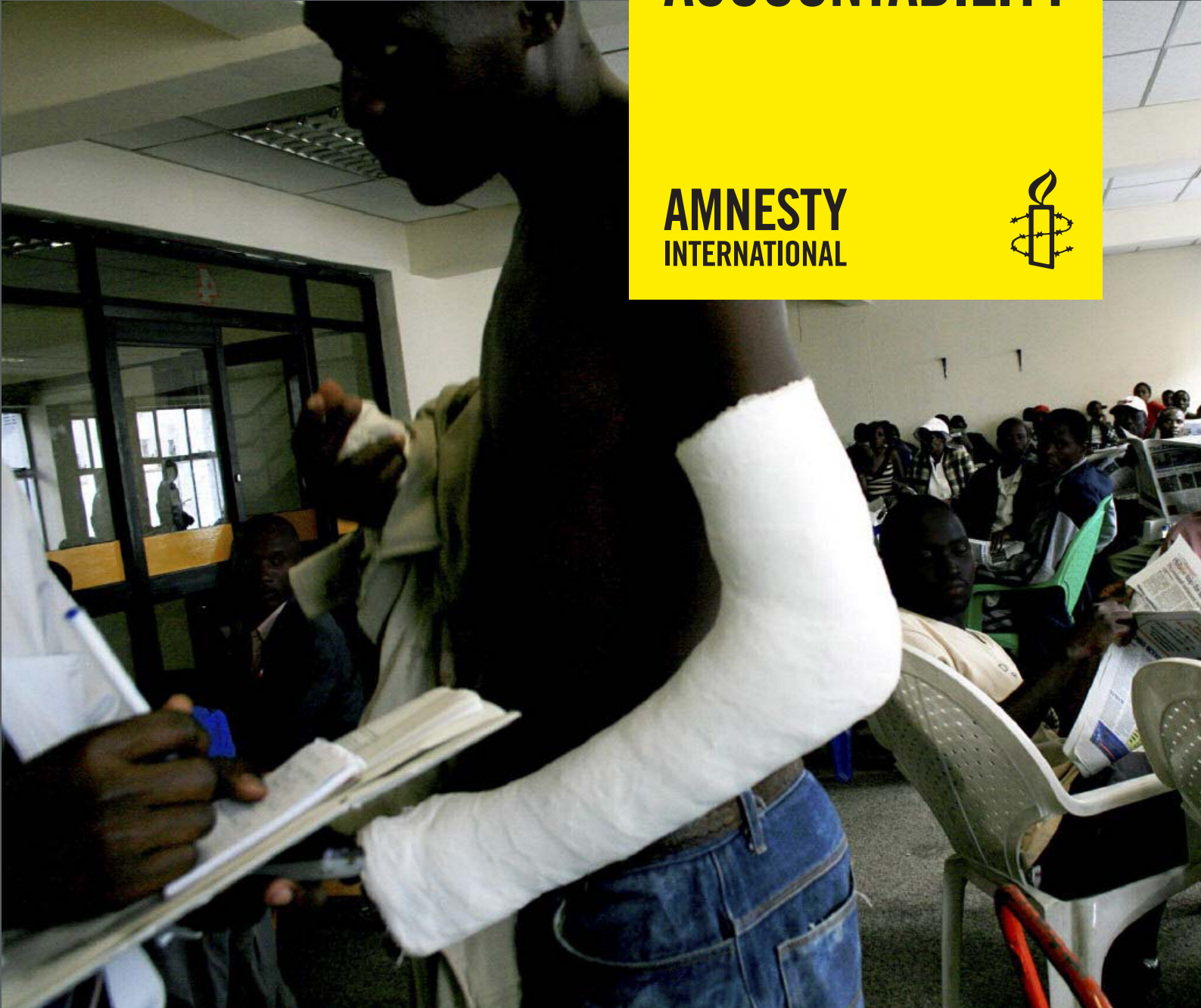


ZIMBABWE TIME FOR ACCOUNTABILITY

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Cover photo: A group of people who claim that they were beaten by government supporters, April 2008.

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Zimbabwe

Time for accountability

1 Introduction

"I am now disabled. I can't work in the field. I want to be compensated for the injuries. I want to talk to my attackers and be told the truth about why I was beaten. I also want them to be brought to justice."

Lyn, an 86-year-old woman victim of politically motivated violence, August 2008

The power-sharing agreement reached by Zimbabwe's three main political parties in September 2008¹ has created a rare moment of opportunity for Zimbabwean authorities to tackle the long-standing legacy of impunity for human rights violations and build a culture of accountability. Amnesty International is issuing this report at this time to draw attention to the importance of addressing the long-standing problem of impunity for human rights violations in Zimbabwe.

Amnesty International is appealing to the government of Zimbabwe to institute a series of measures to break the culture of impunity which has persisted since 2000, and which was a major factor in the wave of politically motivated human rights violations after elections on 29 March 2008.

Impunity

Impunity is the failure to bring perpetrators of human rights violations to justice. It denies the victims their right to justice and redress. It means that it is not possible to hold those responsible for violations to account -- whether in criminal, civil, administrative or disciplinary proceedings -- since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties. Nor is it possible to ensure that victims receive reparations.

Impunity arises from a failure by states to meet their obligations to investigate violations; to ensure that those suspected of criminal responsibility are prosecuted, tried and duly punished; to provide victims with effective remedies and to ensure that they receive reparation for the injuries suffered; to ensure the right to know the truth about violations; and to take other necessary steps to prevent their recurrence.² The UN Special Rapporteur on torture has noted that "impunity continues to be the principle cause of the perpetuation and encouragement of human rights violations and, in particular, torture."³

Despite Zimbabwe's legal obligations to tackle impunity, the people who have violated human rights since 2000, and most recently in the context of the 2008 elections, have not been made to account for their actions. In particular those in the security

forces, “war veterans”⁴ and supporters of the Zimbabwe African National Union-Patriotic Front (ZANU-PF) have faced no investigation, prosecution or censure. On the contrary, they appear to have been encouraged to commit further human rights violations by the failure of the government to take action against perpetrators of human rights violations.

Amnesty International’s findings show that the violence that followed the presidential, parliamentary and local government elections on 29 March 2008 was sponsored by the government. The Zimbabwe security forces – army, police and intelligence service – were directly involved in committing human rights violations against perceived opponents of the ZANU-PF government. The security forces (including retired members) and some “war veterans” were the main force behind the human rights violations. They also organized ZANU-PF supporters to commit human rights abuses against opposition supporters.

People suspected to have voted for the opposition parties, human rights defenders⁵ and officials of the Movement for Democratic Change (MDC) were targeted for beatings, arbitrary arrest, unlawful detention, torture and other ill-treatment, arbitrary killing, abduction, forced eviction and displacement. The victims also had their homes destroyed, their food reserves plundered, their livestock killed, or were injured so badly that they could no longer earn a living. Few of these cases have ever been investigated as perpetrators appear to enjoy state protection.

The plight of the victims was compounded by the government’s decision on 4 June 2008 to impose a ban on the field operations of NGOs and humanitarian organizations. Victims who lost their food supplies during the violence continue to face acute food insecurity.

Amnesty International is also concerned about the culture of impunity which permeates the Zimbabwe Republic Police (ZRP). In 2007, Amnesty International documented a series of human rights violations by the Law and Order Section and the anti-riot unit in the ZRP. Suspected government opponents were beaten, tortured and detained in a manner that denied their internationally guaranteed rights. The allegations of torture, excessive use of force and related violations by the police have not been investigated and those responsible have not been held to account.

There can be no durable resolution of the Zimbabwe crisis without deliberate government measures to break the culture of impunity. The failure to ensure justice and redress prolongs and intensifies the pain felt by the victims and their families. It also effectively gives a green light to the perpetrators to continue. The government has an obligation under international human rights law to ensure the right of victims of human rights violations to an effective remedy.⁶

The right to a remedy

The right to a remedy has three elements: truth, justice and reparation. States must establish the facts about violations of human rights that have occurred; they must investigate those violations and bring the perpetrators to justice; and they must provide victims and their families with full and effective reparation in the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition (see Chapter 8).

Many victims of human rights violations interviewed by Amnesty International in Zimbabwe believe that they should be able to realize their right to an effective remedy, including by having their attackers brought to justice. Victims should also be able to bring civil claims in the courts to seek compensation and other forms of reparation for human rights violations.

Most victims said that they could name and identify their attackers, who were in the security forces, “war veterans” or local ZANU-PF activists. The fact that perpetrators did not attempt to conceal their identities clearly shows that they were acting with impunity.

Amnesty International is urging the government to address past human rights violations in a manner that fulfils Zimbabwe’s international human rights obligation to end impunity for human rights violations.

About this report

This report is based on Amnesty International’s field research, interviews with victims of human rights violations, their families and other witnesses, health workers, reports by other organizations and media reports. Amnesty International visited Zimbabwe in August-September and November 2007 as well as March and July-August 2008.

The report outlines the context in which human rights violations have been taking place in Zimbabwe and describes patterns of violations as illustrated by cases. It focuses on violations that took place after the 29 March 2008 elections, as well as human rights violations committed by two units within the Zimbabwe Republic Police in 2007. It sets out Zimbabwe’s obligations under international human rights law and makes a series of recommendations to the government, aimed at ending human rights violations and breaking the culture of impunity as well as addressing the suffering of victims of past violations.

Some names of the victims have been altered for their own security and safety.

2 Human rights violations perpetrated to maintain political power

The human rights situation in Zimbabwe has been deteriorating since February 2000 when the ZANU-PF government of President Robert Mugabe lost a referendum on a draft constitution. This was the first defeat of the ZANU-PF government since the country gained independence from the United Kingdom in 1980. Before the formation of the MDC in 1999, Zimbabwe's political landscape was dominated by a single party (ZANU-PF) which had managed to retain its political dominance by limiting the ability of opposition parties to organize, including by denying them access to state controlled radio, television and newspapers, using state resources to further a partisan agenda and undermining state institutions such as the judiciary which had shown a degree of independence. ZANU-PF's tactics included harassment, intimidation and use of excessive force by police against the party's opponents in opposition parties or civil society organizations. Their rights to peaceful assembly, freedom of association and expression were restricted, leaving them virtually unable to organize.

The emergence of the MDC, a political party with support from the trade unions and civil society, posed a real threat to ZANU-PF's hold on power and ZANU-PF won narrowly in a disputed parliamentary election held in June 2000.⁷ The MDC's Morgan Tsvangirai also lost to Robert Mugabe of ZANU-PF in a disputed presidential election in 2002.

Faced with increased opposition from the MDC, largely as a result of deteriorating economic conditions, and growing discontent among civil society, the Zimbabwean authorities increased restrictions on civil and political rights, mainly the rights to peaceful assembly, freedom of association and expression. Opponents of the ZANU-PF party were targeted for arbitrary arrest, arbitrary detention, and torture and other ill-treatment. Confronted with the growth of an opposition and in the face of unprecedented economic decline, the ZANU-PF government increasingly relied on state security forces to retain power and to contain the growing opposition to its rule.

The increasing reliance by the government on the security forces, and the participation of the security forces in serious human rights violations, were very clear in the violence by ZANU-PF in the campaign for the Presidential election run-off on 27 June 2008.

Just five days before the 27 June presidential election run-off, Morgan Tsvangirai of the MDC pulled out of the election, saying a free and fair election was impossible because of extreme violence targeted at supporters of the MDC by the security forces. Although he pulled out of the election, the Zimbabwe Election Commission ruled that the election would go ahead as per the election rules.

Among those who instigated the violence were members of the Joint Operations Command (JOC), a powerful group made up of senior military, intelligence, prisons and police officials, and government representatives, who publicly stated their loyalty to President Mugabe. They went as far as declaring that they would not salute Morgan Tsvangirai even if he was elected leader.⁸

Victims of the violence told Amnesty International that senior army and police officers threatened to kill them if they voted for the MDC. There is no evidence that the government conducted any investigations into the allegations of serious human rights violations committed by members of the security forces during the election run-up period.

A small number of people in Zimbabwe have a vested interest in perpetuating the culture of impunity in order to escape accountability for human rights violations or to retain their wealth and privileges. Some of these individuals were implicated in the politically motivated violence that followed the 29 March 2008 elections. They include senior serving and retired members of the army, intelligence service and police, as well as “war veterans” and ZANU-PF officials.

Endemic corruption within the ruling elite has led to a situation of acute economic disparity in which a few individuals have acquired vast wealth while the rest of the population continues to face increasingly severe deprivation. These individuals have exploited their political connections with government to access scarce commodities for export or for sale locally at exorbitant prices. The Governor of the Reserve Bank of Zimbabwe has asserted that the country lost an estimated US\$1.7 billion per year “through economic sabotage perpetuated by a few” with the knowledge or complicity of government officials.⁹ He also alleged that diamonds worth over US\$800 million have been smuggled out of the country, as has an average of 15 tonnes per year of gold worth over US\$400million/year.¹⁰ For this wealthy elite to retain its wealth, it is imperative that the government continues to be controlled by those who support their interests, or at least turn a blind eye to their dealings.

3 Violations in the 2008 elections

"On 29 March [2008] people voted and expected to get the results within a reasonable time. Little did they know that they had unleashed a monster."

A Chief from Mashonaland East, August 2008

The run-up to the presidential, parliamentary and local government elections on 29 March 2008 was more open than previous election periods, despite government-imposed restrictions on the opposition's capacity to organize openly and reports of abuses in rural areas. Similarly, the environment for voting in the 29 March elections themselves was less tense than in previous elections. However, the months between the 29 March elections and the 27 June presidential run-off were marked by a sharp rise in political violence.

29 March election run-up

Amnesty International delegates who visited Zimbabwe in March in the run-up to the elections observed that the government was putting in place unlawful restrictions¹¹ on the rights to freedom of expression and association and the right of peaceful assembly. Police were applying the Public Order and Security Act (POSA) in a partisan manner – restricting the activities of opposition parties, while allowing supporters of ZANU-PF to hold meetings without interference.

Although opposition parties appeared to be enjoying a greater degree of access to previously "no go zones" in rural areas than they did during previous elections, reports of intimidation, harassment and violence against supporters of opposition parties persisted. People in rural areas told Amnesty International delegates that they were fearful of retribution after the elections.¹²

In March 2008, several civil society organizations reported that they were under constant surveillance by state intelligence services – including the police and the Central Intelligence Organisation (CIO). Amnesty International delegates witnessed one such incident of harassment by police in Zimbabwe's second city of Bulawayo, when a leading member of an NGO was visited by police after they found out that he was meeting with Amnesty International. The police kept making threatening calls even after they had indicated that he had done nothing wrong.

27 June presidential run-off

Between the 29 March elections and the 27 June 2008 presidential election run-off the human rights situation in Zimbabwe deteriorated sharply. Amnesty International documented unlawful killings, torture and other ill-treatment of political activists affiliated to the MDC and human rights defenders. Sources in Zimbabwe documented over 180 violence related deaths and more than 9,000 people tortured and beaten. The bulk of these victims reported being attacked because they were accused by

security forces, “war veterans” and ZANU-PF supporters of having voted “wrongly” in the March elections.

The violations that took place after the March elections were state-sponsored. The violations were primarily perpetrated by “war veterans”, ZANU-PF supporters, and also state security forces – army officers, CIO agents and police officers. Accounts from diverse victims indicate that the perpetrators were using government vehicles¹³ and enjoyed state protection from arrest.

During the period leading up to the presidential election run-off, the government of Zimbabwe created or allowed conditions of extreme insecurity in the country. Known MDC activists, their family members, sympathizers and other government critics at all levels were at risk of abduction, torture and other ill-treatment and, in some cases, death. In rural areas people suspected to have voted for the MDC in the March election were identified with the help of traditional leaders and local ZANU-PF leaders. Victims had their homes burned down, livestock killed, and granaries plundered or destroyed as a form of punishment. Although it was difficult to quantify the number of internally displaced people, an estimated 28,000 people fled their homes as a result of the violence. The majority of them fled to urban areas to seek medical attention and refuge.¹⁴

The violence impacted negatively on the already strained health sector. For example, in August doctors told Amnesty International that the country had run out of crutches and that between 300 and 500 pairs had to be imported. The number of victims with broken legs and arms was overwhelming: Amnesty International saw whole hospital wards filled with people with broken limbs.

ZANU-PF torture camps

In most wards of Mashonaland, Midlands, Manicaland and Masvingo provinces, “war veterans” and local ZANU-PF leaders established makeshift torture camps. The camps were set up in the form of tents, clearings within a community, classrooms or at the homestead of ZANU-PF officials or displaced MDC activists.¹⁵ Led by serving or retired army officers, “war veterans” or ZANU-PF leaders, the camps, also known as bases, were known to the police and were only dismantled some time after the election on 27 June.

Local people were forced to attend all-night meetings at these camps. There, people were made to watch their neighbours being beaten and warned that if they did not vote for ZANU-PF on 27 June they would face a similar fate. MDC supporters were forced to denounce the party and surrender all their party materials, including t-shirts and membership cards. Dozens of MDC supporters died after beatings at these camps. Local youths were forced to attend the camp meetings and participate in beatings.

The Zimbabwean police were aware of such camps but took no effective steps to close them. Amnesty International delegates saw one such camp in Sunningdale, Harare which was located less than 300 metres from a police station. In the few cases when police went to rescue MDC activists, no arrests were made. However, some victims told Amnesty International that many junior police officers appeared to be keen to act against perpetrators but reported being restrained by superior orders not to intervene in cases involving “war veterans” and the security forces.

ZANU-PF denials

One of the strategies employed by ZANU-PF and the government to avoid taking responsibility for human rights violations is that of consistently denying the facts. They have either denied that violations have occurred, or sought to shift the blame to the victims or external forces. For example, in response to allegations of state-sponsored violence against ZANU-PF opponents, the party blamed the violence on the MDC and “former Rhodesian security elements” who they accused of fomenting “political violence within the ranks of the MDC itself and between it and ZANU-PF.”¹⁶

Since 2000 the ZANU-PF government has ignored evidence of human rights violations, thereby exempting perpetrators from any form of accountability. Consequently, suspected perpetrators of serious human rights violations continue to operate with a sense of impunity, buoyed by the government’s repeated and deliberate failure to bring to justice those who commit serious human rights violations.

Political parties’ involvement

On 6 August 2008, the MDC and ZANU-PF issued a joint statement acknowledging that some of the violence after the 29 March election was attributable to the two parties. However, from the evidence gathered by Amnesty International, the bulk of the violence was state-sponsored and carried out by security forces, ZANU-PF supporters and “war veterans”. Human rights defenders reported inter-party retaliatory attacks in Mayo resettlement area in Manicaland province, Bikita and Zaka in Masvingo province. Amnesty International equally calls for these human rights abuses to be investigated and those suspected to have been involved should be brought to justice.

Case studies

Pregnant woman assaulted in Gutu

Clara is a 32-year-old woman from Gutu who was assaulted for being an MDC activist. At the time of her assault she was five months pregnant.

“On 16 June, ZANU-PF called for a political meeting at Mupandawana growth point [rural business centre]. I didn’t go to that meeting. At night a group of about 200 ZANU-PF supporters came to my home and demanded to see me and [my sister].

They ordered us to come out. When we didn't they started breaking doors. They went through each and every room in the house until they got to the room where I was sleeping. On that day I was not feeling well. I was five months pregnant at the time. They dragged me outside and started hitting me with thick sticks. They accused me of being misled by Morgan Tsvangirai. They said they wanted to teach me a lesson. At the same time they were also assaulting my sister. She collapsed. They were hitting me on the buttocks. They ordered me to roll on the ground and were stamping on me saying they wanted to inflict internal injuries. At some point some people in the group felt sorry for me and were calling on their colleagues to stop beating me since I was pregnant, but others said I should be beaten as a lesson to other MDC supporters.

"While the beating was going on, others were throwing out furniture from my rented room. They poured water onto the wardrobe. My sister was made to sing MDC songs while I was ordered to chant ZANU-PF slogans. I couldn't because I was feeling cold and shivering. Then the beating stopped. They took my sister's identity card to prevent her from voting [in the 27 June election]. They could not find mine. All our furniture was left in the open. Before the mob left they assigned five people to guard us. They took away all the money I had and our food. After the 'guards' left we then went to the home of another MDC activist we knew but he had also been attacked.

"I went to report the case at Gutu Mupandawana police station. We were given forms to request medical examination. When we got back home we were told that the 'war veterans' had come and told the landlord to evict us. I then left for Masvingo to seek medical treatment after borrowing some money.

"On 17 June another large group of ZANU-PF supporters came to our house accompanied by soldiers in uniform. It was a very large group. They ordered my sister to take all our furniture out of the room we rented. My sister was again assaulted by the youths under the supervision of the soldiers. Another tenant at the house, a schoolboy in his early teens, was also assaulted. The mob took our maize, mealie-meal, cooking oil and soap. The soldiers were guarding the property as the ZANU-PF mob ransacked the place. They were singing ZANU-PF songs while destroying furniture."

MDC woman activist assaulted by soldiers and left for dead

Beatrice is a local official of the MDC-Tsvangirai party in Gutu. She said:

"On 18 June ZANU-PF called for a village meeting [at the local primary school]. I refused to go and surrender my [t-shirt and membership card]. I told them that I could not surrender an MDC t-shirt to ZANU-PF. I then went to the business centre to have my hair plaited. At around 1pm I saw a truck full of soldiers but it did not stop for long. After a while the soldiers returned. I heard [named ZANU-PF activist] calling out my name. He was carrying with him a list of names [of known MDC activists and

supporters in the area]. He asked me to accompany him and I immediately felt that something was going to happen.

“I was taken to the soldiers who ordered me to lie on the ground, but someone said I should not be beaten in public. I was then ordered to get into the army truck. In the truck the soldiers started questioning me about MDC meetings and the activities of other MDC members. They ordered me to do a ZANU-PF slogan but I wouldn’t. After a while the vehicle stopped and we got off. I was forced to lie on the ground and was assaulted by about 15 soldiers with thick sticks on the buttocks until I passed out. When I regained consciousness they started assaulting me again and I passed out for the second time. When I came around again Colonel [name] kicked my head and I felt pain in my ear and I passed out for the third time. When I came around, they ordered me to roll on the ground. I pleaded with them to just shoot me since I was almost dead. They said they had no bullets to waste. They then continued assaulting me with sticks. They told me that it was the last day of my life. I felt pain close to my heart after they gave me two lashes on my back. They then removed my shoes and started hitting me underneath my feet. When they thought I was dying they ordered one woman to smear ashes on my face so that my spirit would not avenge. I think I passed out because when I regained consciousness there was water all over and the soldiers were gone.

“I called on God to give me strength to walk and got up but collapsed before I got home. Other villagers helped me to get home. I only got medical help on 27 June. Before then other villagers were threatened with violence if they were to assist me to get medical help. When I went back home on 12 July I found that all my chickens had been taken to feed the people at the [ZANU-PF] camp.”

At the time of the interview, Beatrice was still being threatened by local “war veterans” and ZANU-PF leaders.¹⁷

Soldiers behind politically motivated violence in Gokwe

Before the announcement of the results of the 29 March presidential election an army major toured parts of Gokwe, Midlands province, holding meetings to address residents and accusing them of not having voted correctly in the March election.

In one incident the army major ordered local “war veterans” to call a meeting of all village heads in the area. At the meeting he ordered village heads to support the setting up of ZANU-PF camps from which ZANU-PF supporters and “war veterans” could operate, and to mobilize resources to feed the people at the camps.

After the camps were set up, “war veterans” recruited youths to beat suspected MDC supporters. Initially they just recruited ZANU-PF youths, but later they forced

“repentant” MDC youths to join in the beatings. Those who refused were beaten and had their homes burned down.

On 4 June 2008, a meeting was held at Tsungayi business centre. The meeting was addressed by soldiers, including the army major, who were armed with weapons including AK47 rifles. A number of MDC supporters were ordered to “repent” and renounce the MDC party. They were taken through a “baptism” which included a public flogging and were ordered to pay fines for having voted for the MDC. Fines were paid in the form of goats, which were taken by the army major. Around the same time nine shops at Tsungayi business centre were burned down by “war veterans”, including one owned by MDC-Tsvangirai’s senatorial candidate, Liah Makoni.

Some of the victims attempted to report the crimes at Nembudziya police station but police refused to record the cases.

ZANU-PF youths under police instruction kill relative of MDC official

Kingswell Muteta, a police officer, was fatally beaten by ZANU-PF supporters in Mudzi district on 17 July 2008 after visiting the family of his brother-in-law, an MDC ward chairperson reportedly beaten to death by ZANU-PF supporters. Witnesses said that Kingswell Muteta confronted a group of ZANU-PF youths who were under the instruction of a senior police officer. The same group of ZANU-PF youths had earlier assaulted Kingswell’s mother to punish her for attending the funeral of her son-in-law, the MDC activist. The ZANU-PF youths took Kingswell Muteta to a camp near Kotwa and accused him of having gone to an “enemy’s” home. He was beaten by about 20 youths. He sustained mainly soft tissue injuries on his buttocks, trunk and lower limbs.¹⁸ He was taken to Kotwa Hospital on 18 July and then to Avenues Clinic on 21 July. He died of his injuries on 25 July 2008.

‘War veterans’, ZANU-PF supporters and state agents collaborate

CM, an MDC-Tsvangirai director for elections in one of the districts of Mashonaland Central province, was elected as councillor, on 29 March 2008. On 1 June ZANU-PF held a rally at Nyava growth point. When CM went to the growth point in the company of four MDC youths, he was first confronted by “war veterans” in two vehicles who asked him why he was not attending the ZANU-PF rally. After the rally he was again approached by about 10 “war veterans”, one of whom was a woman who produced a gun and said “the MDC will never rule this country, which was taken through the barrel of the gun.” They threatened him with violence and ordered him to surrender to ZANU-PF. They told him that he would be “fixed” if he did not comply.

On 15 June, a camp was established in CM’s ward led by four named “war veterans”. The next day, CM’s wife and 15-year-old daughter were seized by ZANU-PF youths

and asked why they were not attending a ZANU-PF meeting. They were then forcibly marched from the hills to a rally at Nyava growth point. At the rally, “war veterans” ordered some ZANU-PF youths to take CM’s wife and daughter to the ZANU-PF camp and to beat his wife. They were kept at the camp from about 10am to 6pm, though the youths did not go ahead with the beating. Mother and daughter were later released and ordered to bring CM so that he could surrender his MDC t-shirts and membership card. For a while the family lived in hiding in the surrounding hills to evade capture.

On 21 June, a gang of over 50 ZANU-PF youths surrounded CM’s home and summoned him to the camp. He refused to go with them. They then went away and returned accompanied by four “war veterans”. He was told to leave the MDC and defect to ZANU-PF in order to force a by-election. They also told him that ZANU-PF would give him security, while as an MDC member he risked being killed. The gang then left. CM told Amnesty International what happened next:

“On 22 June, at about 10pm, my home was attacked by ZANU-PF supporters. I first heard dogs barking. I looked through the window and saw my home surrounded. They knocked on the door and ordered me to come out and accompany them to the camp but I refused. I saw them going to the chicken run and the goats’ pen and they found nothing. I recognized some of them... They said that it was the end of me. Then they started stoning the door and forced it to open but I did not come out. Then they started stoning the whole house and it started to collapse, while we were still in the house. I then decided to run, but only managed to run for about 50 metres and they caught me. They started beating me with metal bars breaking both my legs. They said they wanted to kill me to force a by-election. I then passed out.”

While he was still unconscious, CM, his wife and daughter were taken to a ZANU-PF camp. CM could not hear what was going on, but his wife later told him that the “war veterans” phoned the Central Intelligence Organisation (CIO) to report that they had captured him. CIO officers came to the base and were briefed by the “war veterans”. The wife overheard their leader saying that CM should be put in a sack and thrown into Pote River. The CIO officers were reportedly angry that the “war veterans” had brought the wife and daughter who could be potential witnesses. After some disagreement, the CIO officers refused to take CM and his family in their truck, saying they did not want to have to kill three people. The CIO then left. At about 2am the “war veterans” ordered CM’s wife to take her husband home.

The following day the family helped CM board a bus to Harare where he sought medical attention. Both his legs were fractured. CM is a peasant farmer. He will not be able to work his fields for months as a result of his injuries. At the time of the interview in August 2008 his family had still not returned home, fearing for their safety, while CM was still in hospital. CM’s case has not been investigated and no steps have been taken to bring any of the perpetrators to justice.

4 Humanitarian situation exacerbated

Humanitarian operations banned

The humanitarian situation in Zimbabwe reached crisis levels in the period between April and August 2008, mainly because of the government's decision to suspend the field operations of humanitarian organizations. The suspension also meant that human rights violations could be carried out without being witnessed by humanitarian field workers.

In the run-up to the 29 March elections, NGOs and UN agencies reported cases of "friendly warnings" or restrictions on their operations by government officials or influential members of the community, including "war veterans" and ZANU-PF supporters.¹⁹ The "friendly warnings" were in effect threats that led most NGOs and humanitarian agencies to stop their operations.

On 4 June 2008, the Minister of Public Service, Labour and Social Welfare wrote to all NGOs and Private Voluntary Organisations (PVOs) announcing a full suspension of all field operations by humanitarian organizations. The Minister alleged that the organizations were in breach of their terms and conditions of registration, but gave no further details. There is no provision empowering the Minister to order the suspension of NGO or PVO operations under the Private Voluntary Organisations Act. Section 21 of the Act, which the government relied on, had been declared void by the Constitutional Court of Zimbabwe.²⁰

The Ministry of Public Service, Labour and Social Welfare issued another letter on 13 June to clarify the suspension. In that letter the Ministry stated that the suspension did not "imply banning operations at Head Office, Regional and District Offices" but did ban the field operations of NGOs and PVOs. It explained that the suspension was meant to allow investigations into allegations that PVOs and NGOs involved in humanitarian operations were breaching the terms and conditions of their registration by engaging in political activities.

On 15 June, while addressing a campaign rally in Silobela, President Mugabe said that the government had suspended NGOs because "they were using food handouts as a weapon to effect illegal regime change." President Mugabe further alleged that NGOs were collecting people's identity cards and not returning them, so disenfranchising voters. No NGO was named and the allegations were not substantiated.

The NGOs and PVOs which had their field operations banned were providing food and medical care to millions of people, many of whom were the victims of state-sponsored violence, including looting and destruction of food stocks.

During this period the provision of health services such as antiretrovirals for AIDS patients, tuberculosis treatment and medication and care for other chronic conditions

was also severely disrupted, affecting both the internally displaced and a significant proportion of the general population.²¹

Although on 29 August 2008 the government announced an easing of the restrictions on humanitarian operations, restrictions continued to be enforced at local level by “war veterans”, local structures of ZANU-PF, traditional leaders, CIO operatives and soldiers. Humanitarian organizations, including UN agencies, which attempted to deliver food in rural areas were forced to abandon their activities because of the threat of violence by either state agents or ZANU-PF supporters. However, in October 2008 some NGOs reported having some access to rural areas.

According to the UN, more than two million people were in need of food aid by September and this number was set to more than double by December 2008. If the government continues to interfere with humanitarian operations the situation could become more desperate.

Increased food insecurity caused by the ban on humanitarian operations was compounded by state-sponsored violence throughout the country as tens of thousands of people lost their food reserves when they were plundered or destroyed by ZANU-PF supporters. Looted food was frequently used to feed youths and party supporters who gathered at all-night meetings during the election campaign.

In addition, hyper-inflation has eroded the capacity of most urban families to access the little food available on the market. Maize, the country’s staple diet, remains unavailable in most shops. Where it is available on the black market, the price is pegged against the US dollar, making it too expensive for the average Zimbabwean household. Amnesty International delegates saw thousands of people queuing for local currency at banks or for basic goods in shops.

Destruction of livelihoods of rural farmers

Victims of state-sponsored political violence interviewed by Amnesty International from rural areas were mainly farmers who had had their harvest destroyed, their livestock (including cattle) killed and their granaries burned as a punishment for not supporting ZANU-PF. Moreover, many of these people had also been beaten by members of the security forces, “war veterans” and ZANU-PF supporters. Many suffered broken arms or legs, and would therefore be unable to till their lands during the next farming season and in some cases for the rest of their lives.

At the peak of the violence, normal economic activity virtually ceased in many rural areas as villagers were forced to attend ZANU-PF campaign meetings, which in some areas were conducted daily, with every villager expected to attend. The areas affected were mainly, but not exclusively, in Mashonaland, Manicaland, Midlands and Masvingo provinces. Those who did not or could not attend, even if they were not affiliated to the MDC, were subjected to torture, beatings and other ill-treatment.

74-year-old attacked because of his son's political affiliation

Denga is a rural farmer who was attacked because his son was a local MDC activist in Gokwe. Before the attack his family had been made to renounce the MDC and join ZANU-PF. He was fined a goat by the local ZANU-PF leadership for having voted "wrongly" during the 29 March election.

"On 3 July my daughter came and knocked at my door screaming that my son, [a local MDC-Tsvangirai secretary], was being attacked by ZANU-PF youths. I saw them assaulting my son and daughter. When I came out they ran away and I took my son into the house, but the youths came back and started stoning my house. I came out and started running, but I fell. They caught up with me and started to hit me with stones. My leg was fractured in three places. After that they ordered me to accompany them to the ZANU-PF camp but I could not walk. They then assaulted me some more and left. I then crawled and sought help at a neighbour's home. I found that everyone had also run away. I managed to light a fire and slept in one of the huts. On 4 July my son reported the case at the police base at Marapira but no action was taken by the police. I was only taken to the hospital on 5 July.

"I am now disabled and cannot work. Before the attack I could work in my fields and feed my family as old as I am."

86-year-old woman assaulted for not attending ZANU-PF meetings

Lyn, an 86-year-old peasant farmer from Beatrice resettlement area, said:

"In resettlement areas we were told that ZANU-PF leaders did not want MDC. We were forced to feed people at the camp. We gave them maize, money, goats to celebrate Mugabe's 'victory'. The 'war veterans' said that all my children were MDC supporters. On 19 July, I was taken from my home by 'war veterans' and ZANU-PF supporters. I was made to lie on the ground and they assaulted me with sticks. I was assaulted for a very long time and sustained injuries on my back and buttocks. I also suffered a broken arm. One of my neighbours had sold me out to the 'war veterans'. I am now disabled. I can't work in the field. I want to be compensated for the injuries. I want to talk to my attackers and be told the truth about why I was beaten. I also want them to be brought to justice."

5 Sexual violence

Community leaders and victims of abuse in ZANU-PF camps in Masvingo told Amnesty International of their suspicions that young women at the camps were forced to give “sexual favours” to camp leaders and male ZANU-PF youths in the period ahead of the June presidential run-off. A humanitarian worker told Amnesty International that his organization had also received reports of male victims of sexual violence who had been forced to perform sexual acts on other men. However, few of the victims of sexual violence were willing to speak about their experiences, mainly because of the stigma associated with rape and out of fear of reprisals, as some of the perpetrators lived in the same communities.²² They had no confidence that police would act against perpetrators since they had acted with the support of the state.

Victims of sexual violence in general fear the social impact of reporting their experiences, both on themselves and on their families. They fear the stigma associated with rape, especially in an environment where there are no guarantees that the victims and their families will receive adequate support, including counselling, access to HIV testing and antiretrovirals. Men who are victims of sexual violence often find it even more challenging to report sexual abuse by other men, especially in a country where the head of state has denounced homosexuality in the strongest terms.²³

Community leaders and human rights defenders interviewed by Amnesty International expressed the view that as the security situation improves and resultant pregnancies come to light, more reports of rape will emerge.²⁴

Wife of election observer sexually abused in Mt. Darwin

In Mt Darwin, the wife of an independent election observer with the Zimbabwe Election Support Network during the 29 March elections was attacked at his home on 9 July and his wife was sexually abused by ZANU-PF youths. The husband told Amnesty International in August that the youths stripped his wife naked and severely beat her with thick sticks. They then took turns to insert their hands into her vagina. At the time of the interview the wife was still in hospital while the husband and three children were living in the burnt shell of their home. The first attack at the couple’s home was on 6 May 2008 when a mob of ZANU-PF supporters attacked them, accusing the husband of being an MDC supporter. The couple managed to escape into the nearby hills, but left behind three young children who were assaulted by the mob. The mob then set the homestead on fire. They also set the goats’ pen alight, burning the goats alive. From 8 May to 26 June the family were internally displaced and sought refuge in Harare. They faced extreme hardships as internally displaced people with no support, and decided to go back to Mt. Darwin, where they were attacked for the second time. The second attack was reported to the police, who arrested three of the 13 identified attackers. The three were taken to court on 14 August 2008.

6 Driven deeper into poverty

Human rights violations against suspected opponents of ZANU-PF have often had socio-economic dimensions. For example, in 2005, more than 700,000 people lost their homes or livelihoods when the government carried out a programme of mass forced eviction. Members of the security forces played a significant role in the planning and execution of this campaign, known as Operation Murambatsvina. In particular, it has been alleged that members of the Joint Operations Command played a key role in planning and coordinating the mass forced evictions.

Despite a critical report by the UN,²⁵ most of the victims were left to find their own solutions. Operation Garikayi/Hlalani Kuhle (restore order) – the government’s supposed effort to give the victims of forced evictions some recourse – was exposed by Amnesty International as a public relations exercise rather than a genuine attempt to provide reparations.²⁶ The government built far fewer houses than it destroyed and the new houses were not allocated to victims of mass forced evictions, but rather to soldiers, civil servants and people with political connections who were not necessarily affected by the evictions.

Most of the people displaced by the forced evictions continue to live in destitution. They have not been compensated for their losses and the Zimbabwean authorities have not been held to account. No investigations have been carried out and there have been no prosecutions for acts of violence by members of the security forces and others in the context of these forced evictions.

Use of food as a political tool

Over the years, the government has used food as a tool to demand loyalty in rural areas. It has repeatedly employed traditional leaders and local ZANU-PF activists to deny suspected opponents of the party access to cheap or relief maize, the staple food. It has permitted discriminatory distribution of maize in rural areas as part of its strategy to retain ZANU-PF’s rural support base.

Since 2000, Amnesty International has documented numerous cases of maize sold through the state-owned Grain Marketing Board being used as a tool to silence perceived opponents.²⁷ Through its tight control over traditional leaders, who in turn have control over development processes in rural communities, the government managed to influence humanitarian operations to ensure that opponents of ZANU-PF were excluded, even in donor-funded humanitarian programmes.

Forced to feed government supporters

Amnesty International is also concerned about ZANU-PF’s practice of collecting money from communities to fund its local activities. Rural people are often made to make substantial financial contributions towards ZANU-PF activities, taking away

much needed cash from impoverished communities. For example, most victims of the recent human rights violations from rural areas interviewed by Amnesty International in August 2008 reported being forced to make contributions to feed “war veterans” and ZANU-PF youths at ZANU-PF camps. Those who resisted were often threatened with eviction from their land or other forms of violence by “war veterans”, local party activists and traditional leaders.

Lost livelihoods

Government policies since 2000, particularly the violent land reform programme and Operation Murambatsvina, significantly reduced the capacity of ordinary Zimbabweans to access food, health and education.

Thousands of farm labourers lost their jobs and were not allocated plots under the land reform programme and have no means to pay for their children’s education or their health care. Many remain internally displaced (often referred to as “Mobile and Vulnerable Population” by humanitarian organizations) and have been dependent on humanitarian assistance since 2000.

Operation Murambatsvina destroyed many thriving small businesses that had grown in response to the declining formal sector and had been a source of income for many low income households. The informal sector had become the only source of livelihood for Zimbabwe’s large population of unemployed people; Zimbabwe’s unemployment stood at an all-time high of 80 per cent in August 2008, while official inflation jumped from 11 million per cent in June 2008 to 231 million per cent in July.

7 The Zimbabwe Republic Police

The Zimbabwe Republic Police (ZRP) is the main institution responsible for serious human rights violations in Zimbabwe.

Throughout 2007 Amnesty International investigated allegations of human rights violations by the ZRP in order to establish patterns of violations and to identify the units responsible. Interviews with a wide range of victims exposed two specific police units in the ZRP as primarily responsible for the suppression of the rights to peaceful assembly and association, as well as torture and other ill-treatment of human rights defenders, political activists and other government critics. Police officers who have committed human rights violations have not been held to account and the victims have received no redress.

In 2007 Amnesty International documented several cases where police arbitrary arrested, unlawful detained and tortured human rights defenders and political activists. Police have used excessive force to break up peaceful protests, often inflicting serious injuries on victims. Detained human rights defenders and political activists have frequently and repeatedly been denied access to lawyers, family, food and medical attention.

The police have applied the Public Order and Security Act (POSA) selectively to curtail the rights to peaceful assembly and association of any organization or individual suspected of being an opponent of ZANU-PF.²⁸ The law has been used not for the legitimate prosecution of criminal offences, but to persecute human rights defenders and political activists and to discourage them from exercising their rights to freedom of association and expression.²⁹

Law and Order section

The Law and Order section of the Criminal Investigations Department is responsible for the majority of human rights violations committed by police officers against human rights defenders and political activists. Alleged violations by the unit include arbitrary arrest, unlawful detention, torture and other ill-treatment, and denial of detainees' access to lawyers, food and medical care while in police custody. Law and Order section officers have harassed and intimidated detainees' lawyers, and they have also refused to accept or comply with court orders to release detainees or bring suspects before the courts.

Many of the people arrested by police on suspicion of offences under the POSA or other political matters are detained and interrogated by the Law and Order section. This is a function that the section inherited from its predecessor, the Rhodesian Special Branch, which was notorious for torturing and ill-treating political detainees during Zimbabwe's liberation struggle. There are distinct similarities between the brutal way in which the Special Branch operated in Rhodesia, and the manner in

which the Law and Order officers have tortured and ill-treated human rights defenders and political activists and denied them their rights while in police custody.

In executing its duties, the Law and Order section appears to have operated in a partisan manner. Detainees seen as opponents of the government have frequently been subjected to physical and psychological torture and have also often been detained for prolonged periods. This treatment has apparently been a form of punishment as well as a means of extracting “confessions” and obtaining information about their organizations and activities. Officers from the section have threatened and even assaulted detainees’ lawyers and have ignored or openly defied court orders.

Amnesty International has recorded scores of cases of human rights violations by the Law and Order section against members of Women of Zimbabwe Arise (WOZA), the National Constitutional Assembly (NCA), the MDC, the Save Zimbabwe Campaign and student activists. None of the officers alleged to have been involved in these violations has been brought to justice. The police authorities and government have ignored calls by Zimbabwean civil society and regional and international human rights bodies to investigate allegations of human rights violations involving officers from the section.

Torture and ill-treatment of MDC activists

In March and April 2007, 32 MDC activists were arrested and detained in connection with alleged petrol bombings of buildings. The MDC activists were detained for periods of between two and four months at Harare Central Remand Prison. Several detainees reported that they had been tortured or ill-treated by officers from the Law and Order section.

MDC-Tsvangirai Member of Parliament for Glen View, **Paul Madzore**, was arrested by police at his home on 28 March 2007. Paul Madzore, his wife, children and others were arrested at his home and taken to Harare Central police station. At about 11am Paul Madzore was called into a room at the police station where he saw at least eight men in plain clothes, whom he suspected to be from the Law and Order section. Three of the men appeared to be drunk. One of the men started questioning Paul Madzore demanding that he tell them who was burning police stations and who was leading the “terrorists”. When Paul Madzore attempted to respond, one of the interrogators spat in his face. He was made to lie on his back with his legs up on a table. The men started beating him in turns under his feet, with instruments including a metal rod about a metre long and a rubber baton stick. One of the interrogators asked Paul Madzore if he wanted something to drink. The interrogator then brought an empty glass bottle and started hitting him with it around the knees. Paul Madzore bled heavily as a result of the beating.

Paul Madzore told Amnesty International delegates: “One man was stepping on my head [and] forcing my head on the floor with booted feet. All I could hear were sounds. I just could feel that they were beating me, and the sound of my body. I tried to block

the beatings with my hands. My hands were bleeding profusely. The beatings took [about] 30 to 40 minutes.”

In a related case, Phillip Mabika,³⁰ who was arrested at Harvest House, the MDC headquarters in Harare, following a police raid at the offices on 27 March 2007, told the court that he was tortured by the police who accused him of having been involved in petrol bombing state buildings and other properties. Police released him on 31 March only to have him rearrested on 4 April. He alleged that he was subjected to further beatings and torture.

A wide range of detainees held by the Law and Order section told Amnesty International that they were subjected to falanga: beating of the soles of the feet with batons or metal rods. Sometimes the beating was so severe that the victim needed an operation to release the resulting accumulation of fluids. Victims often had problems walking. In extreme cases there is a risk of amputation if the victim does not receive medical attention in time. Hundreds of human rights defenders and political activists have been subjected to falanga in police custody in Zimbabwe.

Another commonly reported form of torture in Law and Order section custody is suspension on a horizontal pole, like a roasting pig, and then being beaten all over the body with batons. This is sometimes referred to as the “bridge”. The victim’s hands and legs are bound together, often with handcuffs, a metal rod is then inserted between the hands and legs and the victim is suspended between two tables and beaten.

Police also clap both ears, which ruptures the ear-drums. In other cases, victims were simply beaten all over the body by interrogators, who use a range of objects including batons and booted feet.

Anti-riot police

The anti-riot unit of the ZRP has consistently used excessive force to break up peaceful demonstrations by human rights defenders, political opposition activists and other government critics. Since 2000 thousands of peaceful demonstrators have sustained serious injuries as a result of use of excessive force by the police.

Killing of Gift Tandare

On 11 March 2007 anti-riot police used excessive force to break up a prayer meeting organized by the Save Zimbabwe Campaign in Harare’s low-income suburb of Highfield. Anti-riot police cordoned off the prayer meeting and used batons, water canons and dogs to disperse participants. One protestor, **Gift Tandare**, was shot dead by anti-riot police. The circumstances surrounding this killing are still unclear but police appear to have used disproportionate force against an unarmed protestor. It is

reported that demonstrators started pelting police with stones after the shooting incident.

On the same day, about 50 people were arrested either on their way to the prayer meeting or when they went to enquire about those arrested, including high profile political and civil society activists such as Morgan Tsvangirai, Sekai Holland, Arthur Mutambara of the MDC and Lovemore Madhuku of the National Constitutional Assembly. They were detained at Machipisa police station and tortured while in police custody by the anti-riot police and other security agents in plain clothes. At least 17 people sustained serious injuries including broken limbs.

Amnesty International documented dozens of cases of arrests of human rights defenders and political activists in 2007. Significantly, these arrests have consistently failed to lead to prosecution or, in the few cases where prosecutions have taken place, to conviction. In some cases the prosecution was declined because of insufficient evidence, in others the case was withdrawn before plea or those accused have simply been acquitted by the courts. Other victims were coerced into paying “admission of guilt” fines before being released, often under the Miscellaneous Offences Act (until it was repealed) and under the Criminal Law (Codification and Reform) Act.

The fact that the cases have not stood up in court suggests that the vast majority of human rights defenders and political activists were wrongfully arrested and unlawfully detained, purely for having exercised their right of peaceful assembly.

Despite compelling evidence that police have acted in contravention of national and international law, Amnesty International is not aware of any specific measure taken by the Zimbabwean authorities to bring those responsible for these violations to account for their conduct. Failure by the ZRP leadership and the government to institute independent and impartial investigations into violations of human rights is indicative of their tacit approval of unlawful police actions against government critics.

Hundreds of NCA members arrested and tortured

On 25 July 2007 anti-riot police in Harare used excessive force to break up a peaceful march outside parliament organized by the non-governmental National Constitutional Assembly (NCA). Police first rounded up scores of demonstrators and ordered them to sit down. They then proceeded to assault them with batons in full view of the general public before releasing them.

Police then went to the NCA offices on Herbert Chitepo Avenue where they arrested at least 240 people, including NCA director Ernest Mudzengi. The NCA demonstrators were taken to Harare Central police station. They were held for about six hours, and many of them were beaten, before they were released without charge at around midnight. Among those arrested were six mothers with babies. One of the injured was

a 19-month-old baby who was reportedly hit with a baton stick. According to sworn affidavits of some of the victims, police singled out mothers with babies, elderly women and young people with dreadlocks and beat them.

Many of the victims of this incident were seriously injured. About 68 people received multiple blows to the head and 14 had confirmed fractures. Thirty-two, including Ernest Mudzengi, were hospitalized. Despite visible injuries inflicted by police during arrest, the injured were not offered medical care while in police custody. Among the injured were eight women in their late 60s and another who was 77 years old.

8 International law

Under Article 2(3) of the International Covenant on Civil and Political Rights, states are obliged to ensure that victims of human rights violations have the right to an effective remedy. Article 7 of the African Charter on Human and Peoples' Rights provides similarly that every person has the right to appeal to competent national bodies against violations of their internationally recognized human rights.

The rights of victims of human rights violations to redress and reparation are elaborated in more detail in the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,³¹ and the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.³²

The 1993 World Conference on Human Rights, in the Vienna Declaration and Programme of Action, expressed concern at impunity of perpetrators of human rights violations, and called on states to abrogate legislation leading to impunity for those responsible for grave violations of human rights such as torture and to prosecute such violations, thereby providing a firm basis for the rule of law.³³

The Updated Set of principles for the protection and promotion of human rights through action to combat impunity,³⁴ reflecting recent developments in international law and practice including international jurisprudence and state practice, was issued in February 2005. The principles were developed following a study by an independent expert appointed by the UN Secretary-General at the request of the UN Commission on Human Rights, and were based on information supplied by governments and consultation with experts. The principles, while not legally binding in themselves, reflect and comply with relevant legal standards and provide guidelines to assist states in developing effective measures for combating impunity. According to the principles, states must, in particular, undertake investigations of human rights violations and take measures against the perpetrators, particularly in the area of criminal justice, by ensuring that those responsible are brought to justice. Where human rights violations constitute crimes under international law, states are prohibited from providing amnesties, pardons or similar measures which prevent the emergence of the truth, a final judicial determination of guilt or innocence, and full reparation for the victims.

At the regional level, the Constitutive Act of the African Union, Articles 3(h) and 4(o), expressly condemn and reject impunity. Zimbabwe is a member of the African Union (AU) and has subscribed to the AU Constitutive Act.

The right to a remedy

"I want my attackers to be brought to justice. That is my desire. The rule of law should prevail. We would like to see the police doing their work. At the present moment it is a waste of time to report a matter to the police."

74-year-old victim of state-sponsored violence from Gokwe, August 2008

In order to ensure the right to a remedy, states must establish the truth, bring those responsible for human rights violations to justice and ensure that victims receive reparation. States must establish the facts about violations of human rights that have occurred. States must investigate violations and bring the perpetrators to justice, in proceedings that comply with international standards of fair trial. States must also provide victims and their families with full and effective reparation, in the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

The responsibility of ensuring that impunity does not prevail in any society rests squarely with government, through its law enforcement agents; while the judiciary is to ensure that the law is interpreted and applied correctly in dealing with suspected perpetrators brought before the courts.³⁵ Those who are being investigated or facing prosecution for human rights violations or who are subjected to disciplinary proceedings should be suspended from official duties pending the outcome. The fact that a perpetrator acted on the orders of a superior does not exempt them from criminal responsibility, and likewise superiors are not exempt from responsibility for violations committed by their subordinates if they knew or should have known about the actions of the subordinate and did not take all the necessary measures within their power to prevent or punish the crime. The official status of a perpetrator of a crime under international law – even if acting as head of state or government – does not exempt them from criminal or other responsibility.³⁶

In order to guarantee non-recurrence of human rights violations, states should implement institutional, legislative and administrative reforms to ensure that public institutions are organized in a manner that ensures respect for the rule of law and protection of human rights. These reforms should be developed in consultation with and with the participation of the public, including victims and other sectors of civil society. Public officials, particularly those in the security forces, who are personally responsible for human rights violations should be removed from office in a procedure which complies with the requirements of due process.³⁷

9 Conclusion

"If the problem is to be resolved the government must prosecute the perpetrators to show its commitment to human rights. If that does not happen we will not be satisfied."

George, victim of state-sponsored violence from Hurungwe, August 2008

Amnesty International is gravely concerned about the human rights situation in Zimbabwe. The ZANU-PF government's deliberate policy of protecting those who have committed human rights violations in order to maintain its hold on power has allowed human rights violations to escalate and has led to a climate of unbridled impunity.

The government has an obligation to investigate the violations of the past and to ensure that victims have access to effective remedies, including access to justice, reparations and guarantees of non-repetition.

Amnesty International believes that impunity for human rights violations remains a major obstacle to a durable solution to Zimbabwe's human rights and political crisis. Human rights violations are facilitated by the authorities' policies of exempting perpetrators of human rights violations from accountability. The security forces, "war veterans" and ZANU-PF supporters appear to have been encouraged and even given resources by the state to commit human rights violations and evade accountability for past violations.

In its extensive interviews in Zimbabwe, Amnesty International has found an overwhelming desire on the part of victims of human rights violations that perpetrators should be brought to justice. Victims also want to be able to access effective remedies including reparations for the human rights violations they have suffered.

10 Recommendations

Recommendations to the government of Zimbabwe

Some of the following recommendations involve measures which need to be taken urgently to mitigate the effects of the state-sponsored violence that engulfed the country before the presidential run-off of 27 June 2008. Other recommendations focus on longer-term measures to address the long-standing problem of impunity in Zimbabwe, to ensure redress for victims and to ensure non-recurrence of such violations.

In order for such measures to be effective, they require wide-ranging consultations with civil society and the international community. In order to ensure their durability, they need to be embedded in legislative and administrative reforms.

1. To address the immediate effects of human rights violations in the context of the recent state-sponsored violence the government should:

Allow humanitarian organizations free passage to monitor food security and assess the urgent needs of victims of the recent wave of human rights violations throughout Zimbabwe. The government should accept internationally agreed criteria and methodologies for assessing vulnerability.

Guarantee the free and unimpeded passage of aid provided by humanitarian organizations and UN agencies. Unimpeded access must include freedom to meet members of the community without interference and without the presence of any security forces, “war veterans” or any bodies that may be perceived as threatening.

Ensure immediate access to emergency shelter to all victims of recent state-sponsored violence and restore their capacity to earn a living. The injured should be given access to medical treatment and other effective remedies to address their immediate needs.

2. To break the culture of impunity in Zimbabwe and to ensure redress for victims of human rights violations, the government should:

Establish an independent commission of inquiry to look into all aspects of the human rights violations in Zimbabwe since 2000, and in particular in the context of the elections in 2008. The terms of reference of the commission and its membership should be determined on the basis of broad public consultation with all sectors of society, including in particular the victims.

The members of the commission should be appointed on the basis of their recognized impartiality, competence, integrity and independence. Efforts should be made to ensure adequate representation of women as well as of

other groups whose members have been especially vulnerable to human rights violations.

The commission and each of its members should have the strongest possible guarantees of independence including establishment in law, security of tenure and other immunities and privileges. They must be independent of the executive functions of government, free of political pressures and able to carry out their work without interference from the authorities or from other agencies or bodies under investigation. The commission should be provided with transparent funding and sufficient material and human resources to carry out its work.

The commission's investigations should cover all violations of human rights. In particular it should focus on violations that constitute crimes under international law, and should endeavour to safeguard evidence for use in the administration of justice. Its inquiries should relate to all individuals allegedly responsible for violations of human rights, whether they ordered them or actually committed them, as perpetrators or accomplices.

The terms of reference of the commission should mandate it to include in its final report recommendations on legislative and other action to combat impunity.

3. The government should undertake prompt, thorough, independent and impartial investigations of violations of human rights and ensure that those responsible for crimes, particularly crimes under international law and other human rights violations, are brought to justice.

Investigations should cover those responsible at all levels, whether they committed, ordered or were otherwise complicit in crimes, and whether they were public officials or employees or were acting in another capacity.

The fact that a perpetrator acted on the orders of the government or of a superior should not exempt him or her from criminal responsibility.

Effective steps should be taken to ensure the protection of victims and other witnesses against intimidation or reprisals.

The fact that violations were committed by a subordinate should not exempt that subordinate's superiors from criminal responsibility if they knew or had reason to know that the subordinate was committing or was about to commit such a crime and did not take all necessary measures they could to prevent or punish it.

Public officials and employees who are subject to criminal or disciplinary proceedings should be suspended from official duties during those proceedings.

Any provisions on disclosure or repentance in order to encourage revelation of the truth should not provide for exemption from criminal or other responsibility.

In the case of violations which constitute crimes under international law, there should be no amnesties, pardons or similar measures which prevent the emergence of the truth, a final judicial determination of guilt or innocence, and full reparation for the victims.

4. The government should ensure that victims receive reparation and have the possibility to seek redress in civil or other proceedings from those responsible for human rights violations against them. The right to reparation must apply to all injuries suffered by victims and must include measures of restitution, compensation, rehabilitation and satisfaction.

5. In order to ensure non-recurrence of human rights violations, the government should undertake a programme of institutional and other reforms to ensure respect for the rule of law and foster and sustain a culture of respect for human rights. This reform programme should be developed through a process of broad public consultations, including the participation of victims and other sectors of civil society.

Public officials and employees, particularly those in the security forces, who are personally responsible for human rights violations should be removed from their posts according to procedures which comply with the requirements of due process.

The Law and Order section of the Criminal Investigations Department of the Zimbabwe Republic Police (ZRP), which has appeared to operate under political instructions and without accountability to the ZRP command structures, should be disbanded.

Members of the anti-riot police should receive comprehensive and ongoing training in how to comply with international standards on the use of force, including the UN Basic Principles on the Use of Force or Firearms by Law Enforcement Officials.

The government should ensure that non-state actors, such as “war veterans”, are not allowed to perpetrate human rights abuses and should bring to justice those who are suspected of responsibility for such abuses.

Legislation and administrative regulations that have contributed to or legitimized human rights violations must be repealed or amended. In particular, steps should be taken to review and amend existing rules for the

security forces that facilitate excessive use of force, particularly when policing peaceful demonstrations and other assemblies, so as to bring them into full compliance with the UN Basic Principles on the Use of Force or Firearms by Law Enforcement Officials.

Public officials and employees, in particular those in the security forces, should receive comprehensive and ongoing training in human rights standards and their implementation.

Recommendations to the international community

Amnesty International urges the international community, in particular African Union leaders, to speak out publicly and strongly and demand that Zimbabwe ends impunity for perpetrators of human rights violations.

The international community should publicly support any process for ending impunity in Zimbabwe.

Endnotes

¹ On 15 September 2008, Zimbabwe's three main political parties, the Zimbabwe African National Union-Patriotic Front led by Robert Mugabe, and the two Movement for Democratic Change (MDC) formations led by Morgan Tsvangirai and Arthur Mutambara, signed an agreement to form an inclusive government. This follows the mediation process facilitated by the Southern African Development Community (SADC) that started in March 2007. The agreement signed by the parties is meant to address the Zimbabwean political and economic crises that have been developing since 2000. Article 7.1 (c) of the agreement commits the parties to "setting up of a mechanism to properly advise on what measures might be necessary and practicable to achieve national healing, cohesion and unity in respect of victims of pre and post independence political conflicts." The form this 'mechanism' will take is not clear and yet to be defined.

² See Updated Set of principles for the protection and promotion of human rights through action to combat impunity, UN Doc. E/CN.4/2005/102/Add.1, 8 February 2005. At the regional level, the Constitutive Act of the African Union, Articles 3(h) and 4(o), expressly condemn and reject impunity. Zimbabwe is a member of the African Union (AU) and has subscribed to the AU Constitutive Act.

³ UN Doc. A/54/426, 1 October 1999.

⁴ Some of the people calling themselves "war veterans" did not necessarily participate in the 1970s war for Zimbabwe's liberation, but nevertheless work with ZANU-PF leaders and a faction within the Zimbabwe National Liberation War Veterans Association, in their violent campaign against MDC supporters. Some of these "war veterans" are too young to have participated in the war.

⁵ Human right defenders are people who act to promote and protect human rights. They may be victims and survivors of human rights violations themselves, or friends or relatives of victims of human rights violations seeking to redress the violations suffered. They may be journalists, lawyers, members of human rights organizations or politicians who speak out against government repression, who are working for the promotion and protection of human rights for all. They are human rights defenders because of what they do, not because of their job or profession.

⁶ The right to an effective remedy for victims of human rights violations is set out in, for example, Article 2 (3) of the International Covenant on Civil and Political Rights (ICCPR) and Article 7 of the African Charter on Human and Peoples' Rights. See also Article 11, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

⁷ ZANU-PF won 62 seats while the MDC won 57 seats and ZANU-Ndonga won 1 seat.

⁸ IRIN, *ZIMBABWE: Military rattle sabres in support of Mugabe*, www.irinnews.org/report.aspx?ReportId=77254 accessed 2 October 2008.

⁹ Address by Dr Gideon Gono, Governor of the Reserve Bank of Zimbabwe, to the Extraordinary Session of ZANU-PF Congress in Harare, 14 December 2007.

¹⁰ Ibid.

¹¹ Under the International Covenant on Civil and Political Rights (ICCPR), states must ensure the rights of everyone within their jurisdiction without discrimination, including on the grounds

of political or other opinion. While it is permissible for states to impose certain restriction on some of the rights in the Covenant, any such restriction must meet a three-part test: it must be provided by law; and only for certain specified legitimate purposes, and it must be justified as being necessary [in the circumstances] for, and proportionate to its intended legitimate objective. Any restriction on these rights which does not comply with these criteria is not lawful.

¹² Amnesty International press release, *Zimbabwe: Harassment and intimidation as election looms*, 26 March 2008.

¹³ Most groups reported to be abducting people were said to be driving two models of vehicles – Mahindra and CAM. Most of these vehicles did not have registration plates. Victims interviewed by Amnesty International from different parts of the country made similar observations.

¹⁴ United Nations, *Zimbabwe Consolidated Appeal – Mid Year Review*, June 2008.

¹⁵ The situation varied from area to area depending on the resourcefulness of local leadership.

¹⁶ Reasons 37 - 39, *100 Reasons to vote ZANU-PF & President Mugabe*, pp. 23-26. This ZANU-PF Presidential election run-off manifesto was distributed widely as part of President Mugabe's re-election campaign.

¹⁷ Interviewed by Amnesty International on 15 August 2008.

¹⁸ Soft tissue injury can lead to muscle breakdown – rhabdomyolysis – and protein entering the blood stream, which can cause kidney failure.

¹⁹ United Nations, *Zimbabwe Consolidated Appeal Mid-Year Review*, p6, June 2008.

²⁰ The only provision in the Private Voluntary Organisations Act which empowers the Minister to take such action was section 21, which provided for the suspension of the Executive Committees of PVOs registered under the Act in the event that the Minister had evidence of violations of the law. However, Section 21 was struck down by the Constitutional Court of Zimbabwe in the case of *Holland & Ors vs Minister of Public Service, Labour and Social Welfare 1997* (1) ZLR 186 (S). The court ruled that this section was at odds with section 18 (9) of the Constitution of Zimbabwe which stipulates that everyone is entitled to protection of the law.

²¹ United Nations, *Zimbabwe Consolidated Appeal Mid-Year Review*, June 2008, p13.

²² One victim from Murewa, after initially agreeing to be interviewed, decided to withdraw, fearing reprisal and that it would affect her marriage.

²³ In 1995, the Gays and Lesbians of Zimbabwe (GALZ) was banned by government from exhibiting at the Zimbabwe International Book Fair. President Mugabe has described gays and lesbians as “worse than dogs and pigs”.

²⁴ Focus group discussion with men and women who were victims of beatings and torture at ZANU-PF camps in Masvingo province 15 August 2008.

²⁵ United Nations, (2005) *Report of the Fact-Finding Mission to Zimbabwe to assess the Scope and Impact of Operation Murambatsvina by the UN Special Envoy on Human Settlement Issues in Zimbabwe, Mrs Anna Kajumulo Tibajuka*.

²⁶ See Amnesty International, *No Justice for victim of forced evictions* (Index: AFR 46/005/2006)

²⁷ See Amnesty International, *Zimbabwe: Power and Hunger – violations of the right to food*, October 2004, Index: AFR 46/026/2004; Amnesty International, *Zimbabwe: Between a rock and hard place – women human rights defenders at risk* (Index: AFR 46/020/2007).

²⁸ Although the Public Order and Security Act (POSA) was amended in February 2008, police continued to apply it selectively in the run-up to the March 2008 election.

²⁹ These rights are recognized in the Constitution of Zimbabwe and in regional and international human rights treaties to which Zimbabwe is a state party, in particular the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights.

³⁰ One of the 32 MDC activists arrested on or around 28 March 2007, CRB No. B472-84/07.

³¹ Adopted by General Assembly resolution 40/34 of 29 November 1985.

³² Adopted by UN General Assembly Resolution 60/147 on 16 December 2005.

³³ Vienna Declaration and Programme of Action paras 60, 91.

³⁴ See Updated Set of principles for the protection and promotion of human rights through action to combat impunity, UN Doc. E/CN.4/2005/102/Add.1.

³⁵ UN High Commissioner for Human Rights, *Promoting Justice and Reconciliation in Africa: Challenges for Human Rights and Development*, May 2002.

³⁶ See Updated Set of principles for the protection and promotion of human rights through action to combat impunity, UN Doc. E/CN.4/2005/102/Add.1, Principle 27.

³⁷ See Updated Set of principles for the protection and promotion of human rights through action to combat impunity, UN Doc. E/CN.4/2005/102/Add.1, Principles 35 and 36.



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ZIMBABWE TIME FOR ACCOUNTABILITY

The creation of a new government in Zimbabwe offers an opportunity that must be seized by the authorities to address the human rights violations committed in recent years.

In the months between the 29 March 2008 elections and the 27 June presidential run-off, scores of people were killed and thousands injured in state-sponsored political violence. Most were attacked by members of the security forces, “war veterans” or supporters of the ruling ZANU-PF party.

People suspected of voting for the opposition, human rights defenders and opposition party officials were beaten, arrested, unlawfully detained, tortured and killed. Many were forcibly evicted, saw their homes destroyed, had their food reserves plundered and livestock killed, or were injured so badly that they could no longer earn a living. The plight of the victims was compounded by the government’s decision in June to ban the field operations of NGOs and humanitarian organizations.

The perpetrators of the violations have faced no investigation, prosecution or censure. On the contrary, they appear to have been encouraged to commit further human rights violations by the failure of the government to hold those responsible to account. This culture of impunity has been allowed to thrive in Zimbabwe, particularly since 2000.

There can be no durable resolution of the Zimbabwe crisis without government measures to break the culture of impunity by establishing the truth, bringing perpetrators to justice and ensuring reparations for the victims.

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