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October 2011

A commentary on the April 2011 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 2011 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 2011. 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

Treatment 3.6.2-3.6.8

Limited COI is presented in the OGN for this main category of claim. Instead, this section relies heavily upon the findings of *EM and Others (Returnees) Zimbabwe CG [2011] UKUT 98 (IAC)*. It is considered that relevant findings of the case law in relation to Harare have been omitted from the OGN.

Excerpt from April 2011 Zimbabwe 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:

(i) Zimbabweans without ZANU-PF connections, returning from the UK after a significant absence to live in Mashonaland West, Mashonaland central, Mashonaland East, Manicaland, Masvingo or Midlands province would face a real risk of persecution because of a continuing risk of being required to demonstrate loyalty to ZANU-PF [para 189 of judgment].

(ii) In respect of Matabeleland, the Tribunal found that as a general matter, at the present time, a person returning from the UK to Matabeleland is highly unlikely to face any significant difficulty from ZANU-PF elements, including for this purpose members of the security forces. This would be so even if the person is a MDC member or supporter [para 197 of judgment].

(iii) In respect of Harare, the Tribunal concluded that at the present time a person having no significant MDC profile returning to a high-density area of Harare would not face a real risk of having to prove loyalty to ZANU-PF in order to avoid serious ill-treatment [para 204 of judgment].

(iv) The position in Bulawayo has been found to be better than that in Harare. The Tribunal concluded that a person returning to Bulawayo at the current time from the UK is not reasonably likely to face a "loyalty test" or otherwise to suffer the adverse attention of ZANU-PF (including the security forces). That is so even if he or she has a significant MDC profile [para 209 of judgment].

Compare the above highlighted paragraph to the following sections of the case law which address the situation in Harare (emphasis added):

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

Harare and Bulawayo [...]

200. **The evidence before us demonstrates 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.** The Zimbabwe Lawyers for Human Rights described high-density areas as experiencing "occasional arrests and beatings". The evidence taken as a whole does not present a picture of such intensity or regularity as to suggest that any resident of a high density area having no active involvement in MDC politics would be at risk of harm. The picture of ZANU-PF activity in these areas is significantly different from rural areas: the system of control through ZANU-PF chiefs and village headmen and the ability to monitor the identity of new arrivals in rural communities have no proper counterparts in Harare. We are accordingly unable to accept the evidence of those witnesses who suggested that the risk level was the same in the rural and high density urban areas. [...]

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

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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.**

204. We accordingly conclude 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. So far as living conditions in high-density areas are concerned, the only witness to assert that the housing in such areas was unfit for human habitation was the person we have described as W79 of the Zimbabwe Human Rights Association. We do not conclude from this that anyone having to live in such a high density area would be exposed to inhuman or degrading treatment contrary to Article 3. Mr Henderson did not attempt to submit to us that this was the case. **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.**

In addition to omitting relevant sections of the case law, the OGN fails to include any COI on the relevant issues which should form part of an assessment of individual risk on return to Harare as identified in the above highlighted excerpts of case law. This is particularly relevant given that the situation in Harare has developed since *EM and Others* was last heard in January 2011.

Whilst case-specific research that takes account of an individual's circumstances is always required, COI which post-dates the final hearing of *EM and Others* (14 January 2011) has been provided on the general situation in high density areas of Harare with respect to the issues as highlighted above. The following (non-exhaustive) COI demonstrates that since *EM and Others* was heard, street traders working in the informal economy are the subject of harassment; that it is not only persons perceived to be active in MDC politics who are subjected to targeted reprisals in Harare, but also persons perceived to support the MDC who are at risk of ill-treatment; and there is now evidence of ZANU-PF campaign bases in Harare. This latter point is relevant given that the Tribunal found that a lack of campaign bases in Harare was one of the factors that distinguished the situation in Harare from that in rural areas (see paragraph 203 of *EM and Others* cited above). Information has also been included to document the continued poor housing situation:

Situation in high density areas of Harare

[Harassment of street traders working in the informal economy](#)

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

[Evidence of ZANU-PF campaign bases](#)

[Housing Situation](#)

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Harassment of street traders working in the informal economy

- [SW Radio Africa, Video exposes ZANU PF bullying of vendors, 12/07/2011](#)
[...] Video footage has emerged exposing how ZANU PF relies on force marching poor vendors from Mbare Musika and nearby markets in Harare, to attend and fill up venues for party meetings, heroes acre burials and, most recently, so-called anti-sanctions rallies. When ZANU PF is holding a party function their violent youths can be seen in the video locking up the gates to the markets and forcing everyone to attend. [...]
- [News Day, Buy Mugabe portrait or else . . . , 23/06/2011](#)
[...] Zanu PF supporters have besieged shops in Harare allegedly forcing retailers to buy President Robert Mugabe's portraits for \$60 or face unspecified action. [...] Scores of retailers were yesterday in panic mode, frantically looking for the party youths who had distributed the portrait as word spread those that did not display the new portrait would face eviction in a planned purge later in the week. [...]
- [SW Radio Africa, Mbare residents forced to 'celebrate' Mugabe's birthday, 21/02/2011](#)
[...] Residents in Mbare were forced to attend a rally on Sunday, in celebration of Robert Mugabe's birthday. ZANU PF youths rounded up market traders and other residents and force-marched them to a rally, while singing songs and carrying a banner that read: "Celebrating 87 Years — Happy Birthday Gushungo".
According to NewsDay, the youths went around the markets at Mbare Musika handing out T-shirts emblazoned with images of Mugabe and bearing messages that said the 87 year old would be ZANU PF's presidential candidate for elections this year. [...]
- [Zimbabwe Standard, Youths intimidate stallholders, 13/02/2011](#)
[...] Stallholders at Mupedzanhamo and Siya-so markets in Mbare were recently forced to sign the petition or risk losing their stalls to Zanu PF youths.
Those who sell food at the popular Mereki Shopping centre in Warren Park D are in the same predicament.
They are being forced to attend meetings on Wednesdays and Saturdays at Warren Park Primary School where they are told to vote for Zanu PF in the next elections. [...]
- [SW Radio Africa, Harare descends into chaos as ZANU PF militia loot shops, 07/02/2011](#)
[...] Harare came to a standstill on Monday when a ZANU PF mob engulfed the city in chaos, destroying property worth thousands of dollars, mainly belonging to foreign owned companies.
Our correspondent Simon Muchemwa told us that dozens of shops were looted when the ZANU PF militia went on a rampage, as police details stood by watching ordinary people and shop owners being abused and brutalised. Shops belonging to Zimbabweans were also caught up in the crossfire.
The attacks on foreign nationals could easily be construed as xenophobic, according to our correspondent. Muchemwa said the mob, dressed in ZANU PF regalia, were chanting revolutionary and party songs and did not try to hide their identity. The marchers were carrying banners aimed against foreigners. Some of them read; 'No to foreigners controlling our economy' and 'Foreigners, sanctions have destroyed our economy so we want to control our wealth.' [...]
The militia is using Mbare as a launching pad for most of the attacks centered on the capital. The rowdy militia, led by the Mbare based Chipangano youth, are housed at Carter House, a Harare city council boarding facility that has been taken over by ZANU PF.

III-treatment of persons perceived to support the MDC

- [Washington Post, US Embassy slams Zimbabwe police over violence; group reports cases of assault, intimidation, 30/09/2011](#)
[...] HARARE, Zimbabwe — The U.S. Embassy in Zimbabwe on Friday criticized police and judicial officials for failing to stop escalating political violence, as a human rights group said it had documented more than 20 cases a day of assault, intimidation and torture.

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In a statement, the embassy said that militants backing longtime President Robert Mugabe's ZANU-PF party had created a climate of fear and intimidation, particularly in the western Harare township of Mbare. The militants there are "unrestrained" by police and are extorting local traders, it said.

"If left unchallenged, actions such as these lend credence to public perceptions of ZANU-PF as a party committed to violence and intimidation unconstrained by the laws of the land," the U.S. Embassy said.

The independent human rights group Zimbabwe Peace Project, meanwhile, said 85 percent of the violence it had documented in August was perpetrated by Mugabe supporters. The group's researchers detailed assaults, intimidation and torture, as well as politically motivated theft and looting. [...]

➤ [Zimbabwean, Zanu youths grab car parks, 27/09/2011](#)

[...] Zanu (PF) youths have been accused of taking over the ownership of car parks in the high density suburbs of Kuwadzana, Warren Park and Westlea, among others, under the guise of indigenisation and empowerment.

In Westlea suburb, the invasion is said to have been orchestrated by the losing Zanu (PF) councillor known as Regina. She has allegedly appointed her son to run the car park and the families who were previously responsible for its upkeep are unemployed and struggling financially.

"They (Zanu (PF) youths) just came over night and declared that they were the new owners without giving us any form of compensation," a former car park owner said. "If one is Zanu (PF), it means that he is more Zimbabwean than the rest of us, and can do whatever he deems necessary. Empowerment should benefit all Zimbabweans not a group of elitists who are on self-enriching projects."

In Kuwadzana, the youths reportedly demanded 'protection fees' in the months running up to the take over. One youth leader who claimed to be at the helm of the car park management said their behaviour was in line with government empowerment. [...]

➤ [Zimbabwe Standard, Zanu PF in bid to recapture urban vote, 24/09/2011](#)

[...] SPIRITED attempts by Zanu PF to grab all income generating projects from the Harare City Council and parcel them out to its youths are part of an elaborate election campaign, sources in the party said last week. Zanu PF reportedly wants to integrate the youths into its patronage system, which will make them feel duty-bound to drive its often violent campaign.

Apart from wresting political control of urban areas from the MDC-T, under the strategy the youths who will become dependent on Zanu PF, will defend it in the coming elections because their livelihoods would be entirely centred on such projects.

President Robert Mugabe has said elections would be held by March next year. In cities such as Masvingo and Bulawayo, the youths are invading buildings owned by white businesspeople claiming they were doing so under the controversial Indigenisation and Empowerment Act.

In the past few weeks Zanu PF, through the shadowy Chipangano gang, has been trying to grab council facilities such as Mukambo Market in Highfield and commuter ranks in Harare.

They are already in control of several other ranks in Harare, the Green Market, Mupedzanhamo and Siyaso informal trade markets in Mbare suburb, where Chipangano operates from.

"The idea is that once the youths benefit through this patronage system they will not break away," said one Zanu PF official. "If they do so, they risk losing all they got. Zanu PF is taking advantage of the high levels of poverty and unemployment among the youths." [...]

➤ [SW Radio Africa, Minister Makone admits MDC-T powerless over ZPF youths, 21/09/2011](#)

[...] Violent thugs from ZANU PF have more power than the police and the MDC-T cannot do anything to stop them, the co-Minister of Home Affairs Theresa Makone has admitted, just a day after the Chipangano gang in Mbare assaulted minibus operators as police watched.

Speaking on SW Radio Africa's programme "Question Time", the Minister admitted that her party has no power to stop the violent youths and police are not allowed to arrest them, as long as they are furthering the ZANU PF agenda.

There is this unwritten law that is understood by ZANU PF that you cannot arrest their members. We have talked about it in parliament, in cabinet and party meetings. But what difference does it make if the hands of the police are tied," Makone said.

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She added that police officers had been assaulted on Tuesday by members of the Chipangano gang in Harare, who were beating up minibus drivers refusing to pay a fee for each trip. The incident occurred in front of the police station. [...]

➤ [SW Radio Africa, ZANU PF Chipangano gang attack minibus operators, 14/09/2011](#)

[...] A group of violent youths known to be members of the Chipangano gang from Mbare, descended on the bus terminus near the police charge office on Monday and demanded fees from minibus drivers plying the Sunningdale to City route.

It is believed the gang is attempting to control the terminus.

Although the location is next to Harare Central Police Station, the gang did not hesitate to assault drivers who resisted their demand for one dollar per trip. According to the Newsday newspaper, the gang claimed the money would be forwarded to senior ZANU PF provincial officials who had sent them.

The gang reportedly attacked rank marshals, drivers, conductors and anyone who resisted. Newsday quoted ZANU PF spokesperson Rugare Gumbo as saying Chipangano “does not belong to us” and the gang were “members of the opposition who are trying to soil the good image” of their party.

This was dismissed by the MDC-T Youth Assembly spokesman Clifford Hlatywayo, who said their supporters would have been arrested if they attempted such a stunt. He described Chipangano as “an extension of ZANU PF” as well as their “terror unit” in Harare’s suburb of Mbare. [...]

➤ [Community Radio Harare \(CORAH\), Violence rocks Machipisa, 08/09/2011](#)

[...] Political violence erupted Wednesday at Machipisa Shopping Centre in Highfield when suspected ZANU (PF) youth invaded Mukambo flea market stalls at the popular shops and beat up vendors and residents. The rowdy youths arrived in the morning and ordered everyone to vacate the market before unleashing violence on those who tried to resist.

Police officers stood by as the rampaging youths indiscriminately beat up people resulting in several people being seriously injured. According to eye witnesses, the youths were in a no-nonsense mood as they went on rampage and damaging property in the process.

In a move that showed the incident was pre-planned, the youths were supplied lunch by some unidentified people and they later left after the area had been brought to a standstill. Police reacted slowly and fired teargas to disperse people and this was only after the youths had left. [...]

➤ [SW Radio Africa, More than 20 injured after ZANU PF attack in Highfields, 07/09/2011](#)

[...] More than 20 people have been hospitalised after a ZANU PF led attack in Highfields on Wednesday, which also saw businesses being looted and shut down.

A gang of ZANU PF youths, believed to be part of the notorious Chipangano gang, were bussed into the area on Wednesday morning, before unleashing violence on market vendors and other passersby at the Machipisa shopping centre.

The gang, which eyewitnesses told SW Radio Africa was led by Chipangano leader Jim Kunaka, looted and damaged market stalls and indiscriminately beat up anyone in their way.

A market stall owner told SW Radio Africa that riot police, who were out in force in the area, did nothing to stop the attacks. It was only after the vendors tried to retaliate to protect their property that police moved in and fired tear gas. But they fired at the victims of the attack.

SW Radio Africa’s Harare correspondent Simon Muchemwa said that the police presence was high because the Chipangano gang had sent out warnings earlier this week that they would target Machipisa. The ZANU PF youths apparently warned that they would come to take over the market stalls as part of the party’s ‘indigenisation’ drive. It would appear that to Chipangano, black Zimbabweans at the Machipisa shopping centre are not regarded as indigenous.

Muchemwa explained that the violence in Highfields is not an isolated attack, adding that ZANU PF attacks have been reported almost every day since last Thursday.

“Last week MDC supporters were beaten in Budiriro when they put up posters ahead of a rally for Welshman Ncube’s party. And then at the rally on Saturday, more people were taken away and seriously beaten,” Muchemwa said.

➤ [Voice of America News, Violence Reported in Harare as Mugabe Calls for Peace, 06/09/2011, 06/09/2011](#)

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[...] President Robert Mugabe opened a new session of Zimbabwe's parliament Tuesday saying there should be no more political violence. But shortly before he spoke, members of his ZANU-PF party were beating up members of the public, as well as a freelance journalist and a city councilor, in a small park opposite parliament.

President Robert Mugabe arrived at parliament accompanied by a traditional cavalcade of mounted soldiers and the presidential guard to open a new legislative year.

As he was getting out of his vehicle, crowds of his ZANU-PF supporters, some dressed in party regalia, were throwing stones and beating up some members of the public walking through the central park, called Africa Unity Square. [...]

A member of the security team protecting the party leadership, who spoke on condition of anonymity, was in the city center monitoring the violence.

"What I saw there it was actually terrible, people were being harassed in the park, Africa Unity Square by ZANU-PF people," he said.

He said the violence continued against civilians as Mugabe and his wife Grace arrived outside parliament.

"They were singing party songs and slogans and if you failed to answer the slogan then they will start beating you, even stones they were throwing, everything," he said. [...]

➤ [Daily News, MDC youths attacked, 04/09/2011](#)

[...] Harare's high density suburb of Budiriro was on Thursday evening besieged by suspected Zanu PF youths who went on a rampage attacking suspected mainstream MDC supporters who were putting up posters advertising the party's weekend rally, according to Senator Obert Gutu, the party's provincial spokesperson.

The rally is scheduled for Sunday in Highfield.

The Zanu PF youths pulled down posters and attacked the MDC youths leaving seven of them seriously injured, two of them without their front teeth. [...]

➤ [SW Radio Africa, Mob of 15 soldiers runs riot in Mbare, 31/08/2011](#)

A group of 15 soldiers from the Zimbabwe National Army besieged a family home in Mbare and assaulted residents in retaliation for the alleged attack on a fellow soldier on Sunday. Two people are reported to have been hospitalised while the whereabouts of a third victim, also seriously injured, are still not known. [...]

In March this year a group of 22 soldiers ransacked a lodge in Harare, robbing, assaulting and raping women who were guests there. Two of the soldiers were caught and charged. Fungai Kashitigu and Kennedy Chitsaka based at Mounted Unit Regiment at Inkomo Barracks, had teamed up with the other soldiers and targeted the lodge on the 6th March.

Its now a common occurrence in Zimbabwe that when a soldier is involved in an altercation while alone they go back to the barracks and mobilise fellow soldiers to go and retaliate. In most cases the intended targets will have long left the scene and innocent bystanders are assaulted. These incidents also highlight the general lawlessness in the country. [...]

➤ [The Zimbabwean, 'Fresh assault on Operation Murambatsvina victims', 30/08/2011](#)

[...] Police have arrested three residents of Hopley Farm on the outskirts of Harare in what lawyers described as a fresh assault on Operation Murambatsvina victims.

Zimbabwe Lawyers for Human Rights (ZLHR), who are battling to secure the release of the three, said police were yet to disclose the nature of the charges faced by the trio.

Vengesayi Chingorima, Laston Chongo and Rodrick Mhurushoma were still detained at Harare Central Police Station by last night, according to ZLHR.

"Their arrest followed resistance by some Hopley residents who questioned and opposed the partisan parcelling of residential stands of Zone 5 at Hopley Farm, where some Zanu PF supporters distributed and sold residential stands along political lines on Saturday 27 August 2011," said ZLHR in an alert.

Tawanda Zhuwarara, a lawyer with ZLHR, said one was supposed to produce a copy of the Zanu PF party card to benefit from the partisan allocation.

Those who could not produce a copy of the Zanu PF party card were turned away, said Zhuwarara. [...]

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➤ [Zimbabwe Peace Project, Summary on Politically-Motivated Human Rights and Food-Related Violations July 2011, 21/08/2011](#)

Politically motivated tensions have remained very high in Harare Province where Zanu PF has upped their campaigns in the areas of Mbare, Epworth and Mabvuku-Tafara. During the month under review there were 81 incidents of politically motivated human rights violations down from the 85 witnessed in June.

The height of the political intolerance was when a group of Zanu PF supporters stormed the Parliament Building and caused the abandonment of a public hearing on the proposed Zimbabwe Human Rights Bill. The rowdy Zanu PF supporters stormed the august House and beat up legislators and journalists in the full view of the police who did not arrest anyone during the fiasco.

Violence still continues in Mbare and sometimes victims report to police who are not arresting the perpetrators because they are known members of the notorious Chipangano group of Zanu PF supporters.

➤ [The Zimbabwean, UNICEF children assaulted by Zanu \(PF\) agents, 12/08/2011](#)

[...] Children wearing Unicef T-shirts have become the latest target of state agents in Harare. The shirts had been handed out to members of the Youth Parliament and also to school children, but many are afraid to wear the garments in public. [...] A flower seller who runs a stall across from Meikles Hotel told The Zimbabwean that she had seen several incidents in the city.

"Just this week we have seen it again. Men in plain clothes and aged in their 30s beat up the kids wearing Unicef T-shirts," she said. "From our tables we saw the whole thing and the men did not seem to care. They told the boys that next time someone would die." [...]

➤ [Daily News, Zanu PF unleashes violence, 24/07/2011](#)

[...] President Robert Mugabe's Zanu PF supporters stormed Parliament in Harare yesterday, beating MPs and journalists while women traders were rounded up in Mbare and forced to attend their party meeting, as the political situation in the country deteriorates further.

The Zanu PF mob caused mayhem inside parliament, forcing the cancellation of business.

The violent scenes at parliament and in Mbare are the latest in a string of violent events that have spread as far as Mutare, Chinhoyi and Masvingo, where Zanu PF supporters forced parliamentary committees from carrying out public hearings on human rights issues.

Human rights groups, churches and political parties have also reported a spike in cases of politically motivated violence by Zanu PF and state security agents since Mugabe started hyping talk of imminent elections. [...]

Visibly drunk, and in a clearly planned pattern, the mob beat up people in front of the police, who did not arrest anyone. [...]

➤ [Zimbabwe Peace Project, Summary on Politically-Motivated Human Rights and Food-Related Violations June 2011, 23/07/2011](#)

[...] Zanu PF has upped its campaign mode in Harare Province and this can be evidenced by the number of human rights violations attributed to the party supporters during the month under review. There was a marked increase in cases reported in June, to 85 from the 49 witnessed in May.

There also a partisan and selective application of the law by the police in favour of Zanu PF as evidenced by the arrests of MDC-T activists and officials during the month. Police continued to target known MDC-T activists in Glen View accusing them of murdering a senior police officer in the suburb in May.

The search of the Glen View police officer murderers moved to Highfield where the police arrested and detained 35 MDC-T activists who were attending a funeral of a colleague in Cherima near ShirichenShops. The victims were taken to Machipisa Police Station where they were vetted for having taken part in the murder of police Inspector Petros Mutedzi but they were all later released without being charged.

The Minister of State in the Prime Minister's Office Jameson Timba was arrested on charges of undermining the authority of President Robert Mugabe only to be released after the High Court ruled the arrest to be unlawful.

There has been a marked increase in cases of assault, harassment and intimidation in the province and most of the cases were being perpetrated by Zanu PF supporters in Mbare, Epworth, Tafara-Mabvuku and Harare North constituencies. Most informal traders from Mupedzanhamo, Siyaso and Mbare Musika are now struggling to make ends meet as most of their time is being spent on attending forced Zanu PF

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meetings. From Harare North and in Hatcliffe most people who own houses through cooperatives are being threatened with evictions if ever they fail to attend Zanu PF meetings and buy party cards. [...]

➤ [Zimbabwean Election Support Network, Ballot Update, June-July Issue 2011](#)

[...] In some settlements such as Caledonia and Bobo in Mabvuku Harare, residents are threatened with eviction if they do not support ZANU PF. This amounts to intimidation and has implications for elections held in this environment. [...]

➤ [SW Radio Africa, ZANU PF youth terrorise Harare residents meeting, 27/06/2011](#)

[...] People who attended a Harare Residents Trust meeting (HRT) were left terrified after ZANU PF youths gate crashed the event and beat up guests and members.

The meeting was held on Saturday at the Mbare Netball Complex, with the aim of discussing issues affecting residents, such as the problems with power shedding and refuse collection. Officials from local government and the Zimbabwe Electricity Supply Authority were also among those present.

However, a ZANU PF mob appeared and unleashed terror. Among those who were severely beaten was Precious Shumba, HRT co-ordinator and founder, who had to be taken to hospital. Although now discharged he is still too unwell to attend work.

Simbarashe Majamanda, the HRT's membership officer, said: "A group of ZANU PF youths came to Mbare Netball Complex, singing revolutionary songs with missiles and they blocked the exit. After five minutes they stormed into the stadium and started beating up people, starting with the people who were at the VIP stand and they moved onto the participants. People started jumping over the durawall and in the process so many were injured." [...]

➤ [Zimbabwe Peace Project, Summary on Politically-Motivated Human Rights and Food-Related Violations May 2011, 24/06/2011](#)

[...] Political tensions have remained very high in Harare Province as witnessed by the levels of violence and human rights abuses recorded during the month of May. Although the number of cases of assault, harassment and intimidation has decreased from 61 recorded in April to 49 during the month under review, the situation has remained very tense.

What is more disturbing is that the security forces have increased human rights violations with impunity. Since Zanu PF is pushing for elections this year, state security agents are reportedly geared up for a violent election campaign with clear selective application of the law and disrespecting the rule of law in favour of Zanu PF.

At the beginning of the month soldiers ran amok in Chitungwiza South constituency after the death of one of their own from 1 Command Brigade. The deceased was allegedly murdered by a suspected MDC-T sympathizer at Unit L shops. The soldiers from the same Brigade descended heavily on people in Chitungwiza indiscriminately assaulting civilians for no apparent reason. The soldiers vowed to revenge the death of their colleague.

Towards end of month the Police went on the rampage again in Glenview South Constituency, after the death of Inspector Petros Mutedzi who was murdered by unknown assailants. The police immediately reported that the suspects were MDC-T activists before investigations had been carried out.

The police went on to unlawfully arrest and torture known MDC-T activists in the Constituency, in most cases these activists were swooped on in dawn raids that rounded more than 25 MDC-T activists in the constituency and nearby constituencies. Police again in May published what they called the political violations list where they only listed MDC-T supporters as the perpetrators of violence.

In preparation for the coming elections which Zanu PF wants to impose this year, Zanu PF have re-established base camps in most constituencies, where people perceived to oppose the party are assaulted and raped as what happened in the lead up to the 2008 presidential run-off.

The terror in Mbare is still cause for concern in particular the manner in which the local authority has been deprived of resources that used to be raked in through farmers bringing produce at the market, who booked overnight accommodation at Carter House. Residents in Mbare say they avoid passing through the facility as they run the risk of being called in by the youths that are always on guard. Most residents state that the majority of people who use the road past Carter House are visitors to the suburb. Most residents are reported to be living in fear because youths belonging to Zanu PF are always toying and rounding

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up young people even some as young as twelve. Most residents who have young girls fear that that if their children are rounded they run the risk of being turned into cooks and sleeping partners at night. [...]

➤ [Human Rights Watch, Zanu-PF: It's time to take decisive action, 13/06/2011](#)

[...] The GPA calls for an end to violence and other abuses as well as the holding of peaceful elections. However, Human Rights Watch has documented numerous incidents of politically motivated violence by ZANU-PF and its allies against real or perceived MDC supporters throughout the country. In the past six months, ZANU-PF-controlled police have arbitrarily arrested scores of civil society activists and routinely threatened and harassed MDC members and supporters. [...]

➤ [Radio Vop, Police Blocks Tsvangirai's Rally Attendance, 06/06/2011](#)

[...] Zimbabwe Republic Police (ZRP) succeeded in barring the Movement for Democratic Change (MDC-T) president and Prime Minister Morgan Tsvangirai to attend his party's much publicised rally on Saturday after police told him to avoid criticising President Robert Mugabe and stop his from marching. [...] Officials said more supporters could have attended were it not for the intimidation by Zanu (PF) militias who attacked people who were making their way to the venue.

"Before the rally kicked off, Zanu (PF) youths at Machipisa shopping center assaulted six members of the MDC who were going to the people's real change peace rally at Zimbabwe grounds in Highfield," the party said in a statement issued after the rally. [...]

➤ [SW Radio Africa, ZANU PF turn Mbare into a war zone, 31/05/2011](#)

[...] Dozens of rampaging ZANU PF youth militia invaded the Harare suburb of Mbare over the weekend, beating up and displacing suspected MDC-T supporters from their homes. The youths are reported to have declared Mbare a no go area, leaving many of their victims homeless. Perceived MDC-T supporters running market stalls are also having their goods looted and tables taken away.

Leading the violence is a well known ZANU PF activist and council employee known as Chirwa, who works as a mortuary attendant. The gangsters are evicting MDC supporters and taking over their council houses and the houses are then given to ZANU PF supporters to use. In one incident reported by the Daily News, a man came back from work only to see his property chucked outside and "the door of his house ajar –and saw a strange woman coming out of the door."

Local Senator Morgan Femai told SW Radio Africa on Tuesday that the violence has not stopped and people are still being beaten up every day. He told us that people in the area are not only having their vending stalls raided and goods looted, but they are being forced to attend ZANU PF meetings on a daily basis. For example people were forced to close down their market stalls and attend a ZANU PF meeting at Mai Musodzi Hall. [...]

➤ [Daily News, Chaos in Zimbabwe, 30/05/2011](#)

[...] The high density suburbs of Glen View and Mbare resembled war zones at the weekend, as mounting political violence resulted in the death of a policeman.

Confirming the death of one of their members last night, police apportioned the blame for this tragedy on MDC youths – alleging that the deceased officer had died on admission to Harare General Hospital after he had been stoned and beaten by a chair by the former opposition party's youths. [...]

One of the eyewitnesses who spoke to the newspaper said some youths from the MDC were in a bar at Glen View 3, after attending the peaceful meeting when policemen bolted in and ordered the patrons to disperse.

"The police accused the people of holding a public gathering without permission and started dispersing the people, resulting in the people retaliating.

"One of the policemen was severely beaten and there were a lot of people who joined in the beating, including vendors and other people. There was total mayhem in the bar and outside," he said, refusing to disclose his name for fear of being targeted.

The Glen View clashes came as fresh reports of violence were being reported in Mbare, where Zanu PF militia have declared the area a no-go zone for MDC supporters.

It emerged last night that dozens of suspected MDC supporters had been displaced at the weekend by the rampaging Zanu PF vigilantes - and were now homeless. [...]

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- [SW Radio Africa, MDC-T activists arrested at a funeral wake in Harare, 20/05/2011](#)

[...] There was pandemonium in Warren Park on Thursday when overzealous police swooped on a group of mourners and arrested 35 of them, following disturbances with ZANU PF youth. [...] Our correspondent Simon Muchemwa said since both father and son were staunch MDC-T supporters, most of the mourners at the funeral wake wore party regalia and were singing and chanting MDC songs and slogans. 'We are being told that at some point there was clash between mourners and members of ZANU PF's notorious Upfumi Kuvadiki group (a shadowy so-called empowerment group). This group threw stones at the mourners and some vehicles were damaged. 'The group quickly fled the scene only to phone the police that they were attacked by MDC activists. So when the police came they just picked up the mourners and took them to Warren Park police station,' Muchemwa said. [...]
- [The Zimbabwean, Zanu PF youth militia "witch hunt" MDC supporters, 03/05/2011](#)

[...] Zanu PF youth militia in Mbare, Harare have launched a "witch hunt" on MDC supporters who attended the just ended MDC Third National Congress that was held in Bulawayo at the weekend. An MDC supporter from Matapi flats who preferred anonymity said all MDC supporters in the area are living in fear as they were being forced to attend Zanu PF's all night vigils for the past three days. Those who do not attend are being threatened with expulsion from the flats as the youths claim that the flats belong to Zanu PF when they are council property.
- [SW Radio Africa, ZANU PF supporters invade MDC plots in Epworth, 20/04/2011](#)

[...] Residents of Harare's Epworth township, suspected of being MDC supporters, on Tuesday lost plots of farm land to a gang of ZANU PF supporters who invaded the area and threatened them with death. The gang was allegedly helped by suspected "soldiers" in army uniforms and members of the local neighborhood watch committee. [...] The gang in Epworth allegedly forced residents to attend celebrations at the National Sports Stadium on Monday. They shoved people into mini buses and then beat them as they tried to make their own way home. [...]
- [SW Radio Africa, Police disrupt praying for peace church service, arrest 9 and teargas Glen-Norah B, 09/04/2011](#)

[...] A truckload of about twenty (20) armed riot police officers today, 9 April 2011, violently descended and disrupted the Praying for Peace to Save Zimbabwe Church Service at the Church of Nazarene, in the high-density suburb of Glen Norah. An estimated, flock of 500 including 4 Bishops and 46 pastors, from Harare, Mutare, Bulawayo and Gweru had congregated at The Church of Nazarene to pray for peace amidst the resurgence and escalation of politically motivated violence, arrests, polarization and the general breakdown of peace. [...] The Coalition contends that the reasons behind the violent disruption were clearly contrived and serves the narrow political interests of section of the regime who are full of paranoia. The Public Order and Security Act (POSA) exempts' church services from the need to be cleared by the police or for them to be notified of the activities of the church. The heavy-handed disruption of the church services is a shameful violation of the constitution of Zimbabwe, which allows for freedoms of religion and worship. [...]
- [SW Radio Africa, At least 14 MDC hospitalized after cemetery attacks by ZPF, 07/04/2011](#)

[...] Details have been revealed of how ZANU PF youths and "armed men in riot gear" brutally attacked innocent civilians on Wednesday, at a memorial service for five MDC members who were murdered during the 2008 election period. A statement by the MDC-T said party supporters at Warren Hills cemetery were performing the traditional Shona ritual of "unveiling of tombstones" for the deceased when the attack started. Teargas and baton sticks were used in the violent assaults, causing 14 people to seek treatment at a local Harare hospital. According to the MDC there had been no provocation from their members. [...]
- [SW Radio Africa, 15 hospitalised as ZPF youths & police disrupt MDC-T rally, 21/03/2011](#)

[...] Prime Minister Morgan Tsvangirai's party was forced to postpone to next week Sunday a planned peace rally at the Glamis Stadium in Harare, after ZANU PF youths and riot police camped at the venue and beat up party supporters who tried to attend.

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Close to 15 people were admitted to hospital with serious injuries while three are said to have been abducted and taken away in ZANU PF trucks. Our correspondent Simon Muchemwa witnessed some of the violence, telling us ZANU PF youths undressed a woman who was passing by, leaving her naked. [...]

➤ [Zimbabwe Standard, Blow for Tsvangirai As Court Stops Rally, 20/03/2011](#)

[...]Zanu PF youths sealed the area early in the morning and severely beat up anyone who walked past the open space near Rainbow Towers, the proposed venue for the rally.

Several people were injured as the Zanu PF youths attacked even passers-by while riot police watched from a distance. [...] By 7am both police, in armoured cars, and the Zanu PF youth militia had already camped in the area. [...]

➤ [SW Radio Africa, ZANU PF shuts down Harare for 'sanctions' rally, 02/03/2011](#)

[...] Robert Mugabe's ZANU PF on Wednesday shut down Harare for the party's 'anti-sanctions' rally, with thousands of people bussed into the capital to demonstrate against the targeted measures.

Hundreds more people were forced to attend the rally, where Mugabe launched the party's campaign against targeted restrictive measures in place against him and his cronies. [...]The MDC's information department on Wednesday said it was "overwhelmed by a number of calls from Harare motorists and residents reporting acts of harassment and intimidation for their reluctance to join the ZANU PF side-show and non-event." The party said that shop-owners in Avondale were forced to temporarily lock up their doors after truckloads of reportedly drunken ZANU PF youths stormed the shopping centre and ordered people to attend the rally.

Newspaper vendors in the city centre were also forced to flee for safety following an attack by ZANU PF gangs, who ordered them to attend the rally. According to the MDC, one of the vendors was said to have been assaulted and "could be seen bleeding profusely." Another vendor had to seek refuge at the NewsDay newspaper offices. [...]

➤ [Human Rights Watch, Zimbabwe: Free Activists Charged for Viewing Mideast Video, 24/02/2011](#)

[...] Authorities controlled by the Zimbabwe African National Union- Patriotic Front (ZANU-PF), the dominant party in Zimbabwe's power-sharing government, should drop politically motivated charges and release activists arrested for viewing a video on events in Egypt and Tunisia, Human Rights Watch said today. [...] The February 19 arrests took place after police raided an academic meeting in Harare at which a video on events in Tunisia and Egypt was shown. The police confiscated computers and other equipment and arrested everyone there, including Munyaradzi Gwisai, a labor activist, and Hopewell Gumbo, a social justice activist. A relative of one of the arrested activists who was able to speak to him while he was in custody told Human Rights Watch that he said the police beat some of those arrested during their first two days in custody.

Forty-five of the 46 activists were formally charged either with treason or with attempting to overthrow the government by unconstitutional means. Conviction for treason under the law, section 20 of the Criminal Law (Codification and Reform) Act, carries a penalty of life in prison or death. Conviction for attempting to overthrow the government by unconstitutional means, section 22(2) (a)(i) of the Criminal Law (Codification and Reform) Act, carries a penalty of up to 20 years in prison. Lawyers informed Human Rights Watch that they were initially denied access to those detained. [...]

➤ [Amnesty International, Urgent need for security sector reform to stem human rights abuses, 11/02/2011](#)

[...] Two years since the unity government was set up in Zimbabwe, Amnesty International is concerned about lack of progress in implementing key reforms to address the legacy of human rights abuses. The hope for an end to a decade of human rights abuses that greeted the unity government two years ago, is rapidly fading away and has been replaced by fear and instability amid talk of another election in 2011. In recent weeks, supporters of President Robert Mugabe's ZANU-PF party in Harare have targeted perceived supporters of the MDC-T formation led by Prime Minister Morgan Tsvangirai, with violence with the tacit approval of the police.

On 21 January 2011, Amnesty International delegates witnessed one such incident of violence where ZANU-PF supporters protesting at Harare's Town House were beating members of the public in the presence of anti-riot police. A high school student was beaten by the mob for taking a photograph, while a

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young woman wearing an MDC-T t-shirt was beaten and stripped. Anti-riot police monitoring the 'protest' did not intervene to assist the victims. The two were seriously injured and needed medical treatment.

It is an open secret that ZANU-PF supporters who use violence against members of the public or their perceived political opponents are beyond the reach of the law. Police continue to selectively apply the law – turning a blind eye to violations by ZANU-PF supporters while restricting the work of human rights organisations and the activities of other political parties. Amnesty International has received reports from Harare's high density suburb of Mbare where MDC-T supporters were attacked and some forcibly evicted from their homes by ZANU-PF supporters. Police failed to protect those attacked and even arrested victims who came to report the incidents. [...]

➤ [Mail & Guardian, Zanu-PF's new coercion tactic, 11/02/2011](#)

[...] The large, tattered poster of Robert Mugabe flying above one of the country's largest markets in Mbare, Harare's oldest suburb and an opposition stronghold, was a sign of yet another victory for Mugabe's local militia in their violent bid to take control of the city's pro-opposition townships.

In Harare's crowded townships Zanu-PF is using a combination of violence and extortion, barring suspected opposition supporters from trading in the markets and launching attacks on their homes and businesses. The attacks, which worsened at the weekend, have left dozens injured and have driven many from their homes.

Early this week a mob rampaged through downtown Harare, targeting businesses owned by West African and Chinese nationals, who dominate much of the downtown retail businesses.

Looters hit a crowded downtown mall known as the Gulf, where hundreds of traders sell wares such as cheap clothing and electronics imported from China and Dubai. Newspaper vendors selling the independent NewsDay daily in the area were also attacked and had their newspapers seized. [...]

With the bulk of Zimbabwe's urban population living off informal trade, Zanu-PF is looking to control the city's produce and flea markets. To secure a stall at some markets, a trader needs a Zanu-PF membership card. For protection, some traders display a poster of Mugabe or a Zanu-PF flag. [...]

➤ [Zimbabwe Lawyers for Human Rights, Police Raid and Detain Internally Displaced Persons, 08/02/2011](#)

[...] Police on Monday 07 February 2011 raided church premises in Glen Norah suburb, in Harare where at least 100 supporters of the Movement for Democratic Change (MDC) party were seeking refuge after fleeing from their homes in Mbare suburb due to the wave of political violence that erupted in that area and other high density suburbs in Harare since mid January 2011.

As a result of this violence residential homes and other properties were destroyed and some victims were also stripped of their means of livelihood.

The police surrounded the church premises at around 18:00hrs and indiscriminately without any just cause started to mercilessly assault some of the internally displaced persons (IDP)'s, who were present at the church.

At least 51 people were then taken to Glen Norah Police Station and they were not at any time advised of their circumstances-of being placed in police custody, charges being faced or whether they were under arrest. Of those taken to the police station, 27 were males while 24 were females. These included 11 minor children aged between seven months and 15 years of age.

The 51 Internally Displaced Persons were released without any charges being leveled against them at around mid-night on 07 February 2011, after Zimbabwe Lawyers for Human Rights (ZLHR) intervened. Their names, identification (ID) numbers and previous residential addresses were recorded and they were sternly warned not to perpetrate violence in Glen Norah. The police also asked general questions relating to who was sponsoring food, blankets and other amenities for them.

When lawyers queried the reason for detaining the people, police indicated that they merely wanted to inquire into the circumstances leading to the internally displaced persons being at the church premises in question. [...]

➤ [Radio Vop, Zanu \(PF\) Mbare Youth Demand Mugabe's Birthday Donations, 04/02/2011](#)

[...] Zanu (PF) youth popularly known as Chipangano are visiting vendors in Mbare demanding President Mugabe's birthday donations and voter registration receipts for the forthcoming referendum to choose a new constitution for Zimbabwe.

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Radio VOP on Thursday witnessed the rowdy Zanu (PF) Mbare youths visiting each vendor at Mbare vegetable market demanding US\$ 1 donations for Mugabe's 87th birthday celebrations known as the 21st February movement. [...]

- [SW Radio Africa, Taxis and minibuses ordered to play ZPF music & display flag, 04/02/2011](#)

[...] Taxi drivers and commuter omnibus crews were recently ordered to play ZANU PF songs in their vehicles and to always display the Zimbabwe flag. SW Radio Africa correspondent Simon Muchemwa said members of the Commuter Omnibus Association and taxi drivers were ordered to attend a meeting in Harare that was addressed by 'rank marshals' who manage traffic at bus terminals. They were told that it is now mandatory to play music praising ZANU PF and to display a Zimbabwean flag in their vehicles, if they want to pick up passengers at the bus terminals. Muchemwa said specific songs were recommended, including the new ZANU PF album produced by Sani Makalima. Music by the "Born Free Crew", played continuously on the state run ZBC radio and ZTV, was especially recommended. "It appears ZANU PF is trying to appeal to the youth in urban areas who traditionally vote for the MDC, by speaking their language through music," said Muchemwa. The Harare based correspondent has also been monitoring the wave of violence that has engulfed Mbare high-density suburb in the last few weeks. Muchemwa spoke to Mbare residents who said the recent attacks were orchestrated by the notorious Chipangano gang of ZANU PF youths. The locals, who chose not to be identified, said Chipangano is being used to assault, intimidate, torture or evict any Mbare residents suspected of being MDC supporters or activists. The members are well known to locals and to the police, who are under orders not to interfere with their activities. Muchemwa said the top gang leaders receive special favours from ZANU PF officials. But lower ranks take advantage of their immunity by looting and confiscating products from innocent street vendors. [...]
- [SW Radio Africa, ZANU PF youths being trained at Inkomo army barracks, 03/02/2011](#)

[...] The mobs of violent ZANU PF youths who are causing chaos in Harare and other urban centres were trained for two months outside Harare, at the Inkomo army barracks, SW Radio Africa can reveal. Leaked confidential documents show that Mugabe's regime has since November 2010 been recruiting impoverished youths from rural areas and giving them military training. [...] Already some of the graduates have helped beat up MDC activists at the party's offices in Mbare, destroyed the house of local councillor Paul Gorekore over the weekend and disrupted council business at Harare's Town House on Wednesday. We have been told 70 youths were trucked into Mbare from the Inkomo barracks, using a white Nissan UD registration number AAM 7901. Apart from terrorizing opposition supporters, the youths have been tasked with forcing people to purchase ZANU PF membership cards, ahead of possible elections. [...]
- [IRIN, New Surge in Political Violence, 31/01/2011](#)

[...] The Southern African Coalition for the Survivors of Torture, a Zimbabwean rights group, said in a recent statement that the incidence of politically motivated violence increased in Harare in January, and alleged that at least one person aligned to the MDC was shot, several were assaulted and many others were threatened, but the police refused to intervene. [...]
- [Zimbabwe Independent, Violence flares in Harare, 27/01/2011](#)

[...] HARARE has witnessed a resurgence of politically motivated violence and intimidation after Zanu PF launched its not-so-subtle 2011 election campaign across the country code-named "Operation Ngatizivane", the Zimbabwe Independent can reveal. "Operation Ngatizivane" requires all eligible voters in a ward to be recorded in a Zanu PF membership ward register so that the party can supposedly follow up on its members. The operation comes hard on the heels of the party's December conference that resolved that elections should be held this year. The operation triggered clashes between Zanu PF and MDC youths at the weekend in many high density suburbs across Harare. Violence was recorded in Budiro, Chitungwiza and Mbare at the weekend when youths from Zanu PF and the MDC-T clashed.

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A number of people were injured while houses and property has been destroyed with the MDC-T accusing the police and soldiers of taking part. In Epworth, suspected war veterans and youths have threatened to evict residents regarded as MDC-T supporters. [...]

In Epworth, MDC-T youth Samson Ketulo said suspected war veterans were forcing residents to attend Zanu PF meetings at a Zanu PF base at Dhonoro. [...]

➤ [Radio Vop, MDC Youth Leader Shot As Violence Escalates, 23/01/2011](#)

[...] MDC-T youth leader William Mkwari was shot and injured on Saturday evening allegedly by a group of uniformed soldiers who opened fire at dozens of party youths who were dispersing from a party meeting in Harare's high density suburb of Budiro. [...]

Evidence of ZANU-PF campaign bases

➤ [Zimbabwe Peace Project, Summary on Politically-Motivated Human Rights and Food-Related Violations May 2011, 24/06/2011](#)

[...] In preparation for the coming elections which Zanu PF wants to impose this year, Zanu PF have re-established base camps in most constituencies, where people perceived to oppose the party are assaulted and raped as what happened in the lead up to the 2008 presidential run-off. [...]

➤ [SW Radio Africa, Harare descends into chaos as ZANU PF militia loot shops, 07/02/2011](#)

[...] The militia is using Mbare as a launching pad for most of the attacks centered on the capital. The rowdy militia, led by the Mbare based Chipangano youth, are housed at Carter House, a Harare city council boarding facility that has been taken over by ZANU PF. [...]

➤ [SW Radio Africa, ZANU PF youths being trained at Inkomo army barracks, 03/02/2011](#)

[...] The mobs of violent ZANU PF youths who are causing chaos in Harare and other urban centres were trained for two months outside Harare, at the Inkomo army barracks, SW Radio Africa can reveal. Leaked confidential documents show that Mugabe's regime has since November 2010 been recruiting impoverished youths from rural areas and giving them military training. [...]

➤ [Radio Vop, Violence Intensifies As Zanu \(PF\) Prepares For Elections, 30/01/2011](#)

[...] In most of Harare's high-density suburbs, Zanu-PF has set up militia bases where drunken youths are reportedly terrorising residents. [...]

➤ [Zimbabwe Independent, Violence flares in Harare, 27/01/2011](#)

[...] In Epworth, MDC-T youth Samson Ketulo said suspected war veterans were forcing residents to attend Zanu PF meetings at a Zanu PF base at Dhonoro.

"There is a popular base at Dhonoro where the (Zanu PF) party members meet occasionally and those perceived to be MDC-T supporters are taken and threatened," he said. "In Ward 2, especially the Domboramwari area, they are going around telling landlords that notices should be given to tenants who support MDC-T to vacate the area. They tell people that the GPA is expiring on 15 February and there won't be anything called an inclusive government and Zanu PF will be the only party ruling." [...]

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Housing Situation

- [Zimbabwe Herald, Let's Take Action Against Urbanisation Challenges, 28/07/2011](#)
[...] Residents of Matapi and Tandarai Flats in Harare and Marondera respectively, are living in squalid conditions. [...] Another pertinent challenge in urbanising Zimbabwe is housing. A descent house is one of the basic requirements for human life. As of 2010, Harare had a housing deficit of about 661 000 (The Herald, October 6, 2010). The majority of urban dwellers are lodgers. A number of people living in towns are staying in sub-standard houses. Some are squatters in illegal shacks built on the outskirts of the city, for example in Epworth, Dombotombo and Mabvuku.
- [Financial Gazette, Govt Reviews Rent Board Regulations, 20/07/2011](#)
[...] According to the Medium Term Plan launched last week, the Zimbabwean housing sector has been characterised by inadequate affordable and decent housing, low level of urban home ownership and inappropriate dwelling units.
The increase in population in most urban areas has led to an escalation of demand for housing while the construction industry has not been performing well due to shortages of key raw materials, high operational costs, skills flight after most skilled personnel left the country seeking greener pastures and also the downsizing within some construction companies which retrenched workers due to dwindling business. [...]
- [Amnesty International, Six years on victims of Operation Murambatsvina still struggling to survive, 19/05/2011](#)
[...] Survivors of the devastating programme of forced evictions known as Operation Murambatsvina, continue to endure deplorable living conditions, without access to basic essentials services and they remain at risk of further forced evictions. Residents of Operation Garikai settlements, the programme created to resettle some of the victims of the forced evictions following international criticism, are continuing to face daily violations of their right to adequate housing.
Operation Garikai settlements are characterized by large numbers of plastic shacks which have housed entire families since 2005 despite having been erected as temporary shelters. After six years they are torn and soiled, with scraps of material in place to keep out the wind and rain. In bad weather families crammed into the tiny structures have little protection from the elements.
Research by Amnesty International in 2010 discovered a high incidence of newborn deaths in one Operation Garikai settlement, Hopley, on the outskirts of Harare. Women in the community revealed that they believe that the poor housing and lack of basic sanitation in the settlement contributed to the deaths of their newborn babies. Substandard living conditions are compounded by the lack of maternal and newborn healthcare within the community. [...]
- [Post Media News, Vancouver, Toronto, Calgary named among world's most liveable cities, 21/02/2011](#)
[...] A new list of the world's most liveable cities has named three Canadian locales among its Top 10, with Vancouver earning the top honour for the fifth straight year.
Toronto and Calgary came in at fourth and fifth in the annual survey by the Economist Intelligence Unit, which was released Monday.
The group ranks cities based on dozens of factors, including health care, infrastructure, culture, environment and education. [...]
Harare, Zimbabwe, is the worst place to live in, according to the report's findings. [...]

Despite the availability of extensive COI as presented above, it should be noted that only one paragraph of the OGN contains COI that post-dates the final hearing *EM and Others* (14 January 2011) as follows:

Excerpt from April 2011 Zimbabwe OGN3.6.8 The Zimbabwe Peace Project (ZPP) publishes monthly statistics of human rights violations (including murder, rape, kidnapping/abduction, assault, theft/looting, discrimination, malicious damage to property (MDP), unlawful detention,

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harassment/intimidation and displacement) in each province. Since the IAC heard the case in *EM & others* there have been reports of an increase in some forms of violence in some areas of Zimbabwe, but the current underlying situation remains the same or similar to that considered by the Tribunal in *EM & others*. It is however important that case owners ensure that they obtain the latest information about the situation in the relevant province and take that into full account in reaching decisions on asylum claims made by Zimbabweans.

This section of the OGN fails to adequately document the deteriorating security situation. Moreover it also fails to identify the relevant factors to consider when having regard to the 'latest information about the situation in the relevant province', despite the fact that these are set out in *EM and Others*.

Note that the case law identifies the relevance of power structures in applicants' rural village home areas (emphasis added):

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

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

- The 2008 election results by constituency and province can be viewed [here](#). 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* 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 Zimbabwe:

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Source	Type of source	Website's search function
Zimbabwe Situation	The Zimbabwe Situation is a comprehensive archive of news articles 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.	<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.
Kubatana Trust of Zimbabwe	<p>This is a repository of human rights reporting, organised by sector which archives over 19,000 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 sector you want to 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 • The search function supports ‘AND’ and ‘NOT’ search terms and searches for phrases (“...”).
Zimbabwean Election Support Network	ZESN is a coalition of NGOs. In addition to providing election results this has 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.
Sokwanele	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.	<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

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The case law also identifies the securing of a new election date as a relevant factor to consider:

[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.

The Zimbabwean Election Support Network provides an [Election Update](#) on its website. The following COI provides an overview of the recent announcements in relation to a proposed new election date and the current safeguards in place:

➤ [Zimbabwean Election Support Network, Ballot Update, July-August Issue 2011, 09/09/2011](#)

Electoral reforms

The Electoral Amendment Bill which was gazetted on the 27th of June is still under scrutiny and public hearings on the bill are scheduled to begin on the 12th of September 2011. ZESN encourages citizens to engage with the bill and to make recommendations for the improvement of the law in Zimbabwe. While this piece of legislation is important for electoral processes in Zimbabwe, it is important that structural problems inherent in the political makeup of Zimbabwe such as intolerance and violence be addressed as a matter of urgency.

The Human Rights Commission Bill

The Human Rights Commission Bill was gazetted on the 10th of June 2011 awaits the report from the Parliamentary Legal Committee. The public hearings on this bill were disrupted by ZANU PF activists. The major weakness that ZESN has gleaned in this bill is its inability to prevent further recurrence of violence in Zimbabwe. Indirectly, the bill protects perpetrators of violence by virtue of the temporal jurisdiction limitations. It only allows the commission to investigate human rights violations that took place after February 2009. This is one of the main controversial aspects about the bill. Disruptions were captured on CCTV but to date, those responsible have not been arrested, a clear demonstration of impunity in the country.

The GNU

ZESN continues to note with concern the fragility and problems that bedevil the GNU. The government of national unity was a model used to address the crisis that had gripped the country, however while there is a semblance of sanity in the country, tension remains. While the GNU was envisaged as the bedrock from which institutional reforms would begin, the politics of continuity prevail with resistance to reforms in the critical sectors of the country. The continued tensions were evidenced by the manner in which the parties to the GNU handled the Libya saga. The expulsion of the Libyan Ambassador from Zimbabwe exposed the ideological differences between MDC and ZANU PF. These ideological differences contribute to the widening of the cracks in the government. The National Defence Forces Day also revealed the security sector's reluctance to reform through their refusal to salute the Prime Minister Morgan Tsvangirai. The politics of continuity have led to continued hate language and intolerance in the national broadcaster, continued victimisation of MDC activists and officials as well continued disrespect for human rights in Zimbabwe. There seems to be impatience on the part of ZANU PF to end the GNU which would be premature given that Zimbabwe is not ready for elections and the constitution making process needs to be concluded before any general election is conducted. The inclusive government has failed to civilise the conflicts that led to its formation.

On a different note, ZESN is concerned about the use of the constituency development fund and the lack of accountability therein. Media reports revealed that The Minister of Constitutional and Parliamentary Affairs noted that a significant number of MPs have not been able to account for the use of funds that were allocated to them for constituency development. [...]

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The Constitution Making Process

The constitution making process continues with the following stages completed by COPAC; the compilation of ward, district and provincial reports. At the moment, national reports are yet to be compiled after which the drafting will commence. ZESN notes the exclusion of civic society in the drafting process and the manner in which the process is dominated by political parties yet civic society is an important component of the constitution making process. At a COPAC press conference held on 18 August 2011, they envisage that by the end of the year there will be a draft. The process began a year too late and has been characterised by incoherence, lack of funding and delays.

➤ [SW Radio Africa, Mugabe says elections to be held in 2012, 05/09/2011](#)

Robert Mugabe has proclaimed that elections will be held before March next year, amid concerns he could make another one of his unilateral decisions, despite the unity government.

The ageing Mugabe told his ZANU PF's National Consultative Assembly that elections would only be held after a new constitution has been adopted, but that it must be by March.

'We cannot go beyond March next year. I will definitely announce the date. Once I announce the date, everyone will follow. I have the constitutional right to name an election date with the GPA (Global Political Agreement) or no GPA,' he said.

This declaration on elections comes after reports that Mugabe is suffering from terminal cancer and is expected to die within two years. The latest Wikileaks documents reveal that Mugabe was diagnosed with prostate cancer and warned by doctors in 2008 that he had only five years to live.

➤ [Centre for Strategic and International Studies, Beyond Mugabe: Preparing for Zimbabwe's Transition, 05/08/2011](#)

[...] The legitimacy of any national poll, this year or later, depends on the completion of the Road Map recently negotiated by the MDC, MDC-Ncube and ZANU. In April 2011, after several years of South-African-influenced discussions, the negotiating partners appeared to have found the germ of an accord. The parties reportedly agreed on a core set of conditions that must be met if Zimbabwe's next elections are to be regarded as legitimate. Since April, that accord has appeared less sure, largely because of ZANU backsliding. Nevertheless, the key agreements that are being finalised include:

- A completely new, updated voters' roll, with dead and vanished voters expunged and completely revised registrations. (The current state of the voters' roll in Zimbabwe, reported the South African Institute of Race Relations, "makes fraud virtually inevitable". Of the 5.7 million voters listed, more than 2 million have left Zimbabwe or died.)
- An independent new Election Commission comprising members approved by all three parties and provided with an adequate budget.
- The deployment of foreign and SADC monitors six months before and six months after any election.
- The conclusion of a new national constitution (still being negotiated among the contending political parties) and its passage by the people in a credible national referendum (preferably with or conceivable without a new voters' roll). The MDC is prepared to hold the referendum, if necessary, without a new voters' roll. Many international observers think that is wrong, but the MDC wants to move the process forward, no matter what.
- The passage and implementation of legal amendments ending restrictions of freedom of speech and assembly and firm commitments from the security forces to respect those essential freedoms.

The April version of the Road Map included provisions mandating a period of free and open campaigning to persuade people throughout the country to register. It also stipulated the holding of elections based on a combination (still to be arranged of proportional representation and existing first-past-the post voting methods and on transparency and accountability at every stage of every process. These provisions of the Road Map, if fully implemented, suggest that a valid national election should be almost impossible this year. According to one conservative timetable, the constitution, held up in mid-2011 by ZANU machinations, may not be fully drafted until at least September. The earliest possible date for a credible referendum to ratify the new constitutional provisions would then be November 2011, given the time it will take to prepare even a rudimentary new voters' roll. The constitution must then be formally approved by Parliament, which might not happen until it reconvenes after the summer recess in February 2012. Work on the type and modalities of the poll and on voter-roll registration would follow, as would a period

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of months for registration. International monitors would then need to deploy and take charge. A legitimate election, as defined by the putative Road Map, would thus not be possible practically (given printing of ballots and training of new staff) before the end of 2012 at the earliest. This is a serious MDC calculation, but it assumes orderliness, the end of intimidation and violence, the neutralization of Mugabe's security intimidators, and many other imponderables that may prove unrealizable. Indeed as April has become July 2011, this preferred timetable seems increasingly overoptimistic.

The Road Map also includes important- albeit difficult to enforce- provisions to halt ZANU- initiated violence in the rural areas and in smaller towns and to limit the powers of the ZANU-dominated military Joint Operations Command. It provides for the appointment of a new attorney general agreeable to the prime minister, the establishment of new media-control boards, the opening of television and radio to non-state-run broadcasters, and an overall strengthening of the role of the MDC within the government of national unity. These elements are all anathema to Mugabe and the hard-line security sector leaders- the "securocrats"- who help Mugabe control the country. Indeed, early in June 2011, ZANU's security high command allegedly met together with Chinese military personnel to discuss an unfolding strategy for outwitting the MDC and stepping up pre-electoral rural intimidatory actions. If true, only a South-African-backed intervention could deter escalating violence and definitively impose the critical provisions of the Road Map. Nearly all of these tentatively agreed provisions, minus critical security sector reforms, were confirmed by the various negotiators in mid-July. It seemed that national elections would accordingly be held in late 2012. But then President Mugabe and the ZANU politburo (consisting of its key operatives and securocrats) overruled the Road Map makers and declared that the national elections would nevertheless occur in 2011. This defiance of South Africa and SADC led immediately to a firm riposte from South Africa asserting the unassailable legitimacy of the July Road Map decisions and timetable. Mugabe and ZANU's top brass hardly wish to cede power to the MDC. For them, too much is at stake. Thus the July attempt to scuttle the Road Map, sideline the new constitution and defy SADC. SADC and South Africa are further concerned (as is ZANU for different reasons) that the procedures now negotiated may well be overtaken by the demise of Mugabe before the Road Map is fully implemented. Vice Presidents Joice Mujuru and John Nkomo are in line to succeed Mugabe. Theoretically, MDC members of Parliament, empowered by the 2008 GPA, would try to play queenmaker and back Mujuru. At that point, whatever has been agreed by the Road Map negotiators would have to be reaffirmed or renegotiated in any new dispensation. A great deal depends on how willing South Africa and SADC would be to apply decisive influence during the transition and whether the MDC is able to exert itself to oppose the securocrats and forge an effective alliance with Mujuru. [...]

- [The Media Monitoring Project, Zimbabwe's election roadmap riddled with potholes,29/07/2011](#)
[...] MMPZ notes with concern that the so-called Zimbabwe Elections Roadmap With Timelines, concluded and signed by Zimbabwean negotiators to the [Global Political Agreement](#) (GPA) on July 6th, 2011 is more indicative of the disagreements between [Zimbabwe's coalition parties](#) than a clear "roadmap" to free and fair elections. In fact, it is a catalogue of the potholes that are certain to be encountered before any referendum or national elections are held rather than being an agreement on how those obstacles can be overcome.

Apart from total disagreement over sections relating to electoral and security sector reforms among other issues, MMPZ notes that the earlier agreement between the coalition partners to reconstitute the boards of the Zimbabwe Broadcasting Corporation (ZBC) and the Broadcasting Authority of Zimbabwe (BAZ) and trustees of the Mass Media Trust, which is supposed to oversee the operations of the state-run print media, have also become casualties of this flawed negotiating process. Instead of setting strict time-lines for the reformation of these boards, the parties have agreed to "defer" this essential prerequisite to democratic elections indefinitely. [...]

- [Zimbabwean Election Support Network, Ballot Update, June-July Issue 2011](#)
[...] Introduction [...] The months of June and July witnessed a number of inconsistencies regarding election dates messages and the electoral road map, which impact negatively on the nation's confidence in the Inclusive Government. Of importance was the statement by President Mugabe admonishing Parliament to leave "his" generals alone and its implications for free and fair elections in the country. During this period there was also the disturbing disruption of public hearings for the Human Rights

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Commission Bill at the Parliament building and in Masvingo. These and other political development are analysed in this Ballot Update. [...]

Electoral reforms ZESN welcomes the gazetting of the Electoral Laws Amendment Bill. While this shows efforts by political parties to right the problematic issues in the current electoral laws, ZESN notes a number of oversights on the part of the political parties negotiating on the law. The Bill does not mention a number of critical aspects that affect the electoral environment in the country. It remains silent on what defines an election period and the campaign period. The lack of such distinctive timeframes, has led to perpetual campaigns by some political parties in Zimbabwe. In addition, the Bill does not deal with structural flaws inherent in the political environment such as the role of security sector except for the police in electoral processes. A number of other issues remain grey in the Bill such as the independence of ZEC which is not provided for, the registration of voters which remains a shared responsibility between the registrar of voters and ZEC. ZEC remains tied regards accreditation to the approval of the committee without other recourse measures for those denied accreditation. ZESN advocates for ZEC to be in charge of the invitation and accreditation of observers without any form of executive involvement or interference. Further, there is contradiction on the issue of polling station based voters roll and ward based voters roll. There is need for clarity on which voter registration system will be used. http://www.zesn.org.zw/pub_view.cfm?pid=296 [...]

Elections roadmap

The elections roadmap remains a controversial document that exposes the tensions in the fragile inclusive government. ZESN is of the view that the timelines provided in the roadmap are unrealistic and fail to address a number of pertinent concerns that are essential before the country can hold a new election. ZESN believes that the 30 days given for voter education and mobilization for voter registration are insufficient as the successful completion of the processes is likely to exceed the set timeline given the many dimensions the processes demand.

The 60 day timeline given for voter registration and preparation for a new voters' roll is unrealistic and there is need for review taking into account the number of existing registered voters in excess of 5 million and first time voters that would need to be captured. This is compounded by the proposed Electoral Amendments Bill which seeks set up a polling station based voters' roll. The proposed system would necessitate the 're-registration' of all existing voters and allocation to specific polling stations. The time allocated for this process should be cognizant of this, to ensure no eligible voters are excluded. The time and resources required for voters to register also needs to be considered so that the process is not too onerous as to discourage citizens from participating. It is discouraging to note that the parties failed to agree on essential reforms that we believe are fundamental to creating an environment suitable for credible, free and fair elections in Zimbabwe in particular the need for enhancing the independence and resourcing of the Zimbabwe Electoral Commission (ZEC). [...]

➤ [Zimbabwe Peace Project, Summary on Politically-Motivated Human Rights and Food-Related Violations June 2011, 23/07/2011](#)

[...] The political situation has remained very tense across the country with political parties reportedly preparing for the holding of elections as well as the constitutional referendum. Prospective candidates to represent the different political parties come election time are now in full gear campaigning and this has resulted in people's rights being violated. [...]

➤ [Crisis in Zimbabwe Coalition, The Military Factor in Zimbabwe's Political and Electoral Affairs, June 2011](#)

[...] 6. The Military Strategy for the Next Elections

As Brigadier General Douglas Nyikayaramba publicly stated on 27 May 2011, the military demands elections to be held in 2011 and want President Mugabe to win those elections. Nyikayaramba further publicly proclaimed his support for ZANU-PF and that, in line with what numerous army generals have already said, he would never salute any other leader who is not Robert Mugabe or a ZANU-PF cadre, ending with an observation that the army cannot be separated from ZANU-PF.⁴⁷ The military remains entrenched and partisan towards ZANU-PF.

Sources close to ZANU-PF indicate that the military has demanded, and ZANU-PF has agreed, that at least 25% of all legislative seats that ZANU-PF will contest must be reserved for serving or retired military personnel. Vice Air Marshall Henry Muchena has allegedly 'resigned' from the army to take on the role of

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ZANU-PF director of election campaigns ahead of the next election. The military has so far this year recruited at least 5,000 soldiers possibly to boost numbers ahead of elections. The deployment of Vice Air Marshall Muchena to the party is to

ensure that the military takes direct control of rebuilding party structures from cell, to branch, ward, district, provincial to national level. This strategy will result in a takeover of ZANU-PF by the military.

Earlier this year, various civic groups reported deployment of soldiers across the country to direct election campaigns for ZANU-PF and to spearhead violence and intimidation. Zimbabwe Peace Project (ZPP), a civic group with monitors across the country has reported that the army has stepped up its presence in villages while ZANU-PF militia have set up torture camps in some parts of the country – in a chilling reminder to voters of the unprecedented violence that swept across Zimbabwe in 2008. [...]

Information from military sources is that more than 80,000 youth militia, war veterans and soldiers will be deployed across the country in an army-led drive to ensure victory for ZANU-PF candidate, President Mugabe in the next elections.⁵¹ A three-month investigation by a Zimbabwean online publication that included interviews with Cabinet ministers, senior military officers and ZANU-PF functionaries, revealed a desperate determination by Zimbabwe's top generals to thwart Tsvangirai, with some even openly bragging that they would topple the Prime Minister should he somehow triumph against the planned violence to emerge the winner of the polls.⁵²

The military plans to deploy senior commanders from either the Zimbabwe Defence Forces (ZDF) or the Central Intelligence Organization in each of Zimbabwe's 59 districts to coordinate the fight to retain Mugabe in power. The strategy is to unleash enough violence and terror, worse than that seen in the bloody 2008 presidential run-off poll in which at least 200 of Tsvangirai's supporters died and tens of thousands others were left homeless. The move is aimed at ensuring that a thoroughly cowed electorate will, on voting day back Mugabe in enough numbers to save the veteran President from having to face another second round vote. [...]

➤ [Civil Society Monitoring Mechanism CISOMM, February- March Bi-monthly Report 2011, 09/05/2011](#)

[...] Constitutional Reform

The period was characterized by obstacles impeding progress of the constitution making process. The prolonged detention of COPAC chairperson Douglas Mwonzora delayed the uploading of data gathered during the outreaches (which was eventually completed) but the constitution making process has remained otherwise stagnant due to logistical problems and inadequate resources. The SADC Troika, meeting on 31 March 2011, however reaffirmed that the Inclusive Government should complete all the steps necessary for the holding of elections, including the finalization of the constitutional reform process and the holding of a referendum. Despite reservations from some quarters on holding of elections this year, COPAC said all systems are in place for a referendum to be held before 30 September 2011.² [...]

➤ [International Crisis Group, The Road to Reform or Another Dead End? 27/04/2011](#)

[...] Intensified violence against those deemed to be ZANUPF enemies has exposed the limitations of Zimbabwe's much delayed reform process and threatens to derail the Global Political Agreement (GPA). President Mugabe's call for early elections has increased fears of a return to 2008's violence. Prime Minister Tsvangirai has appealed for help from the region. Eventual elections are inevitable, but without credible, enforceable reforms, Zimbabwe faces another illegitimate vote and prospects of entrenched polarisation and crisis. GPA guarantors – the African Union (AU) and the Southern African Development Community (SADC) and its South African-led facilitation team – have an uphill battle to secure implementation. ZANU-PF is increasingly confident it can intimidate opponents and frustrate reform, and there is waning faith, internally and externally, in MDC-T capacities. Mugabe's health and ZANU-PF succession turmoil are further complications. Without stronger international pressure on ZANU-PF, the tenuous current coalition may collapse, triggering further violence and grave consequences for southern Africa.

The GPA, signed by the three political parties (ZANU-PF, MDC-T and MDC-M) in September 2008, was intended to provide a foundation for response to the multiple political and economic crises, but it has become a battleground for control of the country's future. As in 2008, ZANU-PF's ability, in partnership with the unreformed security sector leadership (the "securocrats"), to thwart a democratic transfer of

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power remains intact. The state media is still grotesquely unbalanced, and the criminal justice system continues to be used as a weapon against ZANU-PF opponents, in particular the MDC-T.

The centrepiece of GPA reforms is a parliament-led constitution-making process under the direction of the Constitution Parliamentary Affairs (Select) Committee (COPAC). That body launched an outreach program in the latter half of 2010, but several civil society organisations and the MDC-T criticise it for falling far short of being inclusive and open and accuse ZANU-PF of having captured and manipulated the process. Many Zimbabweans, however, still consider the constitution-writing exercise important for moving the country forward. While drafting has begun, leading toward an all-stakeholders conference, parliamentary approval and a referendum, every step presents opportunity for opposition, delay and obfuscation.

Both MDC parties argue that COPAC must finish its work before elections are held, but ZANU-PF says elections can proceed with or without a new constitution and links its cooperation on democratic reforms to removal of targeted international sanctions, over which the parties have no control. In late February 2011, the facilitation team's visit to Harare resulted in a commitment from the three party leaders to implement their August 2010 agreement on outstanding GPA issues. This did not include a commitment to the sequence of elections after constitutional referendum. Nevertheless, having failed to produce an agreed plan themselves, the party leaders deferred to the facilitators to produce a roadmap for pre-election action.

The GPA guarantors and the facilitation team have until very recently shied from addressing poor progress directly. On 31 March 2011, however, the SADC troika (Namibia, Mozambique and Zambia) took note of the lack of progress in GPA implementation and related matters and the rise in levels of violence and intimidation and laid out steps that must now be taken to address the situation. This is a significant development that illustrates a public hardening of attitudes and increasing frustration within the regional organisation toward the GPA signatories, in particular ZANU-PF. The MDC-T welcomed the communiqué which is a direct response to the multiple grievances it as well as civil society groups have expressed. ZANUPF and Mugabe have countered that they will not tolerate external interference, even from neighbours. The next few months will determine whether SADC can follow its words by producing action that advances the reform agenda and prospects for a sustainable transition. That in turn will indicate whether the conditions necessary for credible elections exist. [...]

Conclusion 3.6.9-3.6.13

Excerpt from April 2011 Zimbabwe OGN

Conclusion

3.6.10 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, but there would be no interest in MDC supporters who were not active. Much will also depend on a person's standing in society. In rural areas those considered influential (such as teachers, business people and professionals) might be at risk even for relatively low level political activity. In such cases, especially in rural areas, it could be sufficient for it simply to be known that the person concerned is an MDC supporter for them to attract adverse attention; the fact they have the potential to influence others may be sufficient – they need not be particularly active politically.

The conclusion of this section of the OGN is inconsistent with the excerpts of the case law *EM and Others* cited above in the *Treatment* section for this main category of claim. The first sentence highlighted above underplays the following case law as is presented at paragraph 3.6.7 (i) in the OGN:

(i) Zimbabweans without ZANU-PF connections, returning from the UK after a significant absence to live in Mashonaland West, Mashonaland central, Mashonaland East, Manicaland, Masvingo or Midlands province would face a real risk of persecution because of a continuing risk of being required to demonstrate loyalty to ZANU-PF [para 189 of judgment].

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The same highlighted sentence of the conclusion is also inconsistent with the following excerpt of case law in respect to the situation in Harare (as was presented above in the analysis of paragraph 3.6.7 (iii) of the OGN):

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

Harare and Bulawayo [...]

200. The evidence before us demonstrates 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.

The same highlighted sentence of the conclusion is also inconsistent with the currently available COI which details that it is persons perceived to support the MDC and persons perceived to be active in MDC politics who are at risk, not solely persons with a political profile as set out above on pages 3-15.

Furthermore, in the same concluding paragraph 3.6.10 above it is unclear what the subsequent highlighted sentences are based on, for no case law nor COI is presented on the relevance of a person's standing in society to the risk of being subject to politically motivated violence. Indeed, the only reference that is made to a person's standing in *EM and Others* is in relation to the possibility of internal relocation to a large urban centre such as Harare or Bulawayo which, as follows is not supportive of the highlighted sections of the concluding paragraph:

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

222. A more realistic scenario is the converse; that is to say, where a person facing a real risk of persecution in what is his or her home area in rural Zimbabwe (as addressed above) is said to be able to relocate to a large urban centre, such as Harare or Bulawayo.

223. **Here, the social and economic position of the person in question will assume particular importance.** In particular, whilst it might not be contrary to Article 3 of the ECHR to expect a person without family or friends to set themselves up in the informal sector as a street trader, bearing in mind the distinction identified in AH (Sudan) between Article 3 ill-treatment and reasonableness or undue harshness in the case of internal relocation, it might well, on the facts, be unreasonable or unduly harsh to expect such a person to relocate on that basis. The ultimate answer will, however, depend on the particular circumstances of the case. [...]

Furthermore it is considered that the subsequent concluding paragraph 3.6.11 of the OGN is internally inconsistent as it is also not fully consistent with the case law as cited in the *Treatment* section of the OGN:

Excerpt from April 2011 Zimbabwe OGN

3.6.11 The risks to a particular individual will also very much depend on the place to which he or she would return. There are differences between urban and rural areas (and the situation is not uniform across the rural areas). In general those returning to MDC dominated rural areas of Matabeleland North or Matabeleland South would generally be highly unlikely to face significant difficulty from ZANU-PF elements, including the security forces. **Those returning to other rural areas are likely to face difficulties unless the individual concerned has connections with ZANU-PF.** However in such circumstances internal relocation to Harare or, in particular, Bulawayo may be a viable option for a person facing risk of persecution in rural Zimbabwe subject of course to the requirements that such relocation should not be unduly harsh.

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The above highlighted sentence does not express the severity of the situation as found in paragraph 267 of the case law as is cited in the OGN at paragraph 3.6.7 (i) as follows (emphasis added):

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:

(i) Zimbabweans without ZANU-PF connections, returning from the UK after a significant absence to live in Mashonaland West, Mashonaland central, Mashonaland East, Manicaland, Masvingo or Midlands province **would face a real risk of persecution** because of a continuing risk of being required to demonstrate loyalty to ZANU-PF [para 189 of judgment] [...]

As with the comments provided above in relation to concluding paragraph 3.6.10 of the OGN, the subsequent concluding paragraph 3.6.12 is inconsistent with the case law in relation to Harare and with the currently available COI as set out above on pages 3-15 which details that it is persons perceived to support the MDC and persons perceived to be active in MDC politics who are at risk, not solely persons with a political profile.

Excerpt from April 2011 Zimbabwe OGN

3.6.12 As regards major urban areas, a returnee to Harare will in general face no significant difficulties, if going to a low-density or medium-density area. **In general returnees to a high density areas of Harare will not face significant problems (including a loyalty test) unless he or she has a significant MDC profile,** which might cause him or her to feature on a list of those targeted for harassment or would otherwise engage in political activities likely to attract the adverse attention of ZANU-PF. 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. [...]

Similarly it is considered that the following highlighted requirement to establish ‘activities’ in the next concluding paragraph 3.6.13 of the OGN is again not fully consistent with the case law or with the available COI on this issue.

Excerpt from April 2011 Zimbabwe OGN

3.6.13 MDC supporters, human rights defenders and other perceived opponents of ZANU-PF who are able **to establish that their activities** 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.

It should also be noted that this section of the OGN significantly underplays all the previous Country Guidance cases on Zimbabwe, which apart from *RN*, were upheld in *EM and Others*.

EM and Others does not address the position at the actually point of return for a refused asylum seeker from the UK, but rather finds that the country guidance regarding risk at the airport in Harare continues to be that as set out in *HS* read with *AA2* and *SM and Others* (emphasis added):

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

H. COUNTRY GUIDANCE ON ZIMBABWE

At the point of return

266. It was common ground in the present appeals that the country guidance the Tribunal would give would not involve the position at the actual point of return to Zimbabwe of a failed asylum seeker from the United Kingdom, which in practice will be Harare Airport (now usually via South Africa). The appellants adduced no specific evidence regarding the position at the airport and the only potentially relevant evidence from the respondent was the material in the FFM report regarding the experiences of the seven returnees. **The country guidance regarding risk at the airport accordingly continues to be as set out in HS (Returning asylum seekers) Zimbabwe [2007] UKAIT 00094, read with the findings on that issue in SM and Others (MDC – internal flight – risk categories) Zimbabwe**

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CG [2005] UKIAT 00100 and AA (Risk for involuntary returnees) Zimbabwe CG [2006] UKAIT 00061 (paragraphs 36 to 48 above).

With regards to risk categories at the airport, the previous Country Guidance on Zimbabwe states:

[SM, TM, MH \(MDC - Internal flight - Risk categories\) Zimbabwe CG \[2005\] UKIAT 00100 \(11 May 2005\)](#)

Consideration of the issues: (i) political opponents.

40. **The Tribunal accept the evidence of Professor Ranger.** His expertise and knowledge of Zimbabwe is clear. In his oral evidence he made it clear that there were some sources to which he would attach relatively little weight and others which were more compelling because of the greater care in recording and analysing information. He accepted that much of the information he had collated was speculative but this was inevitable as he was being asked to deal with very recent events.

41. **The Tribunal accepts from his evidence and from the news reports in Zimbabwe that those deported to Zimbabwe from the United Kingdom will be subject to interrogation on return.** In the light of the interest and comment the resumption of returns has raised in the government press in Zimbabwe it seems to us to be inevitable that this will be the case. If it is being asserted by the Zimbabwe government that returns are being used as a cloak for British agents and saboteurs to be smuggled into the country, it is likely that those returns will be carefully monitored whether for that reason or to identify and intimidate opponents to the regime. The reports in the newspapers in Zimbabwe are consistent with there being an atmosphere of suspicion to those returned. The returnee in the New Zimbabwe report was released following a telephone call made to an uncle serving in the army but only after an intimidating interview. We take into account that before returns were suspended there was some evidence that returnees were investigated. We have our doubts about the story of the returnee in the article from January 2002 and his escape out of an airport lavatory window at Harare and his subsequent travel to South Africa, but in any event we are concerned with returns at the present time. We also approach with caution the reports that a number of recent returnees have never re-appeared once they were taken from the plane by CIO agents and that others have disappeared. No names or details have been provided and if, as Professor Ranger says the returns have been carefully monitored, we would have thought such details would be available.

42. **Nonetheless the Tribunal is satisfied in the light of the statements made by the Zimbabwean authorities that returnees are regarded with contempt and suspicion on return and do face a very hostile atmosphere. This by itself does not indicate that all returnees are at real risk of persecution but that returnees are liable to have their background and circumstances carefully scrutinised by the authorities. We are satisfied that those who are suspected of being politically active with the MDC would be at real risk. We agree with Professor Ranger that if the authorities have any reason to believe that someone is politically active the interrogation will be followed up. There is a reasonable degree of likelihood that this will include treatment sufficiently serious to amount to persecution.**

43. **In his submissions Mr Huffer argued that those suspected or perceived of being associated with the opposition have included activists, campaigners, officials and election polling agents, MDC candidates for local and national government, MDC members, former MDC members, MDC supporters, those who voted or believed to have voted for the MDC and those belonging to the MDC, families of the foregoing, employees of the foregoing, those whose actions have given rise to suspicion of support for the opposition such as attending an MDC rally or wearing a T-shirt, attending a demonstration, teachers and other professionals, refusal to attend a ZANU-PF rally or chant a ZANU-PF slogan or not having a ZANU-PF membership card. The Tribunal accept that these categories illustrate those who might be at risk but each case must depend upon its own circumstances.** In a number of cases the Tribunal has drawn a distinction between low level and high level political activities. The situation in Zimbabwe is arbitrary and unpredictable and in these circumstances such a distinction is not determinative. The phrase "low level activities" is sometimes used as a way of describing someone whose background and profile is such that it is thought that he would not be of interest to the authorities but someone whose political activities may have been at a low level may have become of interest to the authorities. The current position taken by the Tribunal

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that each case must be decided on its individual facts should be continued. This approach has been endorsed by the Court of Appeal in *Mhute* [2003] EWCA Civ 1029 and *Ndlovu* [2004] EWCA Civ 1567. **The factors identified by Mr Huffer are relevant to the assessment of risk but cannot be regarded as by themselves determinative in any particular appeal.**

[AA \(Risk for involuntary returnees\) Zimbabwe CG \[2006\] UKAIT 00061](#)

SM and Others (MDC – internal flight- risk categories) CG [2005] UKIAT 00100 is reaffirmed. Two further risk categories are identified: those whose military history discloses issues that will lead to further investigation by the security services upon return to Harare Airport and those in respect of whom there are outstanding and unresolved criminal issues.

[HS \(returning asylum seekers\) Zimbabwe CG \[2007\] UKAIT 00094](#)

2. The findings in respect of risk categories in SM and Others (MDC – Internal flight – risk categories) Zimbabwe CG [2005] UKIAT 00100, as adopted, affirmed and supplemented in AA (Risk for involuntary returnees) Zimbabwe CG [2006] UKAIT 00061 are adopted and reaffirmed. The Tribunal identifies one further risk category, being those seen to be active in association with human rights or civil society organisations where evidence suggests that the particular organisation has been identified by the authorities as a critic or opponent of the Zimbabwean regime.

So the previous risk categories as set out in *SM and Others*, *AA2* and *HS* which include anyone with an MDC profile, regardless of where they are from, whether high or low profile, and including those who have been active in the UK, will be at risk on return. The fact that they may be safe in MDC areas is irrelevant if the point of persecution is at the airport.

Furthermore, concluding paragraph 3.6.13 is the only instance in this section of the OGN where reference is made to human rights defenders; no relevant case law nor COI is presented on this issue elsewhere. The following non-exhaustive COI is indicative of the current situation for this profile in Zimbabwe:

Treatment of human rights defenders

➤ [Amnesty International, Female Activists Detained in Zimbabwe, 22/09/2011](#)

[...] Twelve activists from the social justice movement, Women of Zimbabwe Arise (WOZA) , have been unlawfully detained at Bulawayo Central police station . They have been arrested for participating in a peaceful march to commemorate International Day of Peace in Bulawayo , Zimbabwe’s second city . Some of them are in poor health. [...]

➤ [SW Radio Africa, More activists arrested in Bulawayo, 21/09/2011](#)

[...] Just days after ten youths from the MDC-N were arrested and tortured for distributing flyers in Bulawayo, police have arrested 20 more who were peacefully conducting a voter registration exercise.

The activists were from the Youth Initiative for Development in Zimbabwe (YIDEZ), assisting voters who may have problems with documentation and registration procedures. The programme was jointly organized by the Zimbabwe Lawyers for Human Rights.

SW Radio Africa correspondent Lionel Saungweme, said the youth activists were arrested Wednesday morning in Bulawayo city centre. They are currently being held at the Bulawayo Central Police Station and have not been charged yet.

"A policeman was heard saying they might be charged for blocking the pavement," Saungweme said, adding: "It looks like a broad strategy of electioneering by ZANU PF to make sure other political parties are not active on the streets". [...]

➤ [SW Radio Africa, 28 arrests in WOZA demo over ZESA bills, 22/08/2009](#)

[...] Twenty-eight members of Women and Men of Zimbabwe Arise (WOZA) were arrested when they took to the streets in Bulawayo to protest the Zimbabwe Electricity Supply company’s (ZESA) controversial

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billing system and poor service. Up to 600 WOZA members took part in the demonstration, which came up against a strong police presence. [...]

- [Radio Vop, Zim Rights Leaders Arrested, Beaten Before Release, 25/08/2011](#)
[...] Five leaders of a local human rights group were arrested on Wednesday and detained for over six hours at Masvingo central police station for allegedly organising a demonstration to call for the sacking of controversial war veterans leader Jabulani Sibanda from Masvingo province. [...] Mukura told Radio VOP after their release that they were harassed and beaten while they were incarcerated. [...]
- [Amnesty International, Continued clamp down on dissent Amnesty International Submission to the UN Universal Periodic Review, March 2011, 31/07/2011](#)
[...] SUPPRESSION OF THE WORK OF HUMAN RIGHTS DEFENDERS
Since 2000, Amnesty International has documented systematic harassment and intimidation of human rights defenders by the government. Specifically, the rights to freedoms of expression, association and peaceful assembly have been curtailed, including through the use of repressive legislation, mainly the Public Order and Security Act (POSA). Using the POSA, police have unlawfully blocked meetings by perceived critics of President Mugabe's ZANU-PF party and used excessive force to break up peaceful demonstrations. Human rights defenders have been arbitrarily arrested and unlawfully detained for prolonged periods beyond the 48 hours prescribed by law. Others have been charged under the POSA or the Criminal Codification Reform Act for engaging in peaceful protest. While in police custody some of them report having been subjected to torture, inhuman or degrading treatment. Human rights defenders are often held in overcrowded cells and denied access to lawyers and to food. Those injured as a result of police beatings during arrest and/or while in custody, are also denied access to medical care. Amnesty International has documented numerous human rights violations by the Law and Order Section of the Zimbabwe Republic Police at Harare Central and Bulawayo Central police stations. The organization is concerned that the Law and Order Section operates in a partisan manner and that it is responsible for most of the violations against human rights defenders in custody. [...]
- [Human Rights Watch, Zanu-PF: It's time to take decisive action, 13/06/2011](#)
[...] The GPA calls for an end to violence and other abuses as well as the holding of peaceful elections. However, Human Rights Watch has documented numerous incidents of politically motivated violence by ZANU-PF and its allies against real or perceived MDC supporters throughout the country. In the past six months, ZANU-PF-controlled police have arbitrarily arrested scores of civil society activists and routinely threatened and harassed MDC members and supporters. [...]
- [World Organisation Against Torture \(OMCT\), Zimbabwe: Release and judicial harassment faced by Ms. Florence Ndlovu, 01/06/2011](#)
[...]The Observatory has been informed by reliable sources about the release and judicial harassment faced by Ms. Florence Ndlovu, Regional Coordinator for Matabeleland province of the Zimbabwe Human Rights Association (ZimRights). According to the information received, on May 27, 2011, Ms. Florence Ndlovu was charged for "communicating false statements prejudicial to the State" under Section 31 (2) (b) of the Criminal Law and Codification Reform Act and released on a bail of 35 Euros after almost a week in detention. The trial was scheduled to start on June 24, 2011. The Observatory welcomes Ms. Florence Ndlovu's release on bail and thanks all the persons, institutions and organisations who intervened in her favour. However, the Observatory strongly condemns the ongoing judicial harassment against her, and calls upon the Zimbabwean authorities to put an end to such acts of intimidation and harassment as they merely seem to aim at sanctioning her human rights activities. [...]
- [Civil Society Monitoring Mechanism CISOMM, February- March Bi-monthly Report 2011, 09/05/2011](#)
[...] The operating environment for civil society organisations and opposition political parties was made more difficult by the dwindling democratic space and increasing brusque tactics of the country's security sector. Civic leaders were specifically targeted with harassment and unlawful arrests and detention. Further, an unprecedented number of MDC-T Members of Parliament and Cabinet Ministers were targeted with arrests and detention. It was also clear that the facade of unity was increasingly too

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cumbersome to most members of the Inclusive Government, as separate politicking became the order of the day. For example, the campaign against the removal of sanctions was paraded as a national event through the use of the National Coat of Arms when in fact the campaign was sponsored and directed by ZANU-PF and propagated through the ZANU PF Information Department. [...]

Respect for Human Rights and Operating Environment

The period under review showed a rise in politically-motivated violence and the closing of the operating space for civics. The co-operation of local authorities and state agents which had previously been enjoyed by civic society, in particular around its educational and peace building initiatives, has dwindled markedly. A shift was recorded from the intimidation and arrest of individual human rights defenders, to greater targeting of civic society and political activists - showing a more deliberate attempt to curtail social and political opposition to ZANU-PF. The threat of elections being fast-tracked and fear of uprisings similar to those in North Africa, as well as the ZANU-PF campaign to force people to sign the anti-sanctions petition seem to have fuelled the violence and intimidation. [...]

➤ [U.S. State Department, 2010 Country Report on Human Rights Practices, 08/04/2011](#)

[...] A number of domestic and international human rights groups operated in the country, investigating and publishing their findings on human rights cases; however, they were subject to government restrictions, interference, monitoring, and harassment. Domestic NGOs worked on human rights and democracy issues, including lobbying for revision of POSA and the AIPPA; election observation; constitutional and electoral reform; increasing women's access to the courts; raising awareness of the abuse of children; conducting civic education; advocating for the independence of the judiciary; and combating torture, arbitrary detention, and restrictions on freedom of the press and assembly. Major domestic independent human rights organizations included the Crisis in Zimbabwe Coalition, Zimbabwe Human Rights NGO Forum, ZESN, ZLHR, Zimbabwe Peace Project, National Constitutional Assembly (NCA), Students Solidarity Trust, and WOZA.

The government continued to use the government-controlled media to disparage and attack human rights groups. Articles typically dismissed the efforts and recommendations of NGOs that were considered critical of the government as efforts by groups that merely did the bidding of Western governments.

During the year police arrested or detained NGO members, often in connection with demonstrations or marches; several were beaten during arrest and tortured while in custody. Numerous NGO members died in postelection violence in 2008. [...]

The government harassed some NGOs it believed opposed government policies, investigated their activities, and harassed their leaders. [...]

Representatives of international and foreign NGOs were arbitrarily harassed. [...]

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3.7 Teachers

Excerpt from April 2011 Zimbabwe OGN

3.7.4 Conclusion. **Being a teacher may lead to a person being at a heightened risk of ill treatment.**

Whether there is a real risk by virtue of the person being a teacher will still, however, need to be considered on a case by case basis, taking account of all the circumstances, including their previous employment, the accepted history of any adverse interest by the authorities and an assessment of the risk to them on return to Zimbabwe whether or not they seek to resume their career as a teacher.

3.7.5 Teachers who are able to establish that their activities mean that they are at real risk of persecution or serious harm and who cannot avoid that risk by internally relocating will have a well-founded fear of persecution and should be granted asylum.

It is considered that the conclusion for this category of claim is not fully consistent with the case law. Indeed, no case law is included for this main category of claim (although this section is cross-referenced with 2.5 *Country guidance case law*), despite the fact that the risk to teachers is specifically addressed in the most recent CG case on Zimbabwe (emphasis added):

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

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: [...]

(10) **As was the position in RN, those who are or have been teachers require to have their cases determined on the basis that this fact places them in an enhanced or heightened risk category, the significance of which will need to be assessed on an individual basis.** [...]

Teachers

226. At paragraph 261 of RN, the Tribunal in that case found that there was clear evidence that teachers in Zimbabwe had, during the period under review, once again become targets for persecution. The fact of being a teacher or having been one in the past was, it was found, again capable of raising an enhanced risk, whether or not the person concerned had been a polling officer, because when encountered it would not be known what a particular teacher did or did not do in another area.

227. **In the present appeals, the respondent acknowledges that teachers remain in a category where there is a heightened or enhanced risk. That is plainly right. Various news reports submitted by the appellants demonstrate the fact that teachers can face problems from ZANU-PF.** [...]

229. Being in a heightened risk category is not, however, to be equated without more as being at real risk of persecution. There needs to be an individual assessment of the circumstances (TM (Zimbabwe) [2010] EWCA Civ 916). [...]

Furthermore, COI which post-dates the final hearing of *EM and Others* (14 January 2011) continues to document the ill-treatment of teachers:

➤ [SW Radio Africa, Mutare teacher 'arrested' for distributing MDC-T fliers, 13/09/2011](#)

[...] A primary school teacher from Dangamvura in Mutare got the shock of her life on Monday when two police officers marched her out of her classroom under arrest for allegedly 'distributing MDC-T fliers.'

The incident, which has infuriated the MDC-T leadership in Manicaland province happened in full view of 46 year-old Eusebia Chikonyora's Grade 7 pupils. The teacher was led away to Dangamvura police station where she was charged with 'engaging in opposition politics.' [...]

➤ [Zimbabwean, Teachers forced to support, 26/08/2011](#)

[...] Teachers at Gombakomba and Dangare schools in Zimunya district last week said that war veterans led by Robert Rufuse and Jonas Chitakatira were living in fear as they were forced to buy the cards as a way of showing allegiance to Zanu (PF).

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“The situation is terrible here. We are on holiday but they are coming to our houses forcing us to buy the Zanu (PF) cards. They also told us to assure them that Zanu (PF) will not lose in the forthcoming elections,” said a teacher at Gombakomba secondary school. [...]

➤ [Zimbabwe Peace Project, Summary on Politically-Motivated Human Rights and Food-Related Violations July 2011, 21/08/2011](#)

[...] Teachers have remained vulnerable to political machinations by politicians and the trend has become prevalent in Manicaland Province especially at the hands of Zanu PF. In other areas, Zanu PF leaders have resorted to forcing teachers to attend “re-education camps” like forcing them to visit Mozambique-Chimoio to experience the pain and suffering endured by liberation war heroes. In this regard a headmaster of St Killians Secondary School together with another teacher was forced to go to Mozambique to see and “appreciate” the graves of fallen war liberators so that they begin to teach pupils the right history of the country. In Nyanga North at Kute secondary school, two teachers were chased off the school by Zanu PF members accusing them of being MDC-T while at Matezwa Primary School in Musikavanhu, teachers were reportedly asked to pay three dollars towards heroes day commemorations by the Acting headmaster who is also a Zanu PF activist. [...]

Mashonaland West Province [...]

Teachers were the main victims in Mhondoro as they continue to be harassed and intimidated for allegedly supporting the MDC-T. The teachers have also been forced to attend Zanu PF meetings to show their allegiance to the party.

A teacher from Hurungwe East was attacked by Zanu PF supporters for allegedly belonging to the MDC-T. The attacks on the teacher started during the month of May and he has since stopped going to work fearing for his life. [...]

➤ [The Zimbabwean, Teachers forced to work at Zanu school, 06/08/2011](#)

[...] The makeshift Nyashunjwa Primary School, with classes built only up to window level, is situated in Mashambanhaka Village. Mudarikwa has instructed district education officials to transfer teachers to the school without consulting ministry of education provincial staffing officials in Marondera.

“As a government ministry we are naturally disturbed to learn that a Zanu (PF) MP was behaving like a ministry of education staffing officer,” said a district education official who asked for anonymity.

“We understand he haphazardly established a make-shift school in order to buy votes in the coming election campaign. He reportedly threatened the district education officer into transferring teachers to his bush school. [...]

“He said it he had resisted their demands his life would be in real danger,” said a provincial education official, who insisted on anonymity, given the sensitivity of the issue. [...]

➤ [Zimbabwe Peace Project, Summary on Politically-Motivated Human Rights and Food-Related Violations June 2011, 23/07/2011](#)

[...] Midlands

[...] A teacher from Zvomukonde Primary School in Mberengwa was assaulted by Zanu PF supporters after being suspected of being an MDC-T activist. The incident happened on June 9, 2011 near Zvomukonde Township and despite the teacher denying any links with the party, he was heavily assaulted until he lost consciousness. The matter was reported to the police but they are yet to investigate. [...]

Mashonaland East

[...] A teacher from Igava Primary School was on June 29, 2011 harassed and threatened with eviction by a group of Zanu PF youths who accused her of attacking their party. The victim was harassed on allegations that she denounced the Zanu PF leadership accusing them of greediness. She was told to desist from such controversial topics or else she would be transferred from that school. [...]

Matabeleland North

[...] A teacher at Sivomo Secondary School was harassed and intimidated at Zenka turnoff along the Nkayi-Bulawayo Road in Nkayi South Constituency. The victim was harassed after being found reading the Weekly Agenda, a publication from the Bulawayo Agenda. Villagers, teachers and pupils from Setshanke High School in Nkayi North were forced to chant Zanu PF slogans during a disbursement of Constituency Development Fund (CDF) building materials. The perpetrator was the Zanu PF MP for the area Sithembiso Nyoni. [...]

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➤ [The Zimbabwean, Teachers flee schools as threat of violence increases, 23/07/2011](#)

[...] Hundreds of teachers at schools in this violence-prone district have abandoned free houses offered by the government in rural areas fearing violence threatened by Zanu (PF) during the next election, The Zimbabwean can reveal. The teachers now rent rooms in Zvishavane town and commute to their schools daily at great expense, they said.

At Makovere school, 10 kilometres east of the town, this paper found only one teacher still living in a school house. The rest of the teachers had relocated to the town. Their houses had been taken over by Zanu (PF) militants and villagers loyal to President Robert Mugabe's violent party. [...]

"We are now being forced to fork out huge amounts of money in bus fares and rents every month, but there is nothing we can do," said a teacher at Dambudzo school in defence minister Emmerson Mnangagwa's home village.

The teacher said they faced daily threats from party thugs who threatened violence similar to what was unleashed in the area in 2000. [...]

Many teachers said they faced transport problems after many buses withdrew from the areas where schools were located citing threats from 'war veterans', bad roads and lack of meaningful business. Some of the teachers said they had to walk distances of more than 20 kilometres daily when they failed to get public transport or when their meagre pay ran out. [...]

➤ [Zimbabwe Peace Project, Summary on Politically-Motivated Human Rights and Food-Related Violations May 2011, 24/06/2011](#)

[...] Manicaland

[...] On May 2, a teacher had his house set on fire by suspected Zanu PF youths and war veterans at Domborutinhira resettlement in Mutasa. [...] In Headlands on May 13, 2011, more than 200 school children, their teachers and villagers from Makoni were forced to attend an anti-sanctions petition rally that was being addressed by Zanu PF politburo member and MP Didymus Mutasa. After the rally an MDC-T activist reportedly assaulted his wife as punishment for attending the Zanu PF organised meeting.

[...] Mashonaland East Province [...]

In another case of forced displacement, a teacher from Kotwa Secondary School in Mudzi North Constituency was forced to move to Seke after being accused of being a sell-out. The teacher was in March detained by police in Nyamapanda for allegedly walking "after hours" and news messages from the Voice of America's Studio 7 were also found on his cell phone. [...]

Masvingo Province [...]

Harassment and intimidation of teachers was reported at Nyamandi Methodist School in Gutu District where the headmaster was threatened with unspecified action and accused of being an MDC-T activist.

[...] Matabeleland South Province

[...] The politically motivated incidents reported were concentrated in Gwanda North constituency. A group of women who were gathered for a savings' club meeting were forced to sign the anti-sanctions petition by a group of war veterans at Stanmore. In a related incident, teachers at Tjankwa Primary School were forced to sign the antisansctions petition by a group of war veterans or risk being transferred. The headmaster was given a directive to ensure that all the staff members append their signatures to the petition. [...]

➤ [SW Radio Africa, Union says militia & CIOs harassing striking teachers, 23/06/2011](#)

[...] The Progressive Teachers Union of Zimbabwe (PTUZ) has reported that their members are being harassed in some areas for taking part in the strike action that started Wednesday. PTUZ President, Takavafira Zhou, told SW Radio Africa that youth militia, intelligence agents and school heads aligned with ZANU PF, are intimidating teachers and making threats.

"Our teachers were beaten by rogue militia in Rushinga and there have been serious threats in Mberengwa, Gokwe and Mashonaland South," Zhou said. He added that CIOs have also been visiting their union offices around the country. [...]

➤ [Zimbabwe Peace Project, Summary on Politically-Motivated Human Rights and Food-Related Violations April 2011, 27/05/2011](#)

[...] Mashonaland East

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[...] A headmaster at Mangoro Primary School was harassed by Zanu PF supporters together with his teachers after they had failed to comply with their demands for contributions for the Independence Day contributions. [...]

➤ [Radio Vop, Gutu Teachers Flee Violence, 04/03/2011](#)

[...] Schools in Gutu could be forced to a premature closure after hordes of teachers fled their work stations following deaths threats from self-styled commander of war veterans in the country Jabulani Sibanda. Sibanda is accusing them of discouraging villagers to sign President Robert Mugabe's anti-Sanction petition launched in Harare. Sibanda told a rally at Rumizha primary school that war veterans and Zanu (PF) youths have since compiled a list of names of teachers who have been seen denouncing the anti-sanction petition. The militant commander had been living in Gutu since January and led a terror campaign against perceived Zanu (PF) opposition supporters ahead of the anticipated elections which may take place this year. He has been also campaigning for the signatures of villagers to the petition.

A teacher who spoke to Radio VOP said hundreds of teachers deserted their schools following the threats announcement by Sibanda who labelled them sell-outs who deserved death as punishment. [...]

➤ [Radio Vop, Teachers Forced To Join Zanu \(PF\), 24/02/2011](#)

[...] Progressive Teachers Union of Zimbabwe (PTUZ) has claimed that liberation war veterans here are forcing its members to join ZANU(PF) and to attend party meetings during working hours.

Takavafira Zhou of the militant union said he was shocked to learn that hundreds of teachers in Masvingo and Midlands provinces were being forced to pay USD25 or buy goats as punishment for late confirmation of their membership to the former ruling party.

"We have learnt with shock that our members are being victimised by Zanu(PF) thugs for not joining the party. We have overwhelming evidence to prove the allegations, said Zhou.

Those found without party membership cards are severely punished and some forced to buy goats which are usually taken by the party heavyweights.

Schools in Bikita and Zaka districts in Masvingo are the most affected as war veterans leader and Zanu(PF) foot soldier Jabulani Sibanda together with Chief Nhema are forcing teachers to abandon lectures and attend political rallies. [...]

➤ [IRIN, New Surge in Political Violence, 31/01/2011](#)

[...] Elvis Marume, 42, a teacher at a faith-based school in Zimbabwe's Mashonaland West Province, has been threatened with death by alleged elements of the ruling ZANU-PF party's youth militia in response to rumours that he had spoken disparagingly about the country's land reform policy.

"I was sleeping with my family when a gang of about eight youths, whom I know as they reside in a nearby village, knocked on the front door and demanded to see me. Not suspecting anything, I opened the door for them and one of them violently pulled me outside," he told IRIN.

"They showed me what looked like a gun and told me that they were going to kill me because they had received reports that I was teaching my students that the land reform programme was bad because it had created food shortages in the country." [...]

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3.8 Gay men, lesbians, bisexual and transgender persons

Excerpt from April 2011 Zimbabwe OGN

3.8.7 Gay rights activists may be targeted by the police, CIO and CID. This will generally be in the form of harassment - these agencies will typically approach an activist and try to impart a sense of fear that what they are doing is wrong, is not acceptable and they shouldn't be encouraging others. There have been isolated cases of arbitrary arrest of gay men and gay rights activists and searches of their properties and person, often in an attempt to find such things as membership lists. Detention following such arrests tends not to be for very long - when it hears of such cases GALZ works with Zimbabwe Lawyers for Human Rights. The longest that a GALZ activist has been detained is for 6 days. Ordinary gay men are as far as GALZ is aware never detained for longer than 48 hours. GALZ is not aware of any incidents of official violence against gay men since the formation of the GNU.²⁴

This is the only section of the OGN which documents the state treatment of homosexuals in Zimbabwe. It however fails to include any information on the use of corporal punishment for sodomy charges. See for example:

- [US Library of Congress, Zimbabwe: Juveniles to Be Flogged for Homosexual Act, 30/03/2009](#)
[...] A regional magistrate in Zimbabwe sentenced two 16-year-old high school students who pleaded guilty to sodomy charges to receive "moderate" corporal punishment of three caning strokes each, to be administered by a designated prison officer. In addition, the magistrate imposed on the teenage boys a conditionally suspended one-year prison sentence for five years. [...]

Limited COI is presented in this category of claim on the treatment of Lesbians in Zimbabwe, either by the State authorities or by societal actors. Only one paragraph in the OGN specifically addresses these issues as follows:

Excerpt from April 2011 Zimbabwe OGN

3.8.10 GALZ say that situation is much more difficult for lesbians and has not really improved significantly. It is very difficult for lesbians to 'come out' and those that do risk harassment and worse, ranging from taunts such as 'you just haven't found a good man yet' to rape. This means that the number of lesbians who are open about their sexuality is much lower than the number of gay men. Most of the harassment and the cases of rape of which GALZ are aware have taken place in the high density areas. For women who have been raped, shame often prevents them from reporting the crime to the police and if they do, the police are often reluctant to act. This means that for lesbians who are raped, counselling may be the best that they can hope for. GALZ is not aware of any active police persecution of lesbians or of any cases of lesbians being detained, but there is a lack of police protection.²⁸

In contrast to the above highlighted sentence arrests of perceived lesbians in Zimbabwe have been reported:

- [ILGA, Zim arrests could invoke stigma, ridicule and violence, 09/08/2010](#)
[...] The arrest of 20 school girls from Eveline High School is one of the most shameful human rights violations against children and the Zimbabwean lesbian and gay community according to Gays and Lesbians of Zimbabwe (GALZ) an LGBTI human rights organization.
This, after the students aged between 14 and 16 were picked up by Zimbabwean police, taken to Bulawayo Central Police Station and questioned from 8am to 4pm following allegations that they were lesbians. [...]
This incident has since prompted the Bulawayo Provincial education director Dan Moyo to openly condemn homosexuality as a practice that is unacceptable.
During a southern region schools debate competition held at the school, Moyo said "I do not accept such behavior it is unacceptable." [...]

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Whilst the above paragraph 3.8.10 of the OGN refers to lesbians being raped in Zimbabwe, no specific reference to the practices of 'corrective rape' nor forced marriage is made, which it is considered is relevant contextual information for this main category of claim. The following COI addresses these issues:

➤ [Navi Pillay, No place for homophobia here, 16/06/2011](#)

[...] Navi Pillay

South Africa has given the world some powerful ideas – foremost among them the concept of the rainbow nation, where diversity is a source of strength and everyone is entitled to equal rights and respect.

It is especially saddening that the country reborn under Nelson Mandela's watchful eye should now be the setting for a far more sinister phenomenon that undermines everything the rainbow nation stands for: so-called corrective rape. The disturbing term "corrective rape" describes the rape of lesbians or women perceived to be lesbian by men who claim to be trying to "correct" their victims' sexuality. In the worst cases, such attacks have been fatal. Rape and comparable sexual violence against anyone is a serious crime that must never be condoned nor tolerated. This kind of rape is part of a wider pattern of sexual violence that tragically affects women across South Africa and elsewhere. It combines discrimination and a fundamental lack of respect for women with deeply entrenched homophobia, in spite of some of the most progressive laws and constitutional protections in the world. [...]

While "corrective" rape has become associated with South Africa, where most documented cases have taken place, the problem is not restricted to any one country. Cases of corrective rape have recently been reported in Uganda, Zimbabwe and Jamaica, and, more generally, violence against individuals perceived to be lesbian, gay, bisexual or transgender is a reality in all parts of the world, with some particularly horrific incidents reported recently in the US, the UK, Honduras and Brazil. [...]

➤ [U.S. State Department, 2010 Country Report on Human Rights Practices, 08/04/2011](#)

[...] General homophobia and restrictive legislation made it difficult for the LGBT community to feel safe about being open about their sexuality in public. Because of significant social pressure, some families reportedly subjected men and women to "corrective" rape and forced marriages to encourage heterosexual conduct; the crimes were rarely reported to police. Women, in particular, were subjected to rape by male members of their own families. [...]

Members of the LGBT community reported widespread societal discrimination based on sexual orientation. Many persons who identified with the LGBT community did not seek medical care for sexually transmitted diseases or other health issues due to fear that health providers would shun them. In the 2006-07 Presidential HIV/AIDS Strategic Plan, the government agreed to address HIV/AIDS among gay men. However, as of year's end, the government had not made any effort to address the health needs of this population. Many LGBT persons reported leaving school at an early age, decreasing their capacity for economic gain. Coupled with socioeconomic discrimination, higher rates of unemployment and homelessness among members of the LGBT community were reported. [...]

➤ [SW Radio Africa news, 'Corrective rape' against homosexuals on the rise in Zimbabwe, 08/04/2010](#)

[...] An annual report by the US State Department on the human rights situation in Zimbabwe has revealed that 'corrective rape' against gay men and lesbians is on the increase.

Journalist Angus Shaw said the latest 50 page report compiled by the US Embassy in Harare gives emphasis to the harassment of the gay community, including revelations that there is now a practice in Zimbabwe called 'corrective rape', where some homosexuals are being raped 'by those intending to convert their sexuality'.

Although persecution of gays and lesbians is on the increase, very few victims are prepared to speak publicly about the attacks because of the stigma surrounding the issue of homosexuality.

Shaw said the human rights report shows how through the guise of 'corrective rape' lesbian women are raped by men to 'make them enjoy heterosexual acts', while gay men are raped by women, sometimes, under supervision of villagers and relatives to 'remove their sexual orientation tendencies'.

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The journalist said the report shows how some homosexuals are forced to marry to encourage heterosexual conduct, while others are 'taught the errors of their ways' by being raped by family members. [...]

➤ [UKBA, Zimbabwe Country of Origin Information Report, 25/03/2011](#)

[...] 20.27 The Institute for the Democratic Alternative for South Africa, noted in its States in Transition Observatory (SITO report) - Zimbabwe Government of National Unity Watch, April 2010, dated 14 May 2010, that: "Corrective rape against gay men and lesbians is on the rise. Victims are particularly vulnerable given the stigma attached to homosexuality in Zimbabwe which makes it difficult for them to report crimes or seek medical attention." [9g] [...]

It is also considered that the information cited in paragraph 3.8.10 above which states that there is a "lack of police protection" for lesbians fails to document the severity of the situation in relation to effective state protection for the LGBT community in general, despite the fact that relevant information is also included in the UKBA COI Report:

➤ [UKBA, Zimbabwe Country of Origin Information Report, 25/03/2011](#)

[...] LGBT GROUPS [...]

TREATMENT BY, AND ATTITUDES OF, STATE AUTHORITIES

[...] 20.20 An article in New Zimbabwe, titled Interview: GALZ's Fadzai Muparutsa, dated 13 April 2010, recorded Ms Muparutsa's response to a question over the police's role in abuse and discrimination of LGBT persons:

"... one of the things that happens is that if you experience any kind of violence, violations or any kind of abuse, particularly relating to a sexual orientation, if you go and report that matter to the police, they either don't take any action, they ridicule you, you are paraded in front of anyone or everyone who is at that police station... there are selective citizens who will be assisted and other citizens won't be assisted and gay, lesbian people are amongst those people who aren't assisted by law enforcement agents in any kind of way." [41c] [...]

➤ [Gays and Lesbians of Zimbabwe \(GALZ\), Violence against lesbians in Chitungwiza, 19/09/2011](#)

[...] On Friday 2 September 2011, a lesbian member of Gays and Lesbians of Zimbabwe (GALZ) was physically assaulted and beaten with a bottle to the head in Chitungwiza. The attack on the GALZ member comes after continued reports of harassment and threats towards LGBT people in the area by known individuals.

The GALZ member was attacked by two men who had been insulting the member and her friend while they were out at a local pub. The men punched the member in the stomach and pushed her to the floor and proceeded to kick and punch her. One of the men broke a bottle of beer on the members head. [...]

➤ [International Gay and Lesbian Human Rights Commission, Nowhere to Turn: Blackmail and Extortion of LGBT People in Sub-Saharan Africa, 15/02/2011](#)

[...] Blackmail has been the steady companion of laws prohibiting same-sex sexual acts across jurisdictions,¹ in an association so pervasive that such laws have been labelled "a blackmailer's charter."² Zimbabwe is no exception to this, as even its Director of Public Prosecutions conceded that the law against homosexual acts is "the easiest, clearest and surest way of blackmail."³ [...] In Zimbabwe the readiness of certain police officers to profit from a case of extortion that comes to their attention means that victims are reluctant to report the offence, as to do so significantly increases the likelihood of their own arrest and may compound the pressure on them to hand over even more money. There are numerous instances where the police have become actively involved in the extortion, often seeking to displace the original extortionist or to obtain a share of the money being extorted.³⁹ In some cases, the police have actively sought out gay men and lesbians on their own initiative for the purpose of extortion. Extortion can also take place obliquely in instances where gay men or lesbians are the victims of theft or violence, and the perpetrator threatens to allege the commission of a homosexual offence if a complaint of theft or violence is made against him or her to the police. In numerous instances where the victims did make reports to the police, notwithstanding these threats, the gay or lesbian victims were arrested on the basis of the perpetrators' allegations and held in custody despite a lack of evidence. Some attempts were dropped

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where lawyers intervened, and the presence of a lawyer experienced in dealing with blackmail appears to offer the best possibility of extrication for the victim, but few in Zimbabwe can afford access to legal representation. [...]

Evidence from Zimbabwe makes clear that those who are open about their sexual orientation continue to be subject to, and may even become more visible targets for, blackmail, especially when the law continues to prohibit the acts of which extortionists might (even spuriously) accuse them. [...]

So long as there is still shame and indiscretion to pave its way the decriminalisation of homosexuality in Zimbabwe or elsewhere is unlikely to extinguish sexual minorities' vulnerability to extortion. [...]

➤ [Immigration and Refugee Board of Canada, Situation of gays and lesbians including societal attitudes, treatment by government or state security forces; availability of state protection, 15/02/2006](#)

[...] State protection

[...] In terms of the police, the lower ranks are often friendly towards lesbian and gay people. Higher up, police officers bend to [the] will of their political masters and have been known to act violently towards lesbians and gay men – in particular those who are black – because they perceive them as traitors to the state. The police have also been known to be linked to blackmailers. From personal experience I can report that the Presidential Guard acts with impunity. Three of us were arrested for a traffic offence when I inadvertently parked too near to State House. Despite this being a minor traffic offence for which I paid the stipulated fine, we were all subjected to physical violence, humiliation and abuse and imprisoned for 72 hours in appalling sanitary conditions without food and with little water.

Although the rule of law is seriously threatened in Zimbabwe and the judiciary itself has been infiltrated by homophobia, there is still a certain amount of independence. However, the greatest fear that homosexuals have in this regard is being outed publicly by the state-controlled media which delights in reporting on salacious stories of homosexual crime (13 Feb. 2006). [...]

Excerpt from April 2011 Zimbabwe OGN

3.8.13 Caselaw.

JD (Homosexual – MDC supporter – internal relocation) Zimbabwe [2004] UKIAT 00259: found that although there was societal discrimination against homosexuals there was no evidence of persecution on these grounds or ill-treatment reaching Article 3 standards. Furthermore, internal relocation was possible, even to another part of the applicant's home city. [...]

Supreme Court. HJ & HT v SSHD [2010] UKSC 31 7 July 2010 In this case, the Supreme Court established the test which should be applied when assessing a claim based on fear of persecution because of an applicant's sexual orientation which is as follows:

(i) Is the applicant gay or someone who would be treated as gay by potential persecutors in the country of origin?

(ii) If yes, would gay people who live openly be liable to persecution in that country of origin?

(iii) How would the applicant behave on return? If the applicant would live openly and be exposed to a real risk of persecution, he has a well-founded fear of persecution even if he could avoid the risk by living discreetly.

(iv) If the applicant would live discreetly, why would he live discreetly? If the applicant would live discreetly because he wanted to do so, or because of social pressures (e.g. not wanting to distress his parents or embarrass his friends) then he is not a refugee. But if a material reason for living discreetly would be the fear of persecution that would follow if he lived openly, then he is a refugee. [...]

3.8.14 Conclusion. Societal hostility and discrimination against LGBT persons exists in Zimbabwe, but the courts have found no evidence that there is, in general, persecution on these grounds or ill-treatment reaching Article 3 standards. Where gay men and lesbians do encounter local hostility they should be able to avoid this by moving elsewhere in Zimbabwe and it would not in most cases be unduly harsh to expect them to do so. It is therefore unlikely that a gay man or lesbian will be able to establish a claim to asylum or Humanitarian Protection on the basis of their sexuality alone.

It appears that the conclusion for this category of claim heavily relies on the 2004 findings of *JD (Homosexual – MDC supporter – internal relocation) Zimbabwe [2004] UKIAT 00259*. However it

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should be noted that the Tribunal in *JD* reached this conclusion by relying on an argument which is not consistent with the more recent case of *HJ & HT v SSHD [2010] UKSC 31 7 July 2010* (the conclusions of which are set out above in the OGN at 3.8.13) as shown below:

[JD \(Homosexual – MDC supporter – internal relocation\) Zimbabwe \[2004\] UKIAT 00259.](#)

19. In our judgment, this submission suggests that the Appellant has been the victim of hostility felt by some of her immediate neighbours who are supporters of Zanu PF. If the level of hostility is so great that, even after the passage of nearly three years, the Appellant faces the continued risk of violence on return, it cannot reasonably be said that the same risk applies wherever she may settle. If, as she claims, the hostility is so great that she cannot return to her immediate area, no credible reason has been put forward why she should not relocate to another part of Harare. It was submitted that this was not possible because, in the past, she has failed to keep her homosexuality secret from the wider community. In our judgment, however, the background material is clear and suggests that if a lesbian or gay couple act with sufficient discretion, they are able to attain the invisibility of which Mr Matyszak speaks. We do not consider that the restraint that this requires is sufficient to constitute persecution or a violation of human rights.

In addition to the findings of *JD* now being obsolete, the conclusion makes no mention of lesbians being subjected to corrective rape or forced marriage as is reported above to occur in Zimbabwe and that effective protection is unavailable for the LGBT community. Furthermore, the conclusion asserts that internal relocation would be possible in ‘most cases’ without adducing any evidence to support this neither in the *Conclusion*, nor in the *Treatment* section. Indeed, the converse has been reported in a UKBA COIS Fact Finding Mission report:

➤ [UKBA Country of Origin Information Service, Report of Fact Finding Mission to Zimbabwe Harare 9-17 August, published 21/09/2010, reissued on 27/10/2010](#)

[...] 4. INTERNAL RELOCATION

a) Are there any restrictions on someone moving and settling in another part of Zimbabwe?

Summary of interview notes*

[...] 4.16 The Gays and Lesbians of Zimbabwe noted:

“It would be harder for a gay man to reintegrate into a new area than it would be for a heterosexual man. The tolerance comes from familiarity and people are more tolerant of members of their own community.”

[4a][...]

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3.10 Prison conditions

Excerpt from April 2011 Zimbabwe OGN

3.10.3 Consideration. **Prison conditions are harsh and, in some cases, life threatening.** Zimbabwe's 42 prisons were designed for a maximum of 17,000 prisoners. Local NGOs and the International Committee of the Red Cross (ICRC) estimated that there were approximately 12,000 to 14,000 prisoners in the Zimbabwe Prison Service (ZPS) at the end of 2009 – a significant reduction from a 2008 NGO estimate of 35,000 and the 2008 government estimate of 22,000 to 24,000. **Prison guards reportedly beat and abuse prisoners.** Poor sanitary conditions and overcrowding persist, which aggravated outbreaks of cholera, diarrhoea, measles, tuberculosis, and HIV/AIDS-related illnesses. 38

The first above highlighted sentence inaccurately represents the original source of information. The sentence is cited as the COI Service Zimbabwe Country Report March 2011 (para 12.02) which in turn cites the 2009 U.S State Department Country report. By contrast, the original source describes that:

- [U.S State Department, Zimbabwe Country report of Human Rights Practices, 11/03/2010](#)
[...] Prison and Detention Center Conditions
Prison conditions remained harsh and life threatening. [...]

Indeed, this remains the current position of the U.S. State Department in its most recent 2010 Country report:

- [U.S. State Department, 2010 Country Report on Human Rights Practices, 08/04/2011](#)
[...] Prison and Detention Center Conditions
Prison conditions improved but remained harsh and life threatening. [...]

The second above highlighted sentence also fails to accurately represent the original source. This sentence is again an excerpt from paragraph 12.02 of the COI Service report on Zimbabwe which cites the 2009 U.S. State Department report. Again, this is not a fully accurate representation of the original source, for this report in fact presents a more emphatic picture, stating that:

- [U.S State Department, Zimbabwe Country report of Human Rights Practices, 11/03/2010](#)
[...] Prison and Detention Center Conditions
[...] Prison guards beat and abused prisoners. [...]

This similarly remains the current position of the U.S. State Department in its most recent 2010 Country report:

- [U.S. State Department, 2010 Country Report on Human Rights Practices, 08/04/2011](#)
[...]Prison and Detention Center Conditions
[...] Prison guards beat and abused prisoners. [...]

It is surprising that, despite being widely reported on, no COI is included in this section of the OGN on the prevalence of torture in detention. The following COI is indicative of the currently available COI on this issue:

- [SW Radio Africa, 28 arrests in WOZA demo over ZESA bills, 22/08/2011](#)
[...] Prison officials are continuing to defy a court order to provide medical attention to seven MDC activists who have been languishing in prison since May.

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Deputy Justice and Legal Affairs minister, Obert Gutu, visited them last week and said he was appalled at the state they were in. [...]

For more than two months prison officials have been denying those incarcerated access to doctors despite a court ruling ordering that they be treated. The seven activists are among 24 MDC members who were arrested and severely tortured while in police custody on charges of murdering a police officer in Glen View in May. The other 17 were granted bail last month. [...]

➤ [Civil Society Monitoring Mechanism CISOMM, February- March Bi-monthly Report 2011, 09/05/2011](#)

[...] Human Rights and Operating Environment

[...] Police abuse of persons in custody

§ The police frequently acted illegally in the treatment of detained persons. Those remanded in custody (i.e. suspects and not criminals) have been subjected to assault and torture, denial of their rights to receive legal and medical assistance, denial of access to justice and were kept in custody beyond the legal provision. Cases include those of political leader Job Sikhala, Munyaradzi Gwisai and several of the activists accused of treason, the WOZA demonstrators.

§ Several cases were thrown out by the courts on the grounds of insufficient evidence as the police habitually failed to conduct conclusive investigations before making the arrests.

§ Training of police to observe the rule of law has not been undertaken in any systematic manner so that detention in police custody continues with those accused being denied access to their lawyers. [...]

➤ [Amnesty International, Celebrating independence amid fear, 18/04/2011](#)

[...] As Zimbabwe celebrates 31 years of independence, Amnesty International today expressed concern about the lack of effort by the government to address the legacy of human rights violations and respect for human rights guaranteed in the country's own constitution as well as international treaties.

Despite the formation of the Government of National Unity (GNU) in 2009, human rights violations have continued unabated. Unjustifiable restrictions of the rights to freedom of expression, association and peaceful assembly are undermining the stability brought about by the setting up of the GNU. [...]

Since February, Zimbabwean civil society has faced an upsurge in incidents of harassment and intimidation in what has been seen as a clampdown by the Zimbabwe Republic Police, with arbitrary arrest, detention and torture occurring with alarming frequency across the country.

Talk of a possible election in 2011 is also fuelling tensions within the GNU and in communities. Very little has been done to address the tension in rural communities arising from the 2008 state-sponsored election violence. [...]

➤ [U.S. State Department, 2010 Country Report on Human Rights Practices, 08/04/2011](#)

[...] c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution prohibits torture and other cruel, inhuman, or degrading treatment or punishment, security forces continued to engage in such practices. Security forces continued to commit political violence, including torture of citizens in custody. Army and police units organized, participated in, or provided logistical support to perpetrators of political violence and generally permitted their activities. Police also continued to refuse to record reports of politically motivated violence or destruction of property. Police used excessive force in apprehending and detaining criminal suspects due to lack of resources, lack of training, and a culture of disregard for human rights. ZANU-PF supporters continued to assault suspected and known MDC members and their families, civil society activists, and student leaders. Violent confrontations between various youth groups aligned with either ZANU-PF or the MDC continued. Human rights groups reported that physical and psychological torture perpetrated by security agents and ZANU-PF supporters continued. Torture and other assault methods commonly reported included beating victims with sticks, clubs, whips, and cables; suspension; burning; electric shock; and falanga (beating the soles of the feet). [...]

➤ [Newsday, 'Prisoners stay naked in condemned cells', 15/03/2011](#)

[...] Albert Mugove Matapo, a remand prison inmate facing treason charges and another one for allegedly attempting a jailbreak with six other prisoners, told the court this week he was kept naked for a month, in darkness and in leg-irons. [...]

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- [Human Rights Watch, Perpetual Fear Impunity and Cycles of Violence in Zimbabwe, 08/03/2011](#)
[...] V. Failure to Investigate Torture by State Agents
The use of torture by state agents is endemic in Zimbabwe. In the aftermath of the 2008 general elections Human Rights Watch reported that the army established bases across the country to torture people as a form of punishment for voting for the MDC.⁴⁹ The police have also routinely arrested human rights activists and journalists and subjected them to torture, cruel, degrading and inhumane treatment. The torture and ill-treatment inflicted has included severe beatings on the back, buttocks and soles of the feet with blunt objects, forcing victims to seat or stand in uncomfortable positions for hours on end, as well as false executions and threats of death. The government has repeatedly refused to investigate allegations of torture by police and other state agents, despite court orders.⁵⁰ [...]

- [Office of the High Commissioner for Human Rights, Pillay concerned about civil society crackdown after mass arrest, 01/03/2011](#)
[...]The UN High Commissioner for Human Rights Navi Pillay expressed deep concern Tuesday about the continuing illegal detention and reported ill-treatment of 45 members of civil society in Zimbabwe, who have allegedly been charged with treason for discussing events in Egypt and Tunisia. She also called for their speedy release.
“As many people in North Africa have been pointing out increasingly loudly and clearly, there is no true democracy without freedom of expression and assembly,” Pillay said. “It is therefore both deeply ironic and disturbing that, in Zimbabwe, activists are being arrested and mistreated simply for discussing North Africans’ efforts to bring about change through largely peaceful protests.”
On 19 February, police arrested the coordinator of the International Socialist Organisation and 44 other social justice and human rights activists who were attending a roundtable focused on recent events in Egypt and Tunisia. The activists have reportedly been charged with treason under the Criminal Law Act of Zimbabwe, and several of them claim to have been beaten since being taken into detention. [...]

Excerpt from April 2011 Zimbabwe OGN

3.10.6 NGOs have estimated that there are about 500 women in prison; 43 children under the age of five lived with their incarcerated mothers. NGOs have reported that female prisoners generally fare better than males. Women generally received more food from their families than male prisoners, resulting in reduced rates of malnutrition. Prison officials also appear to have prioritised food distribution to women. NGOs were unaware of women reporting rapes or physical abuse, which were common among the male population, and suggested that female guards may have been more diligent about protecting female prisoners from abuse and that female prisoners may not have reported abuse. However, women prisoners continued to endure significant hardship. For example, prisons did not provide female sanitary supplies for women, resulting in frequent fungal infections, as female inmates were forced to reuse torn pieces of dirty blankets during their menstrual cycle. Pregnant and nursing mothers were not provided additional care or food rations. According to lawyers, female offenders also received sentences that were on average two to three years longer than male offenders for the same crime. 41.

This is the only paragraph in this section which specifically relates to the treatment of women detainees. This paragraph relies upon one source of information: the UKBA COI Service report (paragraph 12.03) which in turn cites the 2009 U.S. State Department report. Not only is this source now out-dated, but it is considered that this one source of COI on the treatment of women in detention is not fully reflective of the information available in the public domain. Moreover, the COI currently included in the OGN on this issue makes no reference to the practice of torture and specific ill-treatment being committed against women detainees. The following COI addresses this issue:

- [Independent Online, Zim police cells 'inhumane', 27/09/2011](#)

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[...] Harare - A pressure group on Monday denounced what it described as the inhumane condition facing women imprisoned in police cells in Zimbabwe.

In a petition to the country's highest court, Women of Zimbabwe Arise (WOZA) said incarcerated women were being forced to take off their underwear and shoes, while their cells have no light or sanitation.

"The application seeks to highlight the plight of women in detention, by showing the added hardships they have to endure on account of their sex. The filth, coupled with lack of access to sanitation, constitutes a violation of the rights of women in detention," Belinda Chinowawa of the Zimbabwe Lawyers for Human Rights told the German Press Agency dpa. [...]

➤ [Daily News, Zim prison horror, 15/07/2011](#)

[...] Prisoners are horrifyingly dying in their hundreds as a dire shortage of food, drugs and clothing continues to haunt the country's jails, according to a special parliamentary report that has just been released. Inmates living with HIV/Aids are in even more grave danger because of government's failure to provide them with regular medication, while children incarcerated with their mothers are not catered for in food rations, the report by the thematic committee on human rights stated. The report which reads like a horror movie, paints a deathly picture of prison conditions, was tabled in Senate this week. Foreigners from countries such as Ivory Coast, Liberia, Guinea Bissau, Democratic Republic of Congo, Somalia and neighbouring Mozambique locked up in local prisons were adding tension to the under resourced jails, the committee said. "The committee is of the opinion that their continual existence strains the Zimbabwe Prison Services' (ZPS) already inadequate budget and recommends that these prisoners should be deported back to their countries." In some of the prisons such as Mutare Prison, the situation has not improved since the jails were built a century ago by the country's colonisers, according to the report.

"One of the major challenges was that some of the prisons were built during the colonial era when prisons were meant to be harsh and punitive. The committee was informed that Mutare Prison was built in 1910 and infrastructure was dilapidated," reads the report. The report makes sad reading, with cases of suspects staying in remand prison for over a year because ZPS lacks resources to transport them to court for hearings.

Zimbabwe has 55 prisons including satellites with a holding capacity of 17 000 inmates, according to Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender (ZACRO). ZACRO is an independent prisoner rehabilitation organisation. So bad is the situation in prisons that magistrates at times mistook suspects for mentally retarded people because of the tattered clothing they will be wearing, resulting in magistrates not giving "serious consideration" to their cases. Actual mental health patients locked up in prisons are some of the worst sufferers because of a shortage of doctors or fuel to transport the doctors, the report noted. [...]

According to the report, the situation has failed to improve after the collapse of service delivery in 2008 and 2009 when Zimbabwe became one of the world's worst places to live in due to a grinding decade-long political and economic tumult. Prison deaths persist, 28 months after President Robert Mugabe and Prime Minister Morgan Tsvangirai's coalition government was formed, according to the situation captured in the parliamentary report. Mutare Prison for example is now in a worse situation and "needed refurbishment as a matter of urgency as it is no longer fit for human habitation...to avoid eruption of diseases and other communicable infections". Worse, the officer-in-charge told the committee that refurbishment of the prison was "not possible" because of financial constraints. But it is the condition of children and inmates living with HIV/Aids that makes the prison conditions unbearable. "The committee observed that nursing mothers in prisons fed their children from the rations they received. Children were being forced to survive on sadza with beans and or vegetables. Lack of diet affects the growth of these children," stated the committee, noting that there were no crèches for these children thereby affecting their right to basic education. Young offenders are on the hook too, as they are battling to acquire identity documents such as birth certificates because relatives are reluctant to associate with and help them. "Inmates who were HIV positive said they required balanced diet that is critical to boost their immunity. HIV positive inmates got the same rations as those that are negative and they are the most affected. Their health is curtailed by lack of ARVs (HIV drugs)," read the report. Touched by the plight, churches and aid organisations such as the International Community of the Red Cross have intervened to supply food and other amenities but the situation remained precarious, the committee noted. Male prisoners were walking "half naked" in tattered clothes in front of female prison officers, the committee noted. [...]

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➤ [Amnesty International, Briefing to the pre-session working-group of the UN Committee on the Elimination of Discrimination against Women - 51st session, 24/06/2011](#)

[...] 4.1 DISCRIMINATION, SEXUALITY BAITING, DISCRIMINATORY STEREOTYPING OF WOMEN HUMAN RIGHTS DEFENDERS AND DENIAL OF ACCESS TO HEALTH CARE IN POLICE CUSTODY (ARTICLES 2(D), 7(C) AND 12))

Since 2000, human rights defenders in Zimbabwe, including members of WOZA, have been targeted for arbitrary arrest, unlawful detention, torture and other ill-treatment while in police custody. For women human rights defenders, their ill-treatment by police while in detention often takes a gender specific dimension designed to humiliate and to de-legitimize women's human rights concerns and activism. Amnesty International has documented cases of women human rights defenders who have been arrested and taken into police custody, and were humiliated and subjected to sexist verbal attacks. These include being called "whores" and being told that they are "bad women" who deserve no sympathy from the police authorities. Women human rights defenders are portrayed as deviant women who have malicious intentions. This form of treatment amounts to sexuality baiting, aimed at undermining the work of women human rights defenders by discrediting their activities and isolating them from the rest of the human rights movement. Amnesty International has information that women who dare to challenge violations of economic and social rights are subjected to derogatory or sinister accusations by the police, aimed at discrediting their character.

Lawyers in cities across Zimbabwe who have represented women human rights defenders when they are arrested have told Amnesty International that male police officers subject women human rights defenders to sexist verbal abuse. They have reported, for example, that male police officers have used statements such as "I am not here to sleep with you" and "You should go and find husbands instead of wasting time engaging in WOZA things." Older women are told to "go and practice witchcraft" instead of engaging in activism. Such sexist verbal attacks by police on women human rights defenders while in custody are evidence of the police's endorsement of negative gender stereotypes and gender discrimination. They insinuate that women human rights defenders have no business becoming active in the public sphere in defence of human rights, because they are women, and because they are perceived as not abiding by stereotypes of what is deemed by society as "appropriate" behaviour for women. Attacks of this kind amount to violence against women and constitute violations of women's human rights. [...]

➤ [Civil Society Monitoring Mechanism CISOMM, February- March Bi-monthly Report 2011, 09/05/2011](#)

[...] Prisons

The Zimbabwe Prison Service (ZPS) has appealed for assistance for women prisoners with children. It is commendable that that they appealed for assistance to at least relieve the humanitarian situation, but also shows that the prisons need to be comprehensively addressed by the Inclusive Government. ZPS outlined the challenges faced by female prisoners, especially those who are either pregnant or accompanied by their infants. Women comprise about 3.5% of the prison population and about 7% of the female prisoners are accompanied by their babies who live with them in prison unless they can be placed with relatives or in families identified by the Department of Social Welfare (DSW) after they have been weaned off. The resource constrained DSW does not have a specific budget line to cater for the needs of mothers with children, and likewise face resource and other challenges with other groups such as juveniles and persons with mental disabilities. ZPS appealed to NGOs interested in supporting activities in prisons to make proposals through the Ministry of Justice and Legal Affairs (MoJLA) as it is now possible for such organisations to provide assistance. [...]

➤ [U.S. State Department, 2010 Country Report on Human Rights Practices, 08/04/2011](#)

[...] NGOs estimated that there were 412 women in prison, 250 of whom were convicted as of June, and 72 children under the age of three lived with their incarcerated mothers. NGOs reported that female prisoners generally fared better than males. Female prisoners were held in separate wings of prisons and were guarded by female officials. Women generally received more food from their families than male prisoners. However, children living with their incarcerated mothers were required to share their mothers' food allocation. Prison officials also appeared to have prioritized food distribution to women. NGOs were unaware of women reporting rapes or physical abuse, which were common among the male population.

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NGOs suggested that female guards may have been more diligent about protecting female prisoners from abuse, and female prisoners may not have reported abuse. However, female prisoners continued to endure significant hardship. For example, prisons did not provide feminine sanitary supplies for women, resulting in frequent fungal infections, as female inmates were forced to reuse torn pieces of dirty blankets during their menses. Pregnant and nursing mothers were not provided additional care or food rations. [...]

Excerpt from April 2011 Zimbabwe OGN

3.10.5 It has been reported that NGOs have estimated that the death rate was 40 deaths per month during 2009, a reduction from the estimated 40 to 50 deaths per week during the height of the 2008 prison crisis. Most observers attributed the dramatic decrease to the ICRC's feeding program, which was the direct result of efforts by MDC-T Deputy Minister of Justice Jessie Majome to permit the ICRC and NGOs increased access to the prisons. Most prison deaths were attributed to harsh conditions, hunger, and HIV/AIDS. NGOs continued to estimate that half of prisoners were HIV-positive; the Zimbabwe Prison Service (ZPS) did not routinely test prisoners for HIV. Due to inadequate facilities, outdated regulations, and the lack of medical personnel and medication, the majority of prisoners were consistently ill, and routine medical conditions such as hypertension, diabetes, and asthma became life threatening.⁴⁰ [...]

3.10.9 Conclusion. Prison conditions in Zimbabwe are severe and taking into account the levels of poor sanitation, prevalence of disease, absence of medical facilities, levels of abuse and lack of food, have the potential to reach the Article 3 threshold in individual cases. The individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention, the likely type of detention facility and the individual's age and state of health. Where individual applicants are able to demonstrate a real risk of imprisonment on return to Zimbabwe (and exclusion is not justified), a grant of Humanitarian Protection may be appropriate.

The conclusion for this section fails to accurately represent the available COI on detention conditions in Zimbabwe which, as detailed above, are reported to be harsh and life threatening. The conclusion for this section of the OGN also fails to document the incidence of torture in detention facilities as documented above. In addition, whilst the conclusion does at least recognise the severity of detention conditions in Zimbabwe, it is noteworthy that these reported 'severe' conditions are not considered likely to reach the Article 3 threshold. This appears to be inconsistent with OGNs produced for other countries. For example the current Afghanistan OGN concludes that "prison conditions are severe and taking into account the levels of overcrowding, poor sanitation, prevalence of disease and absence of medical facilities, lack of food and incidence of torture, are likely to reach the Article 3 threshold".¹ Given that the Zimbabwe OGN also documents these same indicators of severe detention conditions and in addition reports a high death rate due to the harsh conditions (at paragraph 3.10.5), it would follow that detention conditions in Zimbabwe are likely to reach the Article 3 threshold as well.

This conclusion of the OGN also fails to identify gender as amongst those additional factors that should be considered to determine whether detention will cause a particular individual to suffer treatment contrary to Article 3.

¹ UKBA, [Afghanistan Operational Guidance Note](#), March 2011, section 3.11.4

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2.3 Actors of protection

No information is included in this section on the continued politicisation and allegiance of the security forces to ZANU-PF. The following COI illustrates this point:

➤ [Zimbabwe Peace Project, Summary on Politically-Motivated Human Rights and Food-Related Violations July 2011, 21/08/2011](#)

Summary

There were also reports of inter and intra party fighting from across the country within ZanuPF and the MDC-T. The infighting within Zanu PF has been ongoing as new candidates are facing stiff resistance from the party's heavy weights in the fight to represent the party during the next general elections.

State security agents and in particular members of the police force and soldiers were accused of partisan application of the law during the course of their work. This was evidenced in the manner in which police officers reacted to the disruptions of public hearings on the proposed Zimbabwe Human Rights Bill in Chinhoyi, Masvingo, Mutare and Harare. The police failed to arrest even a single demonstrator during the disturbances that occurred at Parliament Building in Harare.

However, the police were swift to arrest 13 Restoration of Human Rights (ROHR) activists who were demonstrating outside the High Court in protest of the continued detention of MDC-T activists accused of murdering a police inspector Petros Mutedza in Glen View in May.

The "terror bases" that were used by Zanu PF militias in the run up to the 2008 presidential run-off to terrorise and maim then suspected opposition supporters and officials have been re-established. Mashonaland Central Province has witnessed the re-surfacing of Zanu PF youth bases following a series of MDC-T rallies that were conducted throughout the country.

➤ [Amnesty International, Continued clamp down on dissent : Amnesty International Submission to the UN Universal Periodic Review, March 2011, 31/07/2011](#)

[...] IMPUNITY FOR HUMAN RIGHTS VIOLATIONS BY SECURITY FORCES

Amnesty International is concerned about the lack of accountability by members of the security forces for human rights violations against human rights defenders and perceived opponents of President Mugabe's ZANU-PF party. The organization has documented numerous cases where the police were unable or unwilling to arrest and bring the perpetrators to justice. [...]

➤ [Human Rights Watch, Zanu-PF: It's time to take decisive action, 13/06/2011](#)

[...] In another worrying development, a senior commander in the Zimbabwe National Army stated in a local newspaper, the Independent, that the army supported the holding of elections this year and remained loyal to Mugabe. The army's role in Zimbabwe's political crisis and its involvement in politically motivated violence -- in particular during elections in 2008 -- and other abuses has been extensively documented by Human Rights Watch. Local human rights activists report that the army is once again being mobilized in the rural areas and is assisting youth militia and ZANU-PF supporters in intimidating and harassing the rural population. [...]

➤ [Civil Society Monitoring Mechanism CISOMM, February- March Bi-monthly Report 2011, 09/05/2011](#)

[...] Institutional and Legislative Reform

Institutional reform became more contested with the gauntlet thrown down by ZANU-PF to fight for political 'ownership' of key institutions. The attempt to have the Speaker of Parliament removed failed after Lovemore Moyo of MDC-T was reinstated by a vote in the House of Assembly. Meanwhile, the security forces remain entirely at the bidding of ZANU-PF, with chief officials showing contempt for MDC's position within the power-sharing government. Legislatively, the programme was again stalled by the infrequent meetings of Parliament and the Senate, as well as the recalcitrance of Ministers and others to submit themselves to investigation by the Portfolio Committees. The context was characterised by certain

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state institutions clearly taking orders from ZANU-PF to the detriment of MDC and disregarding the GPA which insisted on the impartial conduct of state institutions. [...]

INSTITUTIONAL AND LEGISLATIVE REFORM

[...] Non-compliance

[...] The army is also perceived as acting on a ZANU-PF agenda. Troops were deployed in Nkayi, Zvishavane, Plumtree, Gwanda, Rutenga, Mwenezi and Ngungumbane areas. Already, there has been an increase in reports of intimidation by members of the army – although this is denied by Min. of Def Mnangagwa. This raises concerning questions about the militarization of ZANU-PF and any pre-election environment.

The security forces now show complete disregard for civilian authority and no willingness to act impartially, demonstrated by the following examples. Commissioner-General of Police, Augustine Chihuri brazenly told a Parliamentary Portfolio Committee investigating political violence that MDC was behind it all, contrary to all facts, including direct accusations of Deputy PM Thokozani Khupe, Co-Minister of Home Affairs Theresa Makone and other MDC Ministers. Hon Makone announced that she simply has no authority with the police, despite being co-Minister with Kembo Mohadi. Also, the appointment of security chiefs to ZANU-PF party structures is an obvious issue of non-compliance. [...]

➤ [International Crisis Group, The Road to Reform or Another Dead End? 27/04/2011](#)

Executive Summary and Recommendations

[...] The worsening climate of fear and violence means security sector reform (SSR) should be the most immediate challenge. In addition, important institutions need to be strengthened, including parliamentary committees and the Human Rights, Media and Electoral Commissions. These measures should be supplemented by continued support for civil society to engage with those bodies as set out in the GPA. Until the draft constitution is produced, however, it is unlikely that even the limited SSR contained in the GPA will be meaningfully addressed. [...]

[...] C. RE-RUN OF THE 2008 ELECTION VIOLENCE?

Fears have understandably surfaced that the 2008 coercion campaign is being resurrected, and new elections will be held in conditions similar to, if not worse than, those that prevailed during the run-off campaign that year.⁶¹ There are reports of youth militia deployments across the country ahead of the constitutional referendum, including induction of many of these young people into the police and army through ZANU-PF's control of security force recruitment and the civil service.⁶² This correlates with allegations about deployment of army officers into rural areas to coordinate intimidation, though these are vehemently denied by Defence Minister Emmerson Mnangagwa.⁶³ [...]

Dealing with violence and security concerns lies at the heart of the reform program but has not been attempted. A senior Zimbabwean political analyst said, "violence is now an integral part of the body politic; it has infected and affected all institutions of state and is not confined to the security sector. Violence has become a celebrated instrument for settling scores in Zimbabwe".⁶⁸ Widespread fear and insecurity go unacknowledged, and the related role and responsibilities of the security sector remain essentially off-limits.⁶⁹ The MDC-T secretary general and finance minister, Tendai Biti, has warned of a "blood bath" if elections are held without meaningful reform.⁷⁰ In those circumstances, it is unlikely that many citizens who have

left the country would want to return. This presents a serious problem for South Africa, grappling with the economic impact of assimilating hundreds of thousands of indigent Zimbabwean refugees. [...]

➤ [Human Rights Watch, Perpetual Fear Impunity and Cycles of Violence in Zimbabwe, 08/03/2011](#)

[...] Two years since the formation of a power-sharing government that was expected to end human rights abuses and restore the rule of law, politically motivated violence and the lack of accountability for abuses remain a serious problem in Zimbabwe. Members of the security forces, the former ruling party, the Zimbabwe African National Union-Patriotic Front (ZANU-PF), and groups allied to ZANU-PF continue to commit human rights violations, including arbitrary arrests and abductions, beatings, torture, and killings of members and supporters of the former opposition party, the Movement for Democratic Change (MDC), and those critical of the ZANU-PF and its officials. [...]

➤ [Amnesty International, Urgent need for security sector reform to stem human rights abuses, 11/02/2011](#)

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[...] On the second anniversary of the Government of National Unity (GNU), Amnesty International is urging Zimbabwe's coalition government to act on ongoing human rights abuses and to institute reforms of the security sector and the media. Two years since the unity government was set up in Zimbabwe, Amnesty International is concerned about lack of progress in implementing key reforms to address the legacy of human rights abuses. [...] It is an open secret that ZANU-PF supporters who use violence against members of the public or their perceived political opponents are beyond the reach of the law. Police continue to selectively apply the law – turning a blind eye to violations by ZANU-PF supporters while restricting the work of human rights organisations and the activities of other political parties. [...]

2.4 Internal Relocation

No COI is presented in the sections of the OGN which relate to the possibility of return or internal relocation to Harare, which instead rely exclusively upon summaries of the findings of *EM and Others*:

Excerpt from April 2011 Zimbabwe OGN

2.4.3 [...]

(iii) In respect of Harare, the Tribunal concluded that at the present time a person having no significant MDC profile returning to a high-density area of Harare would not face a real risk of having to prove loyalty to ZANU-PF in order to avoid serious ill-treatment [para 204 of judgment] (albeit that they are likely to face more difficulties than someone returning to a low density area of Harare). A returnee to Harare will generally face no significant difficulties, if going to a low or medium density area. [...]

(v) Relocation to Harare or, in particular, Bulawayo may be an option for a person facing risk of persecution in rural Zimbabwe [paras 224 and 225 of judgment] subject of course to the requirements that such relocation not be unduly harsh. In general, it is unlikely that a person with a well-founded fear of persecution in a major urban centre such as Harare will have a viable internal relocation alternative to a rural area in the Eastern provinces. Relocation to Matabeleland (including Bulawayo) may be negated by discrimination, where the returnee is Shona.

Section 2.4.3 (iii) above is a repeat of paragraph 3.6.7 (iii) of the OGN and as such the analysis provided above on pages 2-16 also applies. In addition to this analysis it is further considered that relevant findings from the case law have been omitted from paragraph 2.4.3 (v) above with respect to the possibility of internal relocation to Harare or Bulawayo. Compare this section of the OGN to the following excerpts from the case law (emphasis added):

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

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:

[...] (7) The issue of what is a person's home for the purposes of internal relocation is to be decided as a matter of fact and is not necessarily to be determined by reference to the place a person from Zimbabwe regards as his or her rural homeland. As a general matter, it is unlikely that a person with a well-founded fear of persecution in a major urban centre such as Harare will have a viable internal relocation alternative to a rural area in the Eastern provinces. Relocation to Matabeleland (including Bulawayo) may be negated by discrimination, where the returnee is Shona.

(8) Internal relocation from a rural area to Harare or (subject to what we have just said) Bulawayo is, in general, more realistic; but the socio-economic circumstances in which persons are reasonably likely to find themselves will need to be considered, in order to determine whether it would be unreasonable or unduly harsh to expect them to relocate. [...]

Internal relocation

[...] 222. A more realistic scenario is the converse; that is to say, where a person facing a real risk of persecution in what is his or her home area in rural Zimbabwe (as addressed above) is said to be able to relocate to a large urban centre, such as Harare or Bulawayo.

223. Here, the social and economic position of the person in question will assume particular importance. In particular, whilst it might not be contrary to Article 3 of the ECHR to expect a person without family or friends to set themselves up in the informal sector as a street trader, bearing in mind the distinction identified in AH (Sudan) between Article 3 ill-treatment and reasonableness or undue harshness in the case of internal relocation, it might well, on the facts, be unreasonable or unduly harsh to expect such a person to relocate on that basis. The ultimate answer will, however, depend on the particular circumstances of the case. [...]

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A further paragraph of this section of the OGN is also not fully representative of the above excerpt of case law:

Excerpt from April 2011 Zimbabwe OGN

2.4.4 On the question of internal relocation to Bulawayo, in paragraph 225 of EM and Others the Tribunal said “we accept the evidence of the appellants that a Shona, without family or other significant contacts in Bulawayo, seeking to move to that city from outside Matabeleland, is likely to face social difficulties...in particular, he or she may face discrimination in relation to jobs and housing. It is, however, apparent from the evidence that in previous decades there was a significant pattern of migration of Shona to Bulawayo in search of work, and that, as a result, some 20% of the population of that city is Shona. It would, accordingly, not be necessary for the newcomer to speak Ndebele, in order to get by in Bulawayo, although linguistic problems may be relevant in determining the issue of whether it would be unreasonable or unduly harsh for such a person to live in that city”. Therefore, although there may be some societal discrimination for Shona people in Bulawayo each case will need to be considered on its facts to determine whether it would be unreasonable or unduly harsh to expect them to relocate. **There was no general finding in EM and Others that this discrimination amounts to persecution or a breach of Article 3.**

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4.4 Medical treatment

Excerpts from the April 2011 OGN

4.4.4 It has been reported that since the formation of the Government of National Unity in 2009 improvements in the economy and the assistance from international NGOs have resulted in improvements to the public health system. 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. **It is reported that while there were no significant problems obtaining Anti Retrovirals for the treatment of HIV/AIDS**, there continued to be shortages of other essential drugs.⁴⁸

4.4.5 It has been reported that there is some **politicisation in healthcare provision**. If a patient is a victim of a human rights violation they cannot get treatment without a police report, which the police will often decline to provide, thus effectively barring treatment in public hospitals. In rural areas the senior people in charge of healthcare facilities will usually be controlled by ZANU-PF supporters and there is concern that this may lead to denial of treatment for those who are known to be MDC supporters. **However there have been no reports of this happening in practice and it is likely to apply only to those who have a known profile as a political or human rights activist**. In the major cities, there is no political discrimination in the provision of healthcare and in fact most of the healthcare workers would probably be more inclined to discriminate against ZANU-PF supporters, but again in practice this does not happen, possibly because of higher literacy rates and political awareness.⁴⁹

[...] 4.4.9 It was estimated that at the end of 2009, 1.1 million Zimbabweans were living with HIV and 1,090 people were dying weekly of AIDS related illness. It was reported that gains had however been made through intensive HIV awareness and behavioural change campaigns, leading to a decline in the prevalence rate from 18.1% to 13.7% in 2009 but still remaining one of the highest in the world.⁵⁶ **It was reported that at the end of November 2009, more than 215,000 people were receiving Anti-Retro Viral Treatment (ART) in the public and private health care sectors; and that the government is planning to increase this to 250,000 state patients by the end of 2010 and to 350,000 by 2012.**⁵⁷

4.4.10 The majority of ART (around 90%) is supplied by NGOs and international organisations. **As a result, the availability of ART is not affected by economic and political conditions in the country**. A number of NGOs and International Organisations provide their own transport to ensure drugs reach regional clinics and treatment centres.⁵⁸ **A months' supply of ART in a public hospital or clinic ranges between US\$16-20**. An outpatient appointment costs US\$10 (US\$5 for children) at a main hospital; lower fees are payable at provincial and district hospitals.⁵⁹

The highlighted passages above relate to the availability of Anti-Retroviral Treatment (ART) and Anti-Retroviral drugs (ARVs) and suggest that these are readily available for HIV/AIDS patients. 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 March 2010, when *RS & Ors* was heard, the following country information has been published that contravenes the situation presented in the OGN and which might 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](#)
- [Corruption and bribery affecting access to HIV/AIDS treatment](#)
- [Waiting lists for HIV/AIDS treatment](#)
- [Societal discrimination against persons living with HIV/AIDS](#)
- [Lack of food, shelter or social support for persons living with HIV/AIDS](#)
- [Politicisation in healthcare provision for persons living with HIV/AIDS](#)

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Availability of ART/ARVs

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

[...] 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 Mugurungi, 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. [...]
- [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 [...]
- [SW Radio Africa, Report showing decline in Aids rate ‘too simplistic’, 09/02/2011](#)

[...] A new study which concluded that Zimbabwe experienced a huge decline in the rate of HIV infection over the last decade, has been criticized by observers as ‘too simplistic’. The study, published on Tuesday in the Public Library of Science Medicine, said the country’s HIV infection rate declined by almost half between 1997and 2007. And the reason given was ‘a change in sexual behavior due to fear of infection’.

But observers have criticized the report, saying it ignores many factors related to the ongoing political, economic and social crisis that has engulfed Zimbabwe since 2000.

The researchers, based at Imperial College in London, said the infection rate had dropped from 29 percent to just 16 percent in that period. They praised educational programs, saying the decline was the result of

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'increased awareness' of AIDS related deaths, leading to a change in people's sexual behavior as they feared catching the virus.

But Emmanuel Gasa, director of The AIDS and Arts Foundation (TAAF), said the research method was inaccurate since it did not take into account the many infected Zimbabweans who cannot afford to travel to clinics to be evaluated [...]

➤ [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.

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.

[...] Tinotenda Mabvure (33) said when she registered for ART at Chigodora clinic, 25 km south of the city, two years ago it was easy but it had become difficult to access drugs at the local Zimunya satellite clinic.

I was told by the clinic staff that they have run out of stocks and I had to part with US\$50 to bribe the nurse, but I am not employed and cannot afford such kind of money every time I need medication, said Mabvure, whose health was deteriorating [...]

➤ [UK Parliament House of Commons Library, Zimbabwe since the Global Political Agreement, 07/12/2010](#)

[...] Zimbabwe has the second lowest life expectancy in the world, at 44 years. 16% of the population are infected with HIV, with a three-quarters of those requiring anti-retroviral therapy not receiving it; deaths from HIV /AIDS are estimated to number 80,000 per year30 [...]

➤ [The Zimbabwean, No cash for ARV drugs, 09/10/2010](#)

[...] Three quarters of people living with HIV/AIDS in Zimbabwe earn less than \$50 per month and cannot afford the life-prolonging anti-retroviral drugs or basic commodities, according to a report by the Zimbabwe Lawyers for Human Rights (ZLHR).

The report, which also said that public health workers often demand bribes from patients to get medicines, said most of the people living with HIV or AIDS were not in formal employment, while the government has failed to keep promises to ensure freed ARVs for all needing them.

75 percent of the respondents have an average monthly income ranging 0-50 United States dollars, with the number decreasing as one goes up the range. As such 83 percent of the people interviewed highlighted that they could not afford basic necessities for their day to day lives, the report said [...]

➤ [Inter Press Service News Agency \(IPS\), Zimbabwe: Rural Children with HIV a 'Lost Cause', 27/07/2010](#)

[...] Government-run rural clinics in these areas lack essential drugs and the most basic clinical supplies such as cleaning agents, surgical gloves, and bandages.

A medical doctor at Guruve Hospital who asked for anonymity for fear of political persecution said even though the drugs have become affordable and available, the country's health care systems to treat children and pregnant women remain weak.

"In most rural areas, children with AIDS are generally considered a lost cause," the doctor said.

"Treatment, to the extent it exists, is limited to adults, for whom antiretroviral therapy is cheaper and easier."

He said specialised and costly tests are needed to determine whether a child under 18 months is infected, although treatment can begin based on symptoms alone.

"Children are also more complicated to treat, partly because their medication must be constantly adjusted as their height and weight change. And paediatric drugs cost more than adult medication until recently, up to three times as much," the doctor said.

He added that half of all untreated HIV-positive infants die before the age of two for lack of medication that can produce transformations seemingly overnight.

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[...] And the country does not have enough antiretroviral (ARV) drugs to comply with World Health Organisation recommendations on providing treatment to people with HIV [...]

➤ [Radio Vop, Zimbabwe Fails To Meet WHO Guidelines On HIV Treatment, 03/05/2010](#)

[...] Zimbabwe's crippled health system has failed to implement the World Health Organisation's (WHO) new guidelines for HIV-positive people to begin treatment when their CD4 count is at 350.

In Zimbabwe, one is put on Antiretroviral Therapy (ART) when their CD4 count is below 200.

However, WHO released new guidelines on ART in December 2009, raising the CD4 count – a measure of immune strength – at which HIV-positive people should start ART from 200 to 350.

An official from the Ministry of Health and Child Welfare, who refused to be named, said Zimbabwe was far from implementing such a policy.

"Zimbabwe is far from implementing the new CD4 count policy because of the crippled health system and our economic situation," source said.

Sources added: "We do not have capacity at the present moment to implement the new WHO guidelines which come with challenges, especially in terms of availability of resources.

"The WHO guidelines means resource requirements will increase by about 20 to 30 percent in terms of costs because it means more people will therefore qualify and will need to be put on treatment." [...]

➤ [Medecins Sans Frontieres, No time to quit: HIV/AIDS treatment gap widening in Africa, May 2010](#), pages 12 and 18

[...] In Zimbabwe, up to 20% of the patients at MSF clinics are from other districts: they come here seeking to start ARV, because they cannot get in time the treatment they need at health facilities near their homes.

[...] Rationing of ART initiation is also applied through applying specific selection criteria. In sites in Zimbabwe, Uganda, and South Africa, PEPFAR-supported clinics have to reserve treatment slots in priority to pregnant women or children. Other patients only can start ART when CD4 counts drop below 50, which is effectively a policy of encouraging people to fall ill (most frequently with TB) before providing them ART [...]

Lack of CD4 machines and qualified staff

➤ [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 [...]

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

[...] 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 [...]
- [AIDSPortal, Zimbabwe: Health sector battles ARV shortages, 19/02/2011](#)

[...] City health officials says they are struggling to cope with ever-growing waiting lists of people in need of HIV treatment, and few doctors available to prescribe drugs [...]
- [The Standard, Lack of resources hinder HIV/AIDS response, 11/08/2010](#)

[...] IT is 3:30am on a humid early Thursday morning at St Theresa's Mission Hospital in Chirumhanzu District in the country's Midlands province. Everyone in the wards and staff residences is still asleep, except for a few night-shift nurses and a lone man puffing a cigarette at his desk in the hospital's laboratory.

In front of him are sealed boxes inscribed PMTCT Mvuma, St Theresa's, Muonde and Holy Cross outreach. A desk fan that keeps him awake blows off some sheets of paper on his desk. The man picks up the sheets and then wipes off sweat rolling down his forehead. He opens one of the boxes, pulls out a test tube and inserts it into a CD4 count machine. As he monitors the machine, he pulls out yet another cigarette from a pack on his desk while the wall clock ticks away towards yet another hectic day ahead, which will see him going out on an outreach programme with other members of the Anti-retroviral Therapy (ART) team. Such is the nature of work and sacrifice that Simbarashe Chirasha, the only laboratory scientist at the hospital, has to put up with to cope with the increasing demand for HIV and Aids services in the district due to increased awareness programmes. He has had to endure sleepless nights to ensure that he determines the HIV status of thousands of people going for tests at some health centres in the district. This trend is the same nationwide for personnel involved in the ART programme who comprise of doctors, primary care counsellors, nurses, pharmacy technicians and laboratory scientists. It is through such sacrifice by the few health workers that 247 000 people have been put on the ART programme nationwide, but the figure could have been much more were it not for the acute staff shortages, inadequate equipment, lack of incentives and fuel, among other factors. [...] In Mashonaland Central Province, the shortage of staff is also affecting the implementation of the ART programme.

The Government medical officer at Concession District Hospital, Dr Solomon Mukungunugwa, said fuel shortages, inadequate ART trained nurses were affecting the scale-up of the ART programme. Dr Kwenzakwenkosi Ncube, the GMO at Karanda Mission Hospital in Mount Darwin said that ART nurses at the health centre were working as late as midnight to cater for over 300 ART patients per day. "We are working as late as midnight to assess the health of our ART patients because we are limited. "We go out in rural areas on outreach programmes and we do not get incentives and food allowances, leaving us stressed at the end of the day because we have to go to work on the following day," said Dr Ncube.

A survey in Midlands and Mashonaland Central has shown that over the 50 health centres in both provinces were operating with less than five CD4 count machines, 30 ART nurses and pharmacists to cater for thousands of people seeking treatment [...]

Corruption and bribery affecting access to HIV/AIDS treatment

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

[...] Tinotenda Mabvure (33) said when she registered for ART at Chigodora clinic, 25 km south of the city, two years ago it was easy but it had become difficult to access drugs at the local Zimunya satellite clinic. I was told by the clinic staff that they have run out of stocks and I had to part with US\$50 to bribe the nurse, but I am not employed and cannot afford such kind of money every time I need medication, said Mabvure, whose health was deteriorating [...]
- [Integrated Regional Information Networks News \(IRIN\), Zimbabwe: Low morale erodes public health gains, 03/12/2010](#)

[...] The Harare nurse said low wages had sometimes led to staff accepting bribes from patients for quicker treatment and hospital admission, and selling ARVs that were available for free to HIV-positive people. Such conditions were leading to growing disillusionment and a new wave of health staff searching for work in other countries [...]
- [PlusNews \(IRIN\), Zimbabwe: HIV patients forced to pay up or go without, 05/10/2010](#)

[...] Rampant corruption in the provision of life-prolonging antiretroviral (ARV) drugs and other HIV services is threatening Zimbabwe's national AIDS response according to a recently released report by a local human rights group.

Commissioned by the Zimbabwe Lawyers for Human Rights (ZLHR) in March 2010, the [report](#) - Corruption Burns Universal Access to Treatment - found that 73 percent of HIV-positive respondents had been asked to pay bribes by health workers. Most of those unwilling or unable to pay were turned away or given inadequate services.

Nurses at government hospitals and clinics were identified as the chief culprits, but support staff, including nurse aides and administrative personnel, were also implicated; doctors were rarely involved. The findings were based on interviews with 1,024 people living with HIV in the provinces of Masvingo, Harare, Bulawayo and Manicaland. Most of the respondents lived in urban areas and 89 percent had a family income of less than US\$100 a month.

Of the 747 respondents who had been asked for bribes, 57 percent were trying to access drugs, mainly ARVs; 24 percent needed diagnostic services; and 19 percent were asked for money to be enrolled in HIV programmes. The authors noted that the long waiting lists for enrolment at many hospitals drove desperate patients to pay bribes as high as \$100.

HIV patients were often asked to pay for services that were supposed to be free; sometimes they were told that certain drugs were unavailable or that diagnostic equipment was broken until they paid a bribe, after which the equipment was declared functional and the service was given.

About a third of the respondents who were asked for bribes refused to pay them, mainly because of poverty; as a consequence, 63 percent were denied the service and had to pay for drugs or diagnostic tests in the private sector, or on the black market, or go without.

"The research findings reinforced the view that corruption in healthcare discourages treatment, testing, and other health-seeking behaviour," the researchers concluded.

"In these circumstances, the general attitude has been observed to shift towards resentment and resignation by [people living with HIV], who then give up on accessing essential medicines and diagnostic services." [...]

Waiting lists for HIV/AIDS treatment

- [AIDSPortal, Zimbabwe: Health sector battles ARV shortages, 19/02/2011](#)

[...] City health officials says they are struggling to cope with ever-growing waiting lists of people in need of HIV treatment, and few doctors available to prescribe drugs.

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 [...]

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➤ [Inter Press Service News Agency \(IPS\), Zimbabwe: Children Crossing Borders in Search of HIV Treatment, 24/08/2010](#)

[...] A new type of migration is taking place in Zimbabwe. While in the past people crossed the borders into South Africa and Botswana seeking work and fleeing from their repressive circumstances, now a silent migration of HIV-positive children seeking antiretroviral treatment (ART) is taking place.

The deep rural plains of Ndolwane, Plumtree in south-west Zimbabwe share a border with Botswana. And from here, a growing number of families are taking their HIV-positive children into Botswana and South Africa to seek ART. This, some faith-based organisations (FBOs) report, has been spurred by the long waiting lists for antiretrovirals (ARVs) in Zimbabwe where government programmes to provide free medication for HIV patients are reportedly failing to match demand [...]

➤ [The Zimbabwean, HIV waiting lists extensive, 17/03/2010](#)

[...] Mutare health officials are struggling to cope with the growing waiting lists of people in need of HIV treatment, and the few doctors available to prescribe the drugs.

We have between 200 and 300 people on the waiting list for antiretroviral (ARV) drugs and we can only cater for few people. We fear it might take up to a year before a patient is put on ARV drug therapy, said an official from Mutare Provincial hospital in an interview with The Zimbabwean [...]

Societal discrimination against persons living with HIV/AIDS

➤ [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 Vadzidzi 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.

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](#), section 6, Other 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

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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 [...]

➤ [AFP, Burden of AIDS hits Zimbabwe's women hardest, 06/03/2010](#)

[...] Since testing positive for HIV six years ago, Cecilia Chinhamo has endured a torrent of verbal abuse from her husband.

"My husband shouts at me and calls me a walking corpse," said the 30-year-old Zimbabwean vegetable vendor. "I can only cry when he says that. What else can I do?"

Like many Zimbabwean women with HIV, Chinhamo battles to convince her husband to get tested himself or to use a condom, raising fears for the future of their four-year-old daughter.

[...] Women often suffer doubly, not only from the disease, but from abuse from their spouses and isolation by their communities, said Carol Mubira, of the International Treatment Preparedness Coalition (ITPC) research team.

Mubira's group studied the living conditions for women with HIV in Argentina, Cambodia, Moldova, Morocco, Uganda and Zimbabwe.

Their findings, released at a recent conference here, revealed that even efforts to prevent the spread of HIV can pose problems for women, who are often reluctant to tell anyone that they have the disease.

"In some cases a woman, who because of her HIV status will not breastfeed, is labeled a witch by her in-laws because they do not understand the problems of mother-to-child transmission," Mubaira said.

"In term of our customs, a woman who does not breastfeed is deemed to be a witch. So that woman is shunned by her relatives and community. HIV positive women are still being stigmatized."

More often than not, according Mubaira the women are "effectively shunned by their communities, isolated and become lonely." [...]

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

➤ [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 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 [...]

Politicisation in healthcare provision for persons living with HIV/AIDS

➤ [The Zimbabwean, MDC-T seeks to free Mbare, 05/08/2011](#)

[...] Zanu (PF) supporters have declared Mbare a no-go area for MDC supporters and are harassing people in numerous ways – including preventing those living with HIV and AIDS from access to treatment. [...]

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➤ [The Zimbabwean, War 'Vets' block food aid to HIV orphans, 17/05/2010](#)

Zanu (PF) officials and war veterans in Mberengwa district in the Midlands province are blocking food aid to HIV/AIDS orphans demanding that they should join the partys youth league first.

The inclusive government has embarked on a feeding programme to benefit children orphaned through HIV/AIDS in Mberengwa. The children receive food hampers containing packets of beans, cooking oil, mealie-meal, rice, soap and many other items on a weekly basis.

However some Zanu (PF) officials and war veterans in Mudavanhu area in the district have taken over the programme and are demanding that all beneficiaries should join the partys youth league if they want to continue receiving food.

Sharon Shiri, a former food programme co-ordinator from Zibanga village in Mudavanhu area, who was booted out by Zanu (PF) officials and war veterans for not following their orders, told Radio VOP confirmed that children were being denied food.

The whole project has been taken over by Zanu (PF) and young children, some even below eight years. They are being forced to produce party cards to get food, said Shiri.

Shiri said she was forced out of the project by two notorious war veterans from the area namely Tinashe Zhou and Batanai Hove after she defied their orders.

I had no option but to buy the party card and get food for my two little sisters who are aged nine and six years, said a 14 year-old AIDS orphan from Bvute village under Chief Mudavanhu.

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