person may well find it difficult to avoid adverse attention, amounting to serious ill-treatment, from ZANU-PF authority figures and those they control. The adverse attention may well involve a requirement to demonstrate loyalty to ZANU-PF, with the prospect of serious harm in the event of failure. Persons who have shown themselves not to be favourably disposed to ZANU-PF are entitled to international protection, whether or not they could and would do whatever might be necessary to demonstrate such loyalty (RT (Zimbabwe)).

(3) The situation is not uniform across the relevant rural areas and there may be reasons why a particular individual, although at first sight appearing to fall within the category described in the preceding paragraph, in reality does not do so. **For example, the evidence might disclose that, in the home village, ZANU-PF power structures or other means of coercion are weak or absent.**

(4) In general, a returnee from the United Kingdom to rural Matabeleland North or Matabeleland South is highly unlikely to face significant difficulty from ZANU-PF elements, including the security forces, even if the returnee is a MDC member or supporter. **A person may, however, be able to show that his or her village or area is one that, unusually, is under the sway of a ZANU-PF chief, or the like.**

The Zimbabwean Election Support Network bi-monthly [Ballot Updates](#) provide an analysis of political developments including announcements in relation to a proposed new election date and an overview of the safeguards in place.

The following sources are recommended to consult regarding power structures in a particular location:

- The 2008 election results by constituency and province can be viewed on the [Kubatana archives](#). See also the [election results page](#) on the Zimbabwean Election Support Network website.

It should be noted that neither the OGN nor *EM and Others* specifically addresses the situation in low-density areas of Harare, nor the situation in any other urban areas of Zimbabwe apart from Harare and Bulawayo. The following sources are particularly useful in researching the current situation in a particular location in Zimbabwe:

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Useful sources to consult on the security situation in Zimbabwe

Source	Type of source	Website's search function
Kubatana Trust of Zimbabwe	<p>Kubatana Trust of Zimbabwe is a repository of human rights reporting, organised by sector which archives over 20,500 articles, reports and other documents about Zimbabwean civil society.</p> <p>It also provides a database of over 250 NGOs and Community Support Organisations (CSOs) working in Zimbabwe by sector.</p>	<ul style="list-style-type: none"> To search by sector select 'Archive' and choose the issue for research from the drop down box on the top right hand side of the webpage. NGOs can be searched by sector, alphabetically and by city of operation Search function powered by google supports BOOLEAN searches (AND, OR, NOT) and searches for phrases ("...")
Sokwanele	<p>Sokwanele is a "people's movement". It provides a 'Zimbabwe Inclusive Government Watch' (ZIG Watch) which tracks media articles and reports that provide examples of violations of the agreement between the ZANU-PF and the MDC factions, and a useful section on the 'Constitution' providing resources and analysis.</p>	<ul style="list-style-type: none"> Simple search function which allows for keyword searches Predictive search function which matches search terms to entries in the database
Zimbabwean Election Support Network (ZESN)	<p>ZESN is a coalition of NGOs formed to co-ordinate election activities in Zimbabwe. It provides:</p> <ul style="list-style-type: none"> Election Results An Election Update section and a Ballot Update tab which analyses the political environment in the 210 constituencies where it deploys long term observers. 	<ul style="list-style-type: none"> Simple search function which allows for keyword searches only.
Zimbabwe Peace Project (ZPP)	<p>ZPP publishes a monthly 'ZPP Monitor' which details 'incidences of politically motivated violations by province' and 'other forms of aid related violations'.</p>	<ul style="list-style-type: none"> ZPP does not have its own website; its publications are archived by Kubatana Trust.
Zimbabwe Situation	<p>The Zimbabwe Situation is a comprehensive archive of daily news articles and newspaper commentaries published on Zimbabwe. The information is saved by date in reverse chronological order. Archived information by month can be viewed by scrolling down on the left hand side of the home page.</p>	<ul style="list-style-type: none"> Simple search function, which allows for keyword searches and phrases ("...") Unfortunately, searches cannot be limited by date. If you are undertaking a search, enter the year/ month you require as an additional search term.

4.4 Medical treatment

Excerpts from the April 2012 OGN

4.4.3 Since the formation of the Government of National Unity improvements in the economy and assistance from international NGOs had meant that the public health system is starting to function again. Hospitals that only two years previously had been empty and understaffed are now operating successfully with good levels of staffing, service, and care. More complex testing and treatments, such as dialysis, CD4 counts, and bone marrow biopsies, are also being offered. There continued to be shortages of essential drugs.

4.4.4 The International Committee of the Red Cross (ICRC) began downsizing its support to the polyclinics in 2010, with donations covering 75% of the requirements for drugs, compared with nearly 100% in 2009; the remaining 25% was met by the National Pharmaceutical Company of Zimbabwe and UNICEF. In January 2010, the health authorities in two districts in Masvingo and Matabeleland North took over the supply of drugs and medical materials to 6 of the 11 rural health centres and 1 of the 2 referral hospitals supported by the ICRC since 2006. Following a final ICRC donation, they also started supplying the remaining six health facilities by the end of the month. There have been major improvements in the health sector. People are getting drugs, many provided by humanitarian organisations. However, the cost of healthcare even in public hospitals puts it beyond the financial reach of many.

4.4.5 In 2012, Human Rights Watch noted that despite “a decline in HIV prevalence over the past decade and the adoption of new guidelines on treatment in 2011, the number of HIV-positive Zimbabweans requiring but not receiving treatment remained high”. In November 2011, Medecins Sans Frontieres reported that “most HIV/AIDS patients are now failing to get free ART due to high admission fees charged by government hospitals”, with some hospitals “charging as much as \$30 and most people, especially those in rural areas, cannot afford these fees”. AIDSportal reported that city health officials were “struggling to cope with ever-growing waiting lists of people in need of HIV treatment”, Nurses in Harare reportedly told IRIN news that low wages had sometimes led staff to sell ARVs that were available for free to HIV-positive people. The Zimbabwean reported that Tinotenda Mabvure had to pay \$50 to bribe the nurse to access ARVs at her local satellite clinic and also that ZANU-PF supporters had prevented MDC supporters living with HIV and AIDS from accessing treatment.

The highlighted passages above relate to the availability of Anti-Retroviral Treatment (ART) and Anti-Retroviral drugs (ARVs). Information has been included that reports on the one hand that medicine and CD4 counts are available (see paragraphs 4.4.3 and 4.4.4), whilst on the other hand a number of sources report on the difficulties HIV/AIDS patients face accessing treatment due to the high costs involved, corruption and long waiting lists (see paragraphs 4.4.4 and 4.4.5).

Following the promulgation of the CG determination [RS & Ors \(Zimbabwe - AIDS\) Zimbabwe CG \[2010\] UKUT 363 \(IAC\) \(14 October 2010\)](#) the threshold that needs to be met in order to be able to claim international protection as a HIV/AIDS patient has been set as that identified in [N. v. THE UNITED KINGDOM - 26565/05 \[2008\] ECHR 453 \(27 May 2008\)](#). *RS & Ors* also found that no endemic discrimination existed in accessing ARV medication and food. Since *RS & Ors* was heard, the following additional country information published in 2011 and 2012 may be of use in challenging some of the findings of *RS & Ors*, depending of course on an individual’s specific characteristics.

The COI has been arranged under the following issues:

- [Availability of ART/ARVs](#)
- [Lack of CD4 machines and qualified staff](#)
- [Societal discrimination against persons living with HIV/AIDS](#)
- [Lack of food, shelter or social support for persons living with HIV/AIDS](#)

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Availability of ART/ARVs

- [Integrated Regional Information Network, Improved AIDS levy collections fill part of funding gap, 03/02/2012](#)

[...]Although 347,000 people are on antiretroviral (ARV) treatment in the country, another 600,000 need the medication. The treatment gap widened after Zimbabwe adopted the new World Health Organization guidelines that recommend starting treatment earlier. The AIDS levy contributed almost a quarter of the money to purchase ARVs, while 76 percent of the treatment programme was financed by international donors such as the Global Fund to fight AIDS, Tuberculosis and Malaria and the UK Department for International Development. But the country - one of the hardest hit by HIV/AIDS - still needs a lot more funding to cover the "worrying" treatment gap, cautioned HIV/AIDS activist Stanley Takaona. "Many people are dying because they cannot access treatment. Zimbabweans are playing their part to take care of their own by contributing to the AIDS Levy but this is not enough. Government must allocate funds from the fiscus to fund the HIV/AIDS response; it's their responsibility," he said. Kumbirai Mafunda, spokesperson for the Zimbabwe Lawyers for Human Rights, warned against complacency. "Yes, the increase in the AIDS Levy is remarkable but we all know it's not enough... now government has to increase budget allocations to the health sector." [...]
- [The Zimbabwean, The right to ARVs, 05/10/2011](#)

[...] But the current concern is that Zimbabwe is failing to satisfy the demand of 700 000 people who need ARVs. It is believed only 570 000 people have access to the drugs
[...] While Zimbabwe remains one of the countries with the highest case loads of HIV and AIDS, the government is being widely commended for its HIV/AIDS policies, largely due to its treatment programme. However, insufficient funds are affecting the purchase of adequate drugs. [...]
- [Sokwanele, Rural HIV affected sell domestic animals to access ART, 11/07/2011](#)

[...] Executive Director, Dr Vhumani Magezi Family AIDS Caring Trust (FACT) Zimbabwe carried out national research on the coping mechanisms of rural communities living with AIDS. The report revealed that the affected and infected, some of them old and most frail, all desperate, are resorting to selling their domestic animals and other property to access treatment.
Dr Magezi reported at an HIV conference recently that the situation out there is unbearable. He added that the young and energetic are the only ones who are able to get part time jobs to fund access to ARVs. These drugs are free, but service charges and transport costs are the greatest hindering factor. The old end up selling their only wealth, their chickens and their goats to get bus fare to the clinics which are more often than not at quite a distance. [...]
- [Radio Vop, More Than 100 000 Zimbabweans Failing To Access HIV treatment, 12/05/2011](#)

[...] Only 350 000 Zimbabweans out of a about 503 000 in need of HIV treatment are getting anti-retroviral drugs, a National Aids Council senior official revealed to Radio VOP.
"Currently we have slightly above 350 000 people accessing ARVs. We have about 503 000 people who are supposed to be accessing treatment, National AIDS Council's monitoring and Evaluation Director Amon Mpofu told Radio VOP in an interview in Harare on Wednesday.
The country attributes lack of access to Anti-Retroviral Drugs to a shortage of CD4 count machines which qualifies an HIV positive patient to go on treatment. [...]
- [AIDSportal, Zimbabwe: Health sector battles ARV shortages, 19/02/2011](#)

[...] More than 320 000 people in the country are in need of ARV treatment. Of 1, 7 million living with HIV only about 150 000 are obtaining the medication from the public health sector.
The deputy minister of Health and Child Welfare, Douglas Mombeshora, confirmed that the country did not qualify for Global Fund Round 9, saying this had a serious impact on the country's efforts to mitigate HIV and Tuberculosis [...]
- [The Standard, ARV access points distant-patients, 20/02/2011](#)

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[...] PEOPLE living with HIV/Aids in the Marange district of Mutare are struggling to get antiretroviral drugs because of long distances they have to travel to health centres, it has been revealed.

Care givers who spoke to Health&Fitness said many patients were dying prematurely because they cannot reach health centres where the life-prolonging drugs are given.

Marange, despite the vast diamond deposits discovered in the Chiadzwa area recently, is still poverty stricken and health centres are far in between.

[...] Tapiwa Magure, the National Aids Council CEO said the rolling out of ARVs to the country's remote areas was affected by lack of trained health workers and financial resources.

[...] Owen Mugerungi, the director of the Aids and TB programme in the Ministry of Health and Child Welfare said government was aware of the problem and was working on a strategy to reach out to all remote areas.

"We know that the ARVs sites we have in the country are not enough for our people," he said.

"We are in the process of improving the situation, more nurses are being trained on the handling of drugs and we are expanding our outreach programmes so that every corner of Zimbabwe can be reached."

Zimbabwe has over 300 sites that dispense ARVs, which are mostly in urban areas. [...]

➤ [The Zimbabwean, Zimbabwe: Health sector battles ARV shortages, 14/01/2011](#)

[...] An official from Mutare Provincial Hospital said there were between 200 and 300 people on the waiting list for Anti Retroviral (ARV) drugs, but the country failed to receive funds to combat HIV and Aids under Global Fund Round 9. [...]

Lack of CD4 machines and qualified staff

➤ [Voice of America, Zimbabwe Health Sector Severely Understaffed, Official Tells Parliament, 29/02/2012](#)

[...] The health services chief said the population has increased greatly and diseases such as HIV call for more health facilities and personnel. [...]

➤ [Zimbabwe National AIDS Council, Zimbabwe adopts 2010 World Health Organization Antiretroviral Therapy Guidelines, 21/06/2011](#)

[...] Zimbabwe has adopted the HIV Treatment guidelines released by the World Health Organization in 2010. The revised Antiretroviral Therapy Guidelines (ART) emphasize initiating patients with a CD4 cell count equal or below 350 which is a change from the initiating of patients with a CD4 cell count of 200 which was being used by Zimbabwe. Implementation of the new guidelines will be phased over a 3 year period due to expected increase in demand for the services against a background of limited resources. [...]

➤ [Radio Vop, More Than 100 000 Zimbabweans Failing To Access HIV treatment, 12/05/2011](#)

[...] The country attributes lack of access to Anti-Retroviral Drugs to a shortage of CD4 count machines which qualifies an HIV positive patient to go on treatment [...]

➤ [Progressio, Prayer alone is not enough: People's stories of HIV and faith, April 2011](#), page 10

[...] Florence, 32, is a married woman living with HIV.

My husband, one daughter (age six), and I are all HIV-positive. I have two other children who are negative. It was very confusing at first when various illnesses began to happen. My husband began to miss work due to illness. This caused financial hardship. We did not have the money for a CD4 test 4 – which is required to get treatment. So, none of us are now on treatment.

We are still trying to live positively even though we are not on treatment. However, because we are not on treatment we often fall ill. I have pain and other symptoms. I tried to go to the government hospital to get the CD4 test, but they do not have the equipment for such a test. Thus, I need money for a private test and it is very expensive [...]

➤ [IRIN, A helping hand for HIV-positive mothers and babies, 22/02/2011](#)

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[...] Although there has been some progress in combating paediatric HIV, Peter Halpert, Health and Education Team Leader in the US Agency for International Development (USAID), told IRIN/PlusNews that much needed to be done to reduce the mother-to child-transmission of HIV.

[...] Halpert said the lack of CD4 count machines [to measure the strength of the immune system] in most health facilities, and the limited ability to diagnose HIV infection early in babies was another challenge facing the PMTCT programme [...]

➤ [The Standard, ARV access points distant-patients, 20/02/2011](#)

[...] Tapiwa Magure, the National Aids Council CEO said the rolling out of ARVs to the country's remote areas was affected by lack of trained health workers and financial resources [...]

Societal discrimination against persons living with HIV/AIDS

➤ [Radio Netherlands Worldwide, Zimbabwe: Reverend - 'I Am Just a Lone Voice', 23/04/2012](#)

[...] "If five or ten religious leaders living with HIV in Zimbabwe would disclose their status, things would start to change. Right now, I am just a lone voice", says Reverend Maxwell Kapachawo, the first religious leader in Zimbabwe openly speaking about his HIV status.

"If I had died during that period, it was not HIV that could have killed me, but it was because of the ignorance, the arrogance, the stigma and discrimination that I suffered within these men of faith".

[...]Maxwell was then leading an Anglican Church in Harare. When he found out he was HIV-positive and practically bed-ridden, he went to his senior pastor to ask for help: "He saw every sign and symptom on me about HIV. But the thing that really pains me, even until today, is the way that he dismissed me from the ministry", says Maxwell. Adding: "instead of a church being a place of healing, it became a place of torture in my life".

[...] "It has become easier for church members to open up and to talk about the issue", says Maxwell. "That's because religious leaders start talking about HIV and create support groups in churches". But still, no other religious leader has the courage to disclose his status. Why is that? "We have no safety nets. They are between the ministry, the salary and the bishop." For the Reverend, it is clear that the problem lies higher: "I have interacted with the leaders of the main Christian fellowships. But they are silent about it." It also saddens him that politicians don't discuss the HIV-topic.: "they say it's a personal matter." [...]

➤ [Progressio, Prayer alone is not enough: People's stories of HIV and faith, April 2011](#), pages 8 and 9

[...] Abisaih, 49, and Simiso, 36, are a married couple living with HIV in Hatcliffe, an informal settlement outside Harare.

Abisaih: First, I would like to thank the Dominican Sisters for bringing us information and encouraging us to be tested and to know there is a disease called HIV. There was so much stigma and discrimination in the community I feared we would be rejected if we found out that we were HIV-positive, but my wife insisted that we get tested. We went to the Newlands Clinic. We went for counselling and testing and found out we were both positive. We then told the Dominican Sisters and they helped us with treatment.

Simiso: We were severely stigmatised by our community. No one wanted us near them and people would laugh at us. Our children were not allowed to play with other children. Because we are positive, we had to leave our home and come to Hatcliffe where we are lodgers. We can't own our own property because we could be chased away. Due to illness, I was in a lot of pain. My husband was in so much pain that I would carry him by using a wheelbarrow.

Last year, my husband found employment as a gardener. However, when he disclosed his status to the owner [because of the need for clinic visits], the owner dismissed him. When my husband was ill, no one would associate with us. His relatives rejected him. I was alone. At the time, I was going to the Vadzizi Apostolic church. They offered to give me money for my husband's funeral once he died. They advised me to take him back to his rural home to die. I said no. I could not accept this – that he should simply go home to die. My husband was in hospital for four months. The pastors never visited him. However, when he was discharged, the church leaders were surprised. They insisted that we return to church, but we refused. We went to another church, one that accepted us.

However, up to now, we are living a nomadic life, moving from house to house. We are praying to God that he will intervene and give us a home of our own. Our children are not going to school because we have no money for school fees.

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Abisaih: We wish we could find work. We are strong now, but because of stigma we cannot find paid work. We have nowhere to live. We have two children whom we are not able to send to school because we have no funds.

Simiso: Stigma and discrimination exists in the church. It is a problem that church leaders advise us to take sick relatives to their rural homes to die with only an offer to pay for funeral expenses. However, poverty is our biggest problem. We have no shelter, no work; we are struggling to make ends meet. [...]

➤ [US Department of State, 2010 Human Rights Report: Zimbabwe, 08/04/2011,](#)

[...] Societal Violence or Discrimination

[...] The government has a national HIV/AIDS policy that prohibits discrimination against persons with HIV/AIDS, and the law prohibits discrimination against workers with HIV/AIDS in the private sector and parastatals. Despite these provisions, societal discrimination against persons affected by HIV/AIDS remained a problem. Although there was an active information campaign by international and local NGOs, the Ministry of Health and Child Welfare, and the National AIDS Council to destigmatize HIV/AIDS, ostracism and condemnation of those affected by HIV/AIDS continued [...]

Lack of food, shelter or social support for persons living with HIV/AIDS

➤ [Integrated Regional Information Network, Food voucher scheme benefits HIV-positive people, 20/10/2011](#)

[...] Vulnerable people living with HIV in Zimbabwe are benefiting from an electronic voucher scheme being used to fight malnutrition among people on antiretroviral (ARV) therapy and their families by providing them with nutritious food.

[...] The country's economic collapse in the past decade has significantly strained the ability of poor HIV-positive Zimbabweans to feed themselves and their families when on ARVs. An estimated 570,000 Zimbabweans are receiving the medication; HIV prevalence - one of the world's highest - is 13 percent. Prices remain comparatively high for families with low incomes and little or no access to US dollars, despite the improved availability of food. The Zimbabwean dollar was discontinued in 2009 as a solution to hyperinflation, and replaced by currencies such as the US dollar, South African rand and Botswana pula, but unemployment levels are extremely high and many people do not have access to these currencies.

[...] The programme supports about 5,000 patients and their families with essential food items and is operating at seven health facilities in the capital and has been extended to the second-largest city, Bulawayo. Catholic Relief Services (CRS) and Help from Germany (HfG) are the implementing NGO partners working with the health ministry.

[...] Patients are given vouchers, in the form of scratch cards similar to mobile phone airtime cards, which they take to designated retail outlets for specific rations that are "good for one month and for a maximum family size of five people", in addition to 10kg of corn soya blend they receive at registration. The rations comprise maize-meal, beans and vegetable oil and beneficiaries receive the food aid for six months but that period is extended if they are still malnourished. [...]

➤ [Progressio, Prayer alone is not enough: People's stories of HIV and faith, April 2011,](#) pages 12 and 13

[...] Jessina, 59, is a widow living with HIV. My husband died in January 1993 and I did not get remarried.

[...] I was a community caregiver at the time of Murambatsvina – and I still am today. The other caregivers encouraged me to be tested for HIV when I became very ill. So, I went to the Newlands Clinic in October 2005. The test was positive.

[...] My main problem now is shelter. The government is turning a blind eye on people like me. Even my Dominican counterparts [the Dominican Sisters who run the clinic at Hatcliffe] have not been able to help me. I also don't get any support from my church. I must beg for assistance because I must care for my six children.

[...] Isaac, 59, is pastor of the Zviratidzo Zvavapostori (Miracle of the Apostles) Church in Chitungwiza. He is pictured with his wife Esmay, 35.

I have not been tested and neither has my wife, so we cannot say if we are HIV-positive or not. I am a pastor. I have people in my church who have many problems, including HIV and TB. As a pastor, there is an

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expectation from the members of my church that I should be able to do something for them when they need help. But prayer alone is not enough. These people need medical assistance.
[...] Our major problem is a lack of resources. When I visit my church members, I see that they have no food, no soap, not even any corn meal. I don't have enough resources for them because often there are several who are very ill at any one time. If a member is sick, he will be looking for assistance. If you can't help, he will go elsewhere [...]

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Useful sources to consult on the humanitarian/medical situation in Zimbabwe

Source	Type of source	Website's search function
AIDSPortal Zimbabwe country page	<p>AIDSPortal is an initiative of the UK Consortium on AIDS & International Development seeking to achieve its mission by maintaining a global information hub (www.aidsportal.org) for Community Based Organisations and those involved in the response to HIV, acting as an information facilitator.</p> <p>The Zimbabwe country page includes:</p> <ul style="list-style-type: none"> ○ Latest resources published on Zimbabwe and HIV/AIDS ○ Latest news ○ Upcoming events in Zimbabwe 	<ul style="list-style-type: none"> ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT) ○ It is not possible to search within particular time frames
AlertNet Zimbabwe pages	<p>Humanitarian news site from Thomson Reuters providing information on natural disasters, conflicts, refugees, hunger, diseases and climate change. Country pages include sections on:</p> <ul style="list-style-type: none"> ○ Breaking stories ○ Aid agency news feed ○ Zimbabwe crisis ○ Zimbabwe country profile 	<ul style="list-style-type: none"> ● Country page ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ Keyword search ○ Searches limited by source; content partner; aid agency; country; topic; sub-topic; crisis and by time frame ○ Search results can be organised by date ○ Searches within time frames (From: To) ○ BOOLEAN searches (AND, OR, NOT, ALL)
Avert Zimbabwe pages	<p>AVERT is an international HIV and AIDS charity, based in the UK, working to avert HIV and AIDS worldwide, through education, treatment and care. Its country pages provides information on:</p> <ul style="list-style-type: none"> ○ Pattern of the HIV and AIDS epidemic so far ○ The government's response ○ Political issues in Zimbabwe ○ HIV prevention in Zimbabwe ○ HIV and AIDS treatment in Zimbabwe ○ Other major issues 	<ul style="list-style-type: none"> ● Country and thematic pages ● Simple search function which allows for keyword searches only.
Internal Displacement Monitoring Centre (IDMC) Zimbabwe country page	<p>The IDMC is an international body which monitors conflict-induced internal displacement worldwide. Its country pages include:</p> <ul style="list-style-type: none"> ○ Statistics ○ Maps ○ Internal Displacement Profile ○ IDP News alert ○ Key documents; news and reports from other organisations on the situation and treatment of IDPs and returnees. ○ The Zimbabwe Country Profile was last updated in December 2011 	<ul style="list-style-type: none"> ● Country and thematic pages ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT) ○ Searches for phrases (“...”) ○ It is not possible to search within particular time frames

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IRIN News Zimbabwe Country page	<p>A service of the UN Office for the Coordination of Humanitarian Affairs. It provides:</p> <ul style="list-style-type: none"> ○ Humanitarian news and analysis by country and theme 	<ul style="list-style-type: none"> ● Country and thematic pages ● Advanced search function which allows for <ul style="list-style-type: none"> ○ Keyword searches (Exact Wording; All the Words; Any Words) ○ Limits searches by Services; Country; Theme; Report Type ○ Searches within time frames (From: To)
IRIN Plus News Zimbabwe country page	<p>PlusNews is the global online HIV and AIDS news service of the United Nations Integrated Regional Information Networks (IRIN). It provides:</p> <ul style="list-style-type: none"> ○ News and analysis on HIV and AIDS 	<ul style="list-style-type: none"> ● Country and thematic pages ● Advanced search function which allows for <ul style="list-style-type: none"> ○ Keyword searches (Exact Wording; All the Words; Any Words) ○ Limits searches by Services; Country; Theme; Report Type Searches within time frames (From: To)
Relief Web Zimbabwe country page	<p>Relief Web is a database of reports from international and non-governmental organizations, governments, research institutions and the media for news, reports, press releases, appeals, policy documents, analysis and maps related to humanitarian emergencies worldwide. It provides:</p> <ul style="list-style-type: none"> ○ In-depth profiles, updates and reports on countries and disasters ○ Maps ○ Database of who's reporting 	<ul style="list-style-type: none"> ● Country and thematic pages ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT) ○ Searches for phrases ("...") ➤ Limits searches by: Country; source; theme; content format; feature; disaster type; vulnerable groups; published date (by month); language
UNOCHA Zimbabwe pages	<p>OCHA's Zimbabwe country page includes:</p> <ul style="list-style-type: none"> ○ Monthly humanitarian update reports ○ Thematic and reference maps ○ Zimbabwe 2012 at a glance ○ 2012 Consolidated appeal 	<ul style="list-style-type: none"> ● Not available

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