



Crisis without Limits

**Human Rights and Humanitarian Consequences of
Political Repression in Zimbabwe**

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I. Summary

Zimbabwe is in a humanitarian crisis that is the result of a political crisis. A cholera epidemic has—as of January 12, 2009—left over 39,000 people infected and at least 2,000 dead, with the disease spreading to neighboring countries. This marks both the collapse of Zimbabwe’s healthcare system and the calculated disregard for the welfare of Zimbabweans by the ruling party, the Zimbabwe African National Union – Patriotic Front (ZANU-PF). The country is experiencing the sharpest rise in infant mortality in its history, and maternal mortality rates have tripled since the mid-90s. Meanwhile, over five million Zimbabweans face severe food shortages and are dependent on international aid. Making matters worse, ZANU-PF’s repeated political interference in the work of humanitarian agencies and its attempts to conceal the extent of the disaster have severely hampered international efforts to help tackle these multiple crises.

ZANU-PF’s longstanding assault on political freedoms and civil rights lies at the heart of Zimbabwe’s humanitarian crisis. While political violence, enforced disappearances, and arbitrary detentions by the government of President Robert Mugabe peaked in the weeks leading up to the run-off presidential elections in June 2008, they have continued to the present as ZANU-PF uses repression to back its dubious claim to power. Over 40 supporters from the Movement for Democratic Change (MDC) and human rights activists have “disappeared” or been arbitrarily detained since November 2008. ZANU-PF controlled police units continue to violently break up peaceful protests, and routinely arrest and harass MDC activists.

Despite the ongoing and massive violations of Zimbabweans basic rights, African governments have largely remained on the sidelines. The bi-annual summit of African Heads of State in Addis Ababa from January 26 to February 3, 2009, provides African leaders with a crucial opportunity to intervene effectively to end Zimbabwe’s long-standing political crisis.

African leaders need to move beyond the failed mediation efforts of the Southern Africa Development Community (SADC). Only concerted pressure on the Mugabe government can end Zimbabwe’s unprecedented humanitarian emergency and the regional crisis it has created.

Hopes for an end to Zimbabwe’s crisis were raised on September 15, 2008 when ZANU-PF and the MDC, with much fanfare from SADC and its mediator, former South African president Thabo Mbeki, signed a Global Political Agreement (GPA) in which both parties committed to

acting in a manner that demonstrated respect for democratic values and human rights. Many Zimbabweans and concerned outsiders hoped the agreement would end ZANU-PF's abusive practices, lead to a credible government of national unity, bring about the reengagement of foreign donors, and lead to a gradual recovery in the country's economic and social conditions.

Human Rights Watch and others warned that such an agreement would fail unless ongoing human rights abuses ceased and those responsible were held to account. Yet the continued absence of accountability in Zimbabwe remains a major block to progress. ZANU-PF has not honored the letter and spirit of the GPA: four months since it was signed, ZANU-PF violations of basic human rights continue and its policies have deepened the country's humanitarian crisis.

Increasingly, Zimbabwe is a sub-regional crisis. Political and economic instability, the cholera outbreak, and severe food insecurity have driven thousands of Zimbabweans into neighboring countries. Cholera has spread from Zimbabwe to South Africa, Botswana, and Mozambique. In December 2008, South Africa in effect acknowledged the regional nature of the crisis by calling the spread of cholera from Zimbabwe to its border town of Musina "a disaster." The African Union (AU) should follow suit and openly acknowledge that the situation in Zimbabwe threatens the entire region.

The AU also has an opportunity to succeed where South Africa and SADC have failed. The AU Charter identifies respect for democracy, human rights, and the rule of law as universal values and says that all states party to it must promote and adhere to them. By putting human rights at the core of the Zimbabwe crisis and acting swiftly against those who disregard them, AU leaders can create a credible basis for affecting a positive resolution. Human Rights Watch calls on the AU to insert itself formally into the mediation process as impartial arbiters. If not, even greater numbers of Zimbabweans will suffer political persecution and the horrendous humanitarian conditions in their country, inevitably deepening and widening the regional crisis.

II. Recommendations

To the African Union (AU)

- Publicly condemn ongoing abuses by the ZANU-PF authorities, including enforced disappearances, arbitrary detentions, and torture and other mistreatment.
- Ensure that mediation on Zimbabwe is led and staffed by a new team of independent facilitators appointed by the AU, who should in turn set basic principles, specific benchmarks, and timelines for resolving the crisis.
- In accordance with the AU Charter, suspend the Zimbabwe government from the AU if—within a specific timeframe—it does not implement or meet specific human rights and good governance benchmarks. These should include an end to politically motivated violence, enforced disappearances, torture, and the release of MDC and civil society activists who are being arbitrarily detained.
- Urge full accountability for the perpetrators of human rights abuses, including prosecutions of all persons responsible in accordance with international due process standards, as well as appropriate remedies for victims of abuses.
- Call on the Zimbabwean authorities to guarantee and facilitate unfettered access for humanitarian organizations and UN agencies to provide humanitarian assistance to all vulnerable persons.
- Call on the Zimbabwean authorities to take steps to improve access to the availability of food and farming inputs and make serious efforts to end corruption at all levels of the food importation and distribution process.

To Members of the Southern African Development Community (SADC)

- Request the involvement of the AU in leading the mediation process and work with the AU in pressing ZANU-PF to end abuses.
- Ensure that mediation initiatives are led and staffed by a new team of independent facilitators appointed by the AU.
- Maintain tight controls on SADC funded aid for the humanitarian crisis and implement all aspects of SADC relief efforts through UN agencies or local and international NGOs.

To International Donors (including the US, the UK and other EU members)

- Continue to withhold non-humanitarian development aid to Zimbabwe in the absence of clear progress in promoting respect for human rights, including key human rights reforms; set specific benchmarks and closely monitor progress.
- Maintain targeted travel sanctions and asset freezes against ZANU-PF and its leadership until it meets specific human rights and good governance benchmarks.
- Channel humanitarian assistance through the UN and NGOs and respond generously to UN agency appeals for Zimbabwe, in order to enable agencies responding to the humanitarian crisis to provide adequate levels of food, medical care, and other humanitarian assistance to those in need.
- Demand that programs funded by donor governments are not used by the Zimbabwean authorities for political purposes and that all international aid reaches Zimbabweans in need.

To UN Agencies

- Actively protest the government's deliberate obstruction of humanitarian programs, including through public representations.
- Ensure strict accountability for aid provided through official bodies—monitor aid to ensure it reaches those most in need.
- Through timely and regular reporting, ensure that senior UN officials and donors are kept informed of the humanitarian situation and encouraged to impress upon the government its obligations to comply with human rights standards with respect to the rights to food and health. WFP workers, NGO staff, and local authorities involved in food distribution should re-emphasize the principle of non-discrimination by talking to communities, local leadership, district and provincial authorities, party members and leaders, and any others involved in food relief programs.
- Work closely with local NGOs and community based organizations to target international aid distribution to those most in need, irrespective of real or suspected political affiliation.

To the UNHCHR

- Urgently impress upon the government of Zimbabwe its responsibility to assist and protect Zimbabweans in need of urgent humanitarian assistance and the unacceptability of obstructing efforts of the international community to help the population in need.

To the Human Rights Council

- Call on relevant Special Procedures to investigate the denial of the rights to adequate food and health, including access to medical care, of Zimbabwean citizens by the Zimbabwean authorities and report back to the Human Rights Council.
- Hold a Special Session on the human rights situation in Zimbabwe.
- Condemn attacks against human rights defenders and task the Special Rapporteur on human rights defenders to investigate attacks against human rights defenders committed since the elections were held in 2008 and present a report to the Human Rights Council.

III. Methodology

This report is based on research conducted by Human Rights Watch in Zimbabwe between November 16 and 30, 2008, in the provinces of Mashonaland East and West, Manicaland, Masvingo, Midlands and Harare.

Human Rights Watch conducted more than 50 interviews with representatives of local and international nongovernmental organizations (NGOs) and humanitarian agencies, United Nations officials, MDC officials, officials from the Ministry of Agriculture and the Grain and Marketing board, lawyers, health experts, agricultural experts, economists, victims of human rights violations, and members of the diplomatic community. Telephone interviews were also conducted with local and international NGOs, lawyers, and victims of human rights violations between August 2008 and January 2009.

Human Rights Watch also reviewed reports from humanitarian organizations and UN agencies, government policy documents and available statistics, and other public documents related to Zimbabwe's humanitarian and human rights situation.

The names of all those interviewed for this report have been withheld for security reasons.

IV. The Humanitarian Crisis and the State's Failure to Respond

Zimbabwe is in the midst of an all-encompassing humanitarian crisis that has seen an almost total collapse in the delivery of basic government sanitation, health, and welfare services.

To date the Zimbabwean authorities have demonstrated neither the will nor the capacity to address the crisis and protect Zimbabweans from its consequences. Repressive government and extensive corruption have led directly to an interlinked economic collapse, a humanitarian crisis and growing public desperation. In doing so, the ZANU-PF government has violated the basic rights of Zimbabweans to food, health and clean water.

Statistics from the United Nations Children's Fund (UNICEF) show that Zimbabwe has the world's fourth-highest rate of HIV prevalence and has recently seen an unprecedented reversal of progress on child mortality. For example, mortality rates for children under the age of five have risen from 76 per 1,000 live births in 1990 to 105 per 1,000 live births.¹ UNICEF says that the hardest hit in Zimbabwe are:

populations affected by serious food insecurity, HIV and cholera outbreaks as well as those displaced during the fast-track land reform program, Operation Murambatsvina (OM) and more recent re-evictions.² The more chronic vulnerabilities include inadequate access to basic social services, lack of agricultural inputs and disrupted livelihoods.³

Maternal mortality has been steadily rising since the mid 1990's, and was at an alarming 880 per 100,000 live births in 2005, the last year for which World Health Organization data is available.⁴

¹ UNICEF country information on Zimbabwe, http://www.unicef.org/infobycountry/zimbabwe_statistics.html (accessed January 14, 2009).

² For more on the evictions see the Human Rights Watch report, *Evicted and Forsaken: Internally Displaced Persons in the Aftermath of Operation Murambatsvina*, November 2005, <http://www.hrw.org/en/reports/2005/11/30/zimbabwe-evicted-and-forsaken-o>

³ UNICEF country information on Zimbabwe, http://www.unicef.org/infobycountry/zimbabwe_1403.html (accessed January 9, 2009).

⁴ The Demographic and Health Survey reports a maternal mortality rate of 283 per 100,000 live births in 1994 and 695 per 100,000 live births in 1999, <http://www.who.int/whosis/data/> (accessed January 13, 2009). Data referenced in the 2004 Zimbabwe Millennium Development Progress report, www.sarpn.org.za/documents/d0001702/Zimbabwe_MDG-report2004_goal5.pdf (accessed January 13, 2009).

Deaths from cholera in Zimbabwe's main cities and townships are mounting, and health, water and sanitation services have collapsed. The cholera outbreak has left over 39,000 Zimbabweans infected and over 2,000 dead, but is only one of a growing array of healthcare disasters.⁵ For example, 1.3 million Zimbabweans are living with HIV/AIDS, yet only 110,000 of the 480,000 people in urgent need of anti-retro-viral therapy (ART) are currently receiving it.⁶

Because of disruptions in the supply of drugs, food shortages, and transportation difficulties, many of those who do receive ART may not be able to consistently ensure access to their daily medicines, leading to the development of drug resistant HIV strains and treatment failure leading to premature mortality.⁷ With collapsing living conditions and the emerging HIV epidemic, Zimbabwe has seen a resurgence in cases of tuberculosis—six times more cases in 2008 than 20 years previously. And cure rates for those put on treatment are just 54 percent.

Food Insecurity

Zimbabwe has suffered from food shortages since 2000 when the Mugabe government embarked on a violent and illegal program of land seizures.⁸ An estimated 5.1 million Zimbabweans—half the population—are expected to need food aid in 2009.⁹

Food output in Zimbabwe has deteriorated drastically in the past year. The UN World Food Program (WFP) estimates that maize production in 2008 was 575,000 metric tons—28percent below 2007's historically low level.¹⁰ Maize is Zimbabwe's staple but many villagers interviewed by Human Rights Watch in Mashonaland East, West, Masvingo, Midlands and Manicaland provinces said that they were either living on one meal of *sadza* (maize meal) a day or on wild fruit.

⁵ World Health Organization, Daily Cholera Updates and Alerts, January 12, 2009, http://www.who.int/hac/crises/zmb/sitreps/zimbabwe_cholera_update_12jan2009.pdf (accessed January 18, 2009).

⁶ UN Consolidated Appeal Process for Zimbabwe 2009, <http://ochaonline.un.org/AppealsFunding/CAP2009/tabid/5120/language/en-US/Default.aspx> (accessed January 12, 2009).

⁷ Human Rights Watch, *No Bright Future: Government Failures, Human Rights Abuses, and Squandered Progress in the Fight against AIDS in Zimbabwe*, July 2006, <http://www.hrw.org/en/reports/2006/07/27/no-bright-future>.

⁸ Human Rights Watch, *Fast Track Land Reform in Zimbabwe*, March 2002, <http://www.hrw.org/legacy/reports/2002/zimbabwe/>.

⁹ "Major food appeal for Zimbabwe as WFP relief distributions begin," World Food Program press release, October 9, 2008, <http://www.wfp.org/ENGLISH/?ModuleID=137&Key=2955> (accessed January 10, 2009).

¹⁰ World Food Program, Zimbabwe country page, http://www.wfp.org/country_brief/indexcountry.asp?country=716, (accessed August 11, 2008).

On October 9, 2008, WFP appealed for US\$140 million for vital relief rations in Zimbabwe for the following six months.¹¹ It estimated a cereal gap for the period April 2008 to March 2009 of 1.2 million tons.

The Crop and Food Supply Assessment Mission (CFSAM—a joint body of the United Nations Food and Agriculture Organization (FAO) and WFP) determined that Zimbabwe’s poor main cereal harvest in 2008 was due to a combination of adverse weather conditions, a lack of key agricultural inputs (fertilizer and tractors), crumbling irrigation systems, and disincentives caused by government price controls.¹²

As a result of severe food shortages, levels of chronic malnutrition among children under age five have increased, so that 28 percent are chronically malnourished.¹³ Hyper-inflation of over 231 million percent has eroded the capacity of families to access the little food available on the market, an especially acute problem for people living in urban areas with no access to land. Maize remains unavailable in most shops. Where it is available on the black market, it is pegged to the US dollar, pricing it out of reach for the average Zimbabwean household. When Human Rights Watch researchers visited Zimbabwe in November the price of a 20 kilogram bucket of maize meal was US\$20, unaffordable for most people.¹⁴ Only 6 percent of Zimbabweans are employed in the formal sector¹⁵. Teachers, for example, earn an average of US\$4 per month.¹⁶

Six local and international agriculturalists told Human Rights Watch that the 2008-9 farming season would fail because many farmers were unable to get seed and fertilizers due to disruption in farming during the 2007-8 season. They presented a picture that placed primary responsibility on the Zimbabwe authorities for the increased food insecurity in the country, citing:

¹¹ “Major food appeal for Zimbabwe as WFP relief distributions begin,” World Food Program press release, October 9, 2008, <http://www.wfp.org/ENGLISH/?ModuleID=137&Key=2955> (accessed January 10, 2009).

¹² FAO/WFP crop and food supply assessment mission to Zimbabwe, Special Report, June 18, 2008. <http://www.fao.org/docrep/010/ai469e/ai469e00.htm> (accessed December 2, 2008).

¹³ “Major food appeal for Zimbabwe as WFP relief distributions begin,” World Food Program press release, October 9, 2008, <http://www.wfp.org/ENGLISH/?ModuleID=137&Key=2955> (accessed January 10, 2009).

¹⁴ According to humanitarian agencies an average family of four requires a 20kg bucket of maize per month.

¹⁵ UN Consolidated Appeal Process for Zimbabwe 2009, <http://ochaonline.un.org/AppealsFunding/CAP2009/tabid/5120/language/en-US/Default.aspx> (accessed January 12, 2009).

¹⁶ Human Rights Watch interview with teacher, Harare, November 18, 2008.

1. Poor agricultural policies that led to the late distribution of farming inputs such as seed and fertilizer by the Zimbabwe authorities;¹⁷
2. State-sponsored violence after the general elections in March 2008;
3. Corruption within state-run agricultural institutions such as the Grain and Marketing Board (GMB) and by ZANU-PF's political elite.

Each of these factors is discussed below.

Late Distribution of Farming Inputs

Agriculturalists informed Human Rights Watch that the late distribution of farming inputs by the Zimbabwe authorities as a result of poor agricultural policies and corruption was one of the main causes of the decrease in cereal production in the country. Tillage of farms needs to be done before the rains and all preparations should be ready by at least September 1 for rains that normally come between late October and November. An FAO/WFM assessment mission report to Zimbabwe in May 2008 found that the delayed supply of inputs was one of the major factors that affected the productivity of the 2007-8 crops.¹⁸ The assessment mission advised Zimbabwean authorities to ensure that seed was easily accessible by farmers on the open market and made available in a timely manner. However, this did not take place. Late distribution of seed and other farming inputs and unavailability of seed is likely to be a major factor in low maize production next season.

One agriculturalist told Human Rights Watch:

Agricultural production is about the availability of inputs. Seed is always released too late by the government. It gets on the market too late. Yields decline by more than half between November and December planting.¹⁹

A farmer made the same point to Human Rights Watch:

I benefited from the government Champion Farmer Programme. I was promised 10 bags of Compound D fertilizer, 10 bags of Ammonium Nitrate fertilizer and 50kgs of maize seed but I only got 50kgs of seed. The seed was delivered...on November 18, ...too late for this agricultural season...In any

¹⁷ Human Rights Watch interviews with 6 agriculturalists, Harare, November 16–23, 2008.

¹⁸ FAO/WFP crop and food supply assessment mission to Zimbabwe, Special Report, June 18, 2008. <http://www.fao.org/docrep/010/ai469e/ai469e00.htm> (accessed December 2, 2008).

¹⁹ Human Rights Watch interview with agricultural expert, Harare, November 26.

case I was already surviving on wild fruits so I had to sell 10 kilograms of that seed and then I washed the treated seed and ground it into maize meal so that my family [could] survive...a few more weeks.²⁰

Analysts estimate that the number of Zimbabweans needing food assistance is likely to increase in 2009 due to unavailability of seed and other farming inputs.

State-Sanctioned Post-Election Violence

The protracted violence throughout Zimbabwe in the months after general elections in March 2008 added to food insecurity in the country. Human Rights Watch has collected evidence that shows that state-sponsored groups such as the ZANU-PF sponsored “youth militia” and “war veterans,” state security forces, and supporters systematically killed livestock, and destroyed and plundered the homes and food granaries (reserves) of thousands of suspected MDC activists and supporters in order to ensure their displacement and inability to vote.²¹ An estimated 36,000 Zimbabweans were displaced by the violence and left in need of food, water, and shelter.²² Looted food was given to soldiers, youth militia, and ZANU-PF supporters at camps that had been set up throughout the country and used to beat and torture MDC supporters.

On May 13, Augustino Zacarias, the UN Country Team Resident and Humanitarian Coordinator to Zimbabwe, released a statement expressing concern over the politically motivated violence and the rising humanitarian problems. He expressed worries about those who fled their homes—out of fear of reprisals—and lacked food, shelter, and other basic social services, which could trigger unprecedented humanitarian needs.²³ On May 28, UNICEF released a similar statement denouncing the political violence that had “displaced at least 10,000 children” in Zimbabwe, and was “affecting the continued delivery of humanitarian relief to children and their families in parts of the country.”²⁴

²⁰ Human Rights Watch interview with farmer, Rusape, Manicaland, November 27, 2008.

²¹ See Human Rights Watch, “*Bullets for Each of You*”: *State-Sponsored Violence since the March 29 Elections*, June 2008, <http://hrw.org/reports/2008/zimbabwe0608>.

²² UN Consolidated Appeal Process for Zimbabwe 2009, <http://ochaonline.un.org/AppealsFunding/CAP2009/tabid/5120/language/en-US/Default.aspx> (accessed January 12, 2009).

²³ “Zimbabwe: UN voices concern over politically-motivated violence,” UN press statement, May 13, 2008, <http://www.un.org/apps/news/story.asp?NewsID=26658&Cr=zimbabwe&Cr1=> (accessed May 27, 2008).

²⁴ “Conditions in Zimbabwe could reach crisis levels if situation continues,” UNICEF press release, May 28, 2008, http://www.unicef.org/infobycountry/zimbabwe_44071.html (accessed January 9, 2009); “UNICEF deplores impact of violence on children,” UNICEF press release, May 2, 2008, http://www.unicef.org.uk/press/news_detail.asp?news_id=1121 (accessed May 27, 2008).

The violence also prevented local farmers from tending their farms and preparing for the 2007-8 planting season. A farm manager in Chegutu, Mashonaland West, told Human Rights Watch, “During the election period just before the run-off, ZANU-PF supporters came and raided the farmworkers’ farms and took all of their maize stock. They came on June 18, about 30 of them, all wearing ZANU-PF tee-shirts.”²⁵

Another farmer in Chegutu told Human Rights Watch that “Instead of spending time on our farms to prepare for the rainy season we were forced [by ZANU-PF] to spend days attending political meetings. The political violence did not help as many of us were forced to flee our homes and leave our farms.”²⁶

In its June 2008 report on the post election violence, Human Rights Watch highlighted how the government of Zimbabwe bore by far the greatest responsibility for the widespread violence, including looting of property and food reserves, which took place around the country.²⁷ The report also highlighted how the Zimbabwe police had failed to investigate the thousands of cases of violence perpetrated by ZANU-PF officials, state-sponsored groups, and the security forces, and how not a single perpetrator from these groups had been brought to justice.

The UN’s Zimbabwe 2009 Consolidated Appeal Process (CAP) document also found that the impact of humanitarian agencies’ long period of absence from the field, partly due to the violence, had a “detrimental impact on the food security situation in 2008 and hindered the collection of first hand information on the real needs of communities and gaps in the humanitarian response.”²⁸

Corruption and Discriminatory Government Policies on Food

Three economists told Human Rights Watch that protracted and endemic corruption within ZANU-PF has led to a situation of acute economic disparity.²⁹ They add that a very few individuals have been acquiring vast wealth while the majority of the population (over 90

²⁵ Human Rights Watch interview with farm manager, Mashonaland West, November 19, 2008.

²⁶ Human Rights Watch interview with farmer, Mashonaland West, November 19, 2008.

²⁷ Human Rights Watch, “*Bullets for Each of You*”.

²⁸ UN Consolidated Appeal Process for Zimbabwe 2009, <http://ochaonline.un.org/AppealsFunding/CAP2009/tabid/5120/language/en-US/Default.aspx> (accessed January 12, 2009).

²⁹ Human Rights Watch interviews with economists, Harare, November 16–26, 2008. See also Transparency International, “Zimbabwe: Country Study Report 2006/07,” http://www.transparency.org/regional_pages/africa_middle_east/studies_and_reports#nis (accessed December 4, 2008).

percent of whom are estimated to be unemployed) continues to face increasingly severe deprivation.

On December 14, 2007, in an address to ZANU-PF's congress, the Governor of the Reserve Bank of Zimbabwe (RBZ), Gideon Gono, accused senior ZANU-PF officials of corruption and stated that the country lost an estimated US\$1.7 billion per year "through economic sabotage perpetuated by the few" with the knowledge or complicity of government officials.³⁰

Human Rights Watch has found no evidence that the Zimbabwe authorities are taking any serious steps to address corruption in relation to food insecurity. Conversely, we found that individuals within ZANU-PF have exploited their political connections to secure preferred access to scarce commodities like maize meal and farming inputs for export or for sale locally at exorbitant prices. Endemic corruption has aggravated food insecurity and exacerbated the food shortages. In February 2007, Gideon Gono also accused the country's leadership of encouraging the growth of corruption and cited the "ridiculous" practices of the state's Grain Marketing Board (GMB) as fueling corrupt practices."³¹

Corrupt practices by ZANU-PF officials have also led to severe shortages of seed and other farming inputs such as fertilizer. Many of the government's agricultural policies have benefitted—seemingly by design—the political elite and larger-scale farmers. Agricultural experts and small-scale farmers told Human Rights Watch that official policy and supply of seeds and other inputs were highly politicized and affected by corruption.³²

The government's most recent policy, the "Champion Farmer Program" (also known as the Master Farmer Program), was supposed to provide seeds, fertilizer and farm implements to farmers with a good farming productivity record.³³ Several farmers who qualify for the program told Human Rights Watch that they believe the program was being used for political purposes and that most of those included in the program were ZANU-PF loyalists. For

³⁰ Address by Dr Gideon Gono, Governor of the Reserve Bank of Zimbabwe to the Extraordinary Session of ZANU-PF Congress in Harare, December 14, 2007; see AFP, "Mugabe's cronies strip Zimbabwe of scarce cash: bank chief," December 14, 2008, <http://www.zwnews.com/issuefull.cfm?ArticleID=17919>, (accessed December 4, 2008).

³¹ "Reserve Bank governor blames ruling elite for country's ills," Irinnews, February 1, 2007, <http://www.zwnews.com/issuefull.cfm?ArticleID=15967>, (accessed December 4, 2008).

³² Human Rights Watch interviews with agricultural experts and small scale farmers, Harare, Mashonaland East and West, Manicaland, Midlands, Masvingo, November 26-30, 2008.

³³ Human Rights Watch interviews, Harare, November 16-26, 2008; "Zimbabwe: You have to plant before you can harvest," IRINnews, October 8, 2008, <http://www.irinnews.org/report.aspx?ReportId=80820>, (accessed November 29, 2008); "Mujuru launches Champion's Farmer Program," The Herald Newspaper, November 29, 2008.

example, in two Midlands constituencies won by the MDC during the March 2008 general elections, no farmers have benefited from the Champion Farmer Program, even though many qualified.

In a case in Mashonaland East province, local ZANU-PF officials threatened an official of the Agricultural Technical and Extension Services (AGRITEX)—an Agriculture Ministry department responsible for distributing food and fuel—accusing them of being pro-MDC after distributing inputs to all qualified local farmers whatever their political leaning.³⁴

Agriculturalists told Human Rights Watch that the selling of seed on the black market has also affected seed production capacity. As one expert put it:

Inputs imported from outside end up in the hands of the politically well connected that don't put them to good use but sell them on the black market. Seed is now unavailable and farmers can't plant.³⁵

Agriculturists and economists say that there has been gross misuse of RBZ funds marked for agricultural production. Human Rights Watch did not find first-hand evidence of this, but 20 small-scale farmers³⁶ in Mashonaland East, Masvingo, and Midlands provinces reported that the RBZ had diverted subsidized maize seed, fuel, and cheap tractors meant for the Champion Farmer Program to local ZANU-PF officials and governors who then sold them on the black market at high prices. It is unclear how many farmers have benefited from the Champion Farmer Program or related programs and how much the RBZ has actually spent. Zimbabwean officials seldom release figures of RBZ spending on programs.

Local farmers and a senior employee from the state-run Grain Marketing Board informed Human Rights Watch that the GMB has also been involved in corruption. GMB managers appointed by ZANU-PF illegally secure maize from the GMB and sell it on the black market. Some local ZANU-PF officials prevent traders and private persons from moving and selling maize to people at competitive prices.³⁷ For example, farmers in Mashonaland East told Human Rights Watch that a ZANU-PF official and former military officer was preventing local businessmen from selling maize locally so that he could sell his own maize, at higher prices,

³⁴ Human Rights Watch interview with farmer who witnessed the incident, Mashonaland East, November 23, 2008.

³⁵ Human Rights Watch interview with agriculturalist, Harare, November 20, 2008.

³⁶ Human Rights Watch interviews with farmers in Mashonaland East and Midlands, November 26-30, 2008.

³⁷ The GMB recently removed its eight-year monopoly on the importation and exportation of maize. According to agricultural experts, the government's monopoly has had an adverse effect on maize production in the country.

and only to ZANU-PF supporters. This maize was originally stocked by the local GMB distribution center.³⁸

A senior GMB employee told Human Rights Watch that another program funded by the RBZ aimed at small-scale farmers—“Operation Maguta”—had mainly benefited the ZANU-PF elite.³⁹ According to the GMB official, the seed and stock were also used to buy off war veterans before the March 29, 2008 elections. His claim was substantiated by several farmers in the provinces that Human Rights Watch visited. Farmers and villagers said that the army was put in charge of distributing the program’s seed and fertilizer even though, according to agricultural experts, AGRITEX is qualified to do so.⁴⁰ Villagers said that instead of distributing the seed and stock to farmers, the army supplied ZANU-PF politicians, who sold them at exorbitant prices on the black market. In its earlier report on the March 29 elections, Human Rights Watch raised concerns about discriminatory practices in the distribution of state-subsidized maize by the GMB.

The Health Crisis

The Cholera Outbreak

The cholera outbreak that started in August 2008 exposed the true decline of healthcare in Zimbabwe. Between 1985 and 1992 no cases of death from cholera were reported in Zimbabwe.⁴¹ Since 1992, as the health and sanitation infrastructure has deteriorated in Zimbabwe, there have been an increasing number of outbreaks. However, deaths from cholera had typically been few, as mortality can be prevented through simple treatment—oral, or in severe cases, intravenous rehydration. Typically only one percent—or one person in every 100 infected—dies from cholera.⁴² However, in the current outbreak Zimbabwe has seen a mortality rate five to six times higher. On January 12, 2009 the World Health Organization (WHO) reported over 39,000 cholera cases in Zimbabwe and over 2,000 deaths.⁴³ The actual figures may be higher due to the incapacity of Zimbabwe’s health services to document cases.

³⁸ Human Rights Watch interviews with farmers, Mashonaland East, November 23, 2008.

³⁹ Human Rights Watch interview with senior GMB employee, Harare, November 17, 2008.

⁴⁰ Human Rights Watch interviews, Harare, Mashonaland East and West, Masvingo, and Midlands, November 26-30, 2008.

⁴¹ Epidemiological features of epidemic cholera (El Tor) in Zimbabwe. *Transactions of the Royal Society of Tropical Medicine and Hygiene*, Volume 90, Issue 4, Pages 378 - 382 M.

⁴² Cholera: A New Homeland in Africa? Nicholas H. Gaffga,* Robert V. Tauxe, and Eric D. Mintz *Am. J. Trop. Med. Hyg.*, 77(4), 2007, pp. 705–713; Human Rights Watch interviews with health experts, Harare, November 24 and 25, 2008.

⁴³ WHO Daily Cholera Updates and Alerts, January 12, 2009, http://www.who.int/hac/crises/zmb/sitreps/zimbabwe_cholera_update_12jan2009.pdf (accessed January 18, 2009).

One international health expert told Human Rights Watch that “The cholera outbreak is an indication of the general collapse in the health system. This... outbreak is [such as] we have never seen in Zimbabwe.”⁴⁴

According to health experts, the high mortality in the current outbreak is exacerbated by severe malnutrition and high rates of HIV prevalence.⁴⁵

While exploding only in the past few months, Zimbabwean authorities had been aware of the potential for a massive cholera epidemic for nearly a year. In December 2007, 459 cases of cholera were reported in two high-density suburbs of Harare and 11 people died from cholera and more than 300 were hospitalized in Bulawayo.⁴⁶ Repeated calls to address the epidemic and to ensure that municipal water sources were properly treated were unaddressed by the government.

In response to a lack of water purification chemicals and electrical shortages, the national water board cut off all water supplies to Harare residents in early December 2008.⁴⁷ However, the Zimbabwe authorities failed to anticipate the consequences. While capacity to respond may have been undermined by a lack of medical and financial resources, health experts say the authorities initially refused to acknowledge the true extent of the cholera crisis and the urgent need to respond.⁴⁸

Despite an alarming increase in cholera deaths, infections and their locations, the government did not immediately appeal for international help and initially refused to declare the outbreak an emergency. One international health expert told Human Rights Watch: “By the time the government called us in to assist, over 200 people had been infected in just one...Harare...suburb. A faster response may have prevented the spread of the disease.”⁴⁹

⁴⁴ Human Rights Watch interview with health expert, Harare, November 24, 2008.

⁴⁵ Human Rights Watch interviews with health experts, Harare, November 24 and 25, 2008.

⁴⁶ Human Rights Watch, “*Neighbors in Need: Zimbabweans Seeking Refuge in South Africa*,” June 2008, <http://www.hrw.org/en/reports/2008/06/18/neighbors-need-o>.

⁴⁷ Peta Thornycroft, Patience Rusere, James Butty & Irwin Chifera, “Zimbabwe Cholera Crisis Mounts As Harare Water System Shut Down,” VOA news, December 1, 2008, <http://www.voanews.com/english/archive/2008-12/2008-12-01-voa65.cfm?CFID=88834910&CFTOKEN=80667442&jsessionid=00308957b76f5eadc4667e442139713c1d24>, (accessed December 1, 2008).

⁴⁸ Human Rights Watch interviews with health experts, Harare, November 24 and 25, 2008.

⁴⁹ Human Rights Watch interview with health expert, Harare, November 24, 2008.

On December 4, 2008, four months after the start of the current outbreak in Harare, ZANU-PF Health Minister David Parirenyatwa declared the outbreak a national emergency.⁵⁰ But on December 11 Mugabe claimed the crisis was over, ignoring international humanitarian and WHO data, which showed a sharp increase in infections and deaths.⁵¹

A Failing Health System

Many district hospitals and municipal clinics in Zimbabwe are currently either closed or operating at minimum capacity. Other aggravating factors include dilapidated infrastructure, equipment failures, and a “brain drain” of medical professionals.⁵² As a result, ordinary Zimbabweans cannot access basic healthcare. The cholera outbreak has been aggravated by the closure in November of Harare’s two main public hospitals, Parirenyatwa and Harare, and a shortage of drugs and medical personnel.⁵³

The main victims of the health crisis are the elderly, children, women and the chronically ill, including people living with HIV/AIDS.⁵⁴ The crisis is such that in November 2008, UNICEF moved into a 120-day emergency mode, focusing on the cholera outbreak and providing emergency health care to children.⁵⁵

On November 20 the Zimbabwe Association of Doctors for Human Rights (ZADHR), a local human rights NGO, expressed grave concerns about the impact on maternal health of the closure of two government maternity hospitals in greater Harare.⁵⁶ Since 1994, mortality has increased among mothers from 283 to more than 1,100 deaths per 100,000 live births.⁵⁷

⁵⁰ Barry Bearak, “Zimbabwe Declares Cholera Emergency,” *New York Times*, December 4, 2008, <http://www.nytimes.com/2008/12/05/world/africa/05zimbabwe.html?ref=health> (accessed December 4, 2008).

⁵¹ “Zimbabwe Cholera is Over – Mugabe,” BBC online news, December 11, 2008, <http://news.bbc.co.uk/2/hi/africa/7777178.stm>, (accessed December 11, 2008).

⁵² UN Consolidated Appeal Process for Zimbabwe 2009, <http://ochaonline.un.org/AppealsFunding/CAP2009/tabid/5120/language/en-US/Default.aspx> (accessed January 12, 2009).

⁵³ Zimbabwe Association of Doctors for Human Rights “Collapsed Health System Violating Health Rights,” November 19, 2008.

⁵⁴ UN Consolidated Appeal Process for Zimbabwe 2009, <http://ochaonline.un.org/AppealsFunding/CAP2009/tabid/5120/language/en-US/Default.aspx> (accessed January 12, 2009).

⁵⁵ “UNICEF Intensifies Emergency Response,” UNICEF press statement, December 2, 2008, http://www.unicef.org/media/media_46710.html (accessed December 2, 2008).

⁵⁶ Zimbabwe Association of Doctors for Human Rights, “Pregnant Women in Grave Danger,” November 20, 2008. See also Zimbabwe Association of Doctors for Human Rights “Collapsed Health System Violating Health Rights,” November 19, 2008.

⁵⁷ Government of Zimbabwe, “Zimbabwe Millennium Development Goals, 2004 Progress Report,” <http://www.millenniumcampaign.org/atf/cf/%7BD15FF017-0467-419B-823ED6659EoCCD39%7D/2004%20ZMDG%20Report.pdf> (accessed March 28, 2008); World Bank, “Millennium Development Goals: Eradicating poverty and improving lives: 2006 World Development Indicators, 2006,” <http://devdata.worldbank.org/wdi2006/contents/Foreword.htm> (accessed March 28, 2008).

ZADHR said that about 3,000 women a month were giving birth in public hospitals in Harare, with between 250 and 300 needing lifesaving caesarean sections.⁵⁸ The closure of the maternity hospitals will result in many poor women being denied emergency treatment,⁵⁹ and may further contribute to the already rising maternal mortality rates. Private hospitals charge for their services in foreign currency, pricing out most Zimbabweans.

The authorities have treated health workers protesting the decline in Zimbabwe's health system harshly. On November 18, heavily armed riot police prevented a group of health workers from petitioning the Minister of Health and Child Welfare. The workers were demanding that the government restore accessible and affordable healthcare. Police initially forced the health workers to protest within the grounds of Parirenyatwa Hospital, but after four hours the police entered the hospital grounds and forcibly dispersed the workers, assaulting several.⁶⁰

Official Restrictions on the Operations of Humanitarian Agencies

The work of local and international humanitarian organizations has been hampered by a difficult economic environment and political interference in their operations. Relations between humanitarian agencies and ZANU-PF have been poor for several years. The latter has repeatedly accused NGOs in Zimbabwe, including humanitarian organizations, of supporting the MDC and working with western donors to overthrow the government. According to the UN's 2009 Consolidated Appeal Process (CAP) for Zimbabwe, violence and government restrictions have prevented humanitarian activities. The CAP document stated:

A protracted election period, from March through August, essentially put the country on hold for six months, during which time election violence and government restrictions halted most humanitarian field activities. Half a year of critical humanitarian service delivery in support of food security, clean water, health, and education services was lost, and the impact of this is likely to continue into 2009.⁶¹

Such political interference has not only stifled the operations of humanitarian organizations, it has significantly worsened the humanitarian situation itself and compounded the suffering

⁵⁸ Ibid.

⁵⁹ Zimbabwe Association of Doctors for Human Rights, "Pregnant Women in Grave Danger," November 20, 2008.

⁶⁰ Zimbabwe Association of Doctors for Human Rights "Collapsed Health System Violating Health Rights," November 19, 2008.

⁶¹ UN Consolidated Appeal Process for Zimbabwe 2009, <http://ochaonline.un.org/AppealsFunding/CAP2009/tabid/5120/language/en-US/Default.aspx> (accessed January 12, 2009).

of Zimbabweans. On June 4, 2008 the Minister of Public Service, Labour and Social Welfare wrote all NGOs and private voluntary organizations and announced a full suspension of all their field operations.⁶² Earlier, Minister of Local Government Ignatius Chombo had accused local and international humanitarian agencies of breaching their registration terms and conditions. Chombo accused some NGOs of using food distribution programs to support the MDC.⁶³ According to *The Zimbabwe Times*, on June 15, while addressing a campaign rally in Silobela, Mugabe accused NGOs of using food handouts to overthrow the government.⁶⁴

The Zimbabwe authorities have failed to provide any evidence to support their allegations that NGOs were in breach of their registration terms and conditions or conducting discriminatory practices in their food distribution programs. In any case, under Zimbabwe's laws regulating the operations of NGOs, the Ministry of Public Service, Labour and Social Welfare does not have the powers to order the suspension of NGOs.⁶⁵ This raises concerns that the suspension was an attempt to prevent NGOs from witnessing and reporting on the state-sponsored violence that was taking place in the rural parts of the country at the time. It also significantly affected the ability of the NGOs to assist the poor and destitute.

The suspension limited the ability of humanitarian agencies to determine the true extent of the food crisis, and assess the future needs of the population. It obliged them to delay responding to the food crisis until *after* the authorities lifted the formal ban in September 2008. The agencies were therefore forced to conduct registration and verification exercises at the same time as distributing food. Humanitarian agency representatives told Human Rights Watch that this had put a strain on their ability to reach all those in need:

The suspension was the period [that] we should have [been able to use] for...registration and verification. The numbers of needy skyrocketed because the crisis was only attended to at the last minute. Our food aid was in South Africa ...Because we were suspended we couldn't bring it in. It takes [time] to

⁶² "Zimbabwe: Reverse Ban on Food Aid to Rural Areas," Human Rights Watch news release, June 4, 2008, <http://hrw.org/english/docs/2008/06/04/zimbab19022.htm>.

⁶³ *Ibid.*

⁶⁴ "State Makes U-Turn on Food Distribution," *The Zimbabwe Times*, June 18, 2008, <http://www.thezimbabwetimes.com/?p=493> (accessed June 18, 2008).

⁶⁵ Under the Private Voluntary Organizations (PVO) Act, there is no provision empowering the Minister to order the suspension of NGO or PVO operations. Section 21 of the Act which provided for this eventuality was declared void by the Constitutional Court of Zimbabwe. The court ruled that the section was at odds with section 18 of the Constitution of Zimbabwe which stipulates that everyone is entitled to protection of the law. See *Holland & Ors vs Minister of Public Service, Labour and Social Welfare* 1997 (1) ZLR 186 (S).

move 10,000 tons of food. It also cost us money to keep the food in South Africa because we had to [rent] extra warehouses.⁶⁶

Attempts by ZANU-PF to Interfere in Food Aid Distribution

Despite the formal lifting of the ban, restrictions on the operations of humanitarian agencies remain. The terms of a new Memorandum of Understanding signed between local and international humanitarian agencies and the ZANU-PF authorities say that if the agencies wish to operate in a specific area, they must first get permission and sign a written agreement with local government structures setting the terms for the distribution.⁶⁷

While such a request by the government may seem reasonable, local government and party structures in Zimbabwe have attempted to use this requirement to control and impede the efforts of humanitarian agencies to assess needs and provide much needed food and other assistance to Zimbabweans. The requirements have also left the delivery of humanitarian assistance open to manipulation by government agents and ZANU-PF officials. Representatives from a number of NGOs told Human Rights Watch that banning restrictions continue to be enforced in some localities by ZANU-PF officials, “war veterans” and traditional leaders.

Local authorities and chiefs have also tried to interfere directly in humanitarian agencies’ food distribution. ZANU-PF officials in at least two areas insisted that food aid should be distributed exclusively through their local structures. Two NGOs independently told Human Rights Watch that the Governor of Masvingo province was insisting that someone from ZANU-PF must accompany all humanitarian agencies or they would not be able to distribute food.⁶⁸

In another case, in Gokwe, Midlands, one humanitarian NGO was unable to distribute food because ZANU-PF officials and militia continued to patrol the area and demand that food be distributed through them.⁶⁹ Representatives from the particular NGOs informed Human Rights Watch that they had raised the issue with the government but their concerns were not addressed. The NGOs expressed reluctance to raise the situation with donors because they feared expulsion from the country or the renewed suspension on their operations.

⁶⁶ Human Rights Watch interview, Harare, November 25, 2008.

⁶⁷ Human Rights Watch interviews with local and international NGOs, Harare, November 16-26, 2008.

⁶⁸ Human Rights Watch interviews with representatives of humanitarian organizations, Harare, November 18, 2008.

⁶⁹ Human Rights Watch telephone interview with representative of humanitarian organization, November 11, 2008.

Government Non-Issuance of Employment Permits for International NGO Staff

The Zimbabwe government has also hampered the work of international humanitarian organizations by unnecessarily denying foreign staff employment permits and extensions of permits. Representatives of four such agencies interviewed by Human Rights Watch said that since the lifting of the aid suspension, the Zimbabwe authorities have refused to issue new employment permits or extend the employment permits for some international staff without presenting any valid reasons for doing so.⁷⁰

The non-issuance of employment permits appears to be another government tactic to try to control and restrict the activities of humanitarian organizations. One NGO representative told Human Rights Watch:

I have just been informed that a key food aid staff member's employment permit will not be extended. The appeal will take more than four months. But this is a key person. This is someone that we really need for their expertise.⁷¹

Another added, "There are a lot of stumbling blocks and hurdles that the authorities put in our way. The work permit issue is just another one of them."⁷²

⁷⁰ Human Rights Watch interviews with representatives of international humanitarian organizations, Harare, November 23, 24 and 25, 2008.

⁷¹ Ibid.

⁷² Human Rights Watch interview, Harare, November 25, 2008.

V. Ongoing Violations of Civil and Political Rights

Zimbabwe's September 2008 Global Political Agreement (GPA) has not brought an end to ZANU-PF's attacks on its opponents and critics. The party continues to use state institutions such as the police and the justice system as a weapon against MDC supporters, civil society activists, and human rights defenders.

Enforced Disappearances and Illegal Detentions

Since the end of October 2008, ZANU-PF has used the police and other state agencies to arbitrarily arrest and "disappear"⁷³ more than 40 MDC members and human rights activists. The first wave of abductions and "disappearances" took place on October 29 when 15 MDC members, including Violet Mupfuranhehwe and her two-year-old child, were abducted from their homes in Banket, Mashonaland West. The assailants in these pre-dawn raids were 12 armed men in civilian clothing claiming to be members of the Law and Order section of the Zimbabwe Republic Police Force.⁷⁴

On December 3, Jestina Mukoko, a leading human rights activist and Zimbabwe Peace Project (ZPP) director, was taken from her home in Norton at around 5 a.m. by at least 15 men who identified themselves as working for the Law and Order section of the Zimbabwe Republic Police Force.⁷⁵ Zachariah Nkomo, the brother of Harrison Nkomo, a human rights lawyer working for Mukoko's release, was abducted from his home in Rujeko, Masvingo province, around midnight on December 5 by four unidentified men in civilian clothes.⁷⁶

On December 8, two of Mukoko's colleagues, Pascal Gonzo and Broderick Takawira, ZPP's provincial coordinator, were abducted by five unidentified men from the ZPP premises in Harare. The men, in civilian clothes, forced Gonzo and Takawira into one of six Mazda

⁷³ An enforced disappearance is detention by authorities who refuse to acknowledge that they are holding the person or to reveal the person's fate or whereabouts, placing that person outside the protection of the law, and is a serious violation of international law. See International Convention for the Protection of All Persons from Enforced Disappearance, G.A. res. 61/177, U.N. Doc. A/RES/61/177 (2006), adopted Dec. 20, 2006.

⁷⁴ "Zimbabwe: End Enforced Disappearances," Human Rights Watch news release, December 19, 2008, <http://www.hrw.org/en/news/2008/12/19/zimbabwe-end-enforced-disappearances>

⁷⁵ "Zimbabwe: Investigate Whereabouts of Abducted Human Rights Activist," Human Rights Watch news release, December 3, 2008, <http://www.hrw.org/en/news/2008/12/03/zimbabwe-investigate-whereabouts-abducted-human-rights-activist>

⁷⁶ "Zimbabwe: International Organizations Call for End to Abductions of Activists," Human Rights Watch news release, December 10, 2008, <http://www.hrw.org/en/news/2008/12/09/zimbabwe-international-organizations-call-end-abductions-activists>

Familia sedans outside.⁷⁷ Another MDC activist, Ghandi Mudzingwa was abducted by unidentified men in Harare on the same day.⁷⁸ Police initially denied holding Mukoko and her colleagues. However, on December 22, lawyers working on the cases learned that the 32 activists were in various police stations in Harare.⁷⁹ They had been held by the security forces in unknown detention centers for between two and eight weeks.

On December 24, Mukoko, Takawira and six MDC members (Pieta Kaseke, Violet Mupfuranhehwe, Fidelis Chiramba, Collen Mutemagau, Concillia Chinanzvavana, and Emmanuel Chinanzvavana) were arraigned before the Harare Magistrate's Court.⁸⁰ The eight were accused of contravening section 24(a) of the Criminal Law (Codification and Reform) Act. The police alleged they had recruited or attempted to recruit individuals for training in banditry, insurgency, sabotage, or terrorism, which can carry a life sentence if convicted.

Responding to an urgent high court application for the detainees' release, Justice Yunus Omerjee ruled the detention of the six MDC members was unlawful and ordered their immediate release.⁸¹ He also ordered that Mukoko and Takawira be sent to the Avenues Clinic for medical treatment. Police did not comply with any of the orders. The state then successfully appealed to the Supreme Court for the continued detention of the activists, and police moved all eight from Harare remand prison to the notorious Chikurubi maximum security and Chikurubi female prisons. This included Mupfuranhehwe and her infant son.⁸²

Mukoko told her lawyers that, during her 19-day detention, CIO agents and police officers repeatedly beat her on the soles of her feet with rubber truncheons, forced her to kneel on gravel for hours under interrogation, and threatened her life. She said she was forced to "confess" on camera about her alleged role in recruiting people to overthrow the government. The other activists charged with Mukoko also allege torture during their detention.⁸³

⁷⁷ Ibid.

⁷⁸ "Zimbabwe: End Enforced Disappearances," Human Rights Watch news release, December 19, 2008, <http://www.hrw.org/en/news/2008/12/19/zimbabwe-end-enforced-disappearances>

⁷⁹ Zimbabwe Lawyers for Human Rights, statement on abductions, December 24, 2008. On file with Human Rights Watch.

⁸⁰ Ibid.

⁸¹ Zimbabwe Lawyers for Human Rights, updates and timelines on abductions, January 6, 2009. On file with Human Rights Watch

⁸² Ibid.

⁸³ Ibid.

Following Mukoko's appearance in court, 11 other MDC members and civil society activists were arraigned on various charges, including banditry and recruiting people to overthrow the government. The police also transferred them to Chikurubi maximum security and Chikurubi female prisons.⁸⁴

On January 7, seven MDC members were officially charged with bombing police stations, railway lines, and other centers and engaging in acts of banditry, insurgency, sabotage, or terrorism. The basis of the charges was section 23 of the Criminal Law (Codification and Reform) Act, which carries a potential death sentence in the event of conviction. The seven are due back in court on January 23.⁸⁵

Thirteen additional activists remain in police custody at various police stations in Harare.⁸⁶ At the time of writing, apart from the seven who were formally charged, none of the remaining 25 activists in police custody and in prison have been formally charged with any offenses.⁸⁷ On January 9, an application by the defense lawyers for removal from remand for those in prison was denied by a magistrate at Harare Magistrate's Court. Those in remand are due to appear in court on January 14.⁸⁸ The authorities are refusing to disclose the whereabouts of 11 other MDC members.

Human Rights Watch believes that the charges against the 32 MDC members and human rights activists are politically motivated. The Zimbabwe authorities appear to be using these cases as a pretext to clamp down on the MDC and prevent human rights activists from reporting on human rights abuses. The arbitrary arrests, enforced disappearances, and unlawful detentions, as well as reports of torture and abuse by the Zimbabwe authorities, violate Zimbabwe's obligations under international human rights law.

The reports of abuse and torture of the MDC members and civil society activists to obtain confessions raise deep concerns that any trials against those detained could be fair. International law prohibits the use of evidence obtained through torture and other forms of coercive interrogation.

⁸⁴ Zimbabwe Lawyers for Human Rights, updates and timelines on abductions, January 6, 2009. On file with Human Rights Watch.

⁸⁵ *Ibid.* Human Rights Watch opposes the death sentence in all circumstances because of its inherent cruelty.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

⁸⁸ Human Rights Watch telephone interviews with lawyers Otto Saki and Alec Muchadema, Zimbabwe Lawyers for Human Rights, Harare, January 9, 2009.

These enforced disappearances and abductions also violate the terms of the GPA, in which ZANU-PF committed to ending abuses and investigating acts of violence perpetrated by Zimbabwe's security forces and other groups.⁸⁹

Restrictions on Freedom of Association, Assembly, and Expression

The ZANU-PF authorities have not lifted their restrictions on freedom of association, assembly, and expression as required under the GPA. On October 27 police tear-gassed and beat about 150 activists from the Women's Coalition of Zimbabwe (WCoZ) and the Zimbabwe National Students Union (ZINASU) who were holding a peaceful demonstration in Harare.⁹⁰ Forty-two women from WCoZ were arrested. The demonstrators were calling for a resolution to the political impasse between ZANU-PF and the MDC so that the country's leaders could address the severe food shortages in the country.

The authorities charged the 42 women with "gathering without police permission" in contravention of the Public Order and Security Act.⁹¹ The women were forced to pay on-the-spot fines and were released later that day. At least 35 activists were treated for injuries at hospitals and clinics in Harare, including five who were admitted to hospitals with more severe injuries.

On October 16, Jenni Williams and Magodonga Mahlangu, leaders of the women's rights organization Women of Zimbabwe Arise (WOZA) were arrested in Bulawayo when they tried to lead a peaceful demonstration about the serious food shortages in the country.⁹² On October 27, the Bulawayo Magistrate's Court denied the women bail, ruling that it would not be in the "interests of justice." The women remained in custody for three weeks at Mlondlozi Female Prison in Bulawayo before they were released.

⁸⁹ See article XVIII (18.5), Agreement between the Zimbabwe African National Union-Patriotic Front (ZANU-PF) and the two Movement for Democratic Change (MDC) formations, on resolving the challenges facing Zimbabwe, September 15, <http://www.kubatana.net>, (accessed January 18, 2009)

⁹⁰ "Zimbabwe: End Crackdown on Peaceful Demonstrators," Human Rights Watch news release, October 29, 2008, <http://www.hrw.org/en/news/2008/10/29/zimbabwe-end-crackdown-peaceful-demonstrators>

⁹¹ Ibid

⁹² Ibid

VI. Zimbabwe's Obligations under Regional and International Law

Under international human rights law, every person has the rights to food, to the highest attainable standard of health, to life, to seek, receive and impart information, to nondiscrimination and equal protection of the law, and to be protected from violence, among other rights. International human rights law also requires states to address persistent violations of human rights and take measures to prevent their occurrence.

These rights are guaranteed by important international and regional treaties to which Zimbabwe is a party. These include the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the African Charter on Human and Peoples' Rights (ACHPR).

Right to Food

The Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights guarantee the right to food. Article 25 of the Universal Declaration, which was adopted by the UN General Assembly in 1948, couches the right within the broader context of an adequate standard of living that includes health, food, medical care, social services, and economic security.⁹³

As a party to the ICESCR, which Zimbabwe ratified in 1991, Zimbabwe recognizes the right of everyone to adequate food. It agrees to “take appropriate steps to ensure the realization of this right,” including working cooperatively with the international community to alleviate hunger within its borders.⁹⁴

The Committee on Economic, Social and Cultural Rights, the international expert body that monitors state compliance with the ICESCR, stressed in its General Comment No. 12, the need for accountability and transparency in implementing national strategies for the right to food:

⁹³ Universal Declaration of Human Rights, Resolution 217 A (III), December 10, 1948, art. 25.

⁹⁴ International Covenant on Economic, Social and Cultural Rights (ICESCR), Resolution 2200 A (XXI), December 16, 1966, art. 11(1). Zimbabwe ratified the ICESCR on May 13, 1991.

The formulation and implementation of national strategies for the right to food requires full compliance with the principles of accountability, transparency, people's participation ... Appropriate institutional mechanisms should be devised to secure a representative process towards the formulation of a strategy, drawing on all available domestic expertise relevant to food and nutrition.⁹⁵

The ICESCR prohibits discrimination by states with respect to the right to food on several grounds, including on the basis of political or other opinion.⁹⁶ General Comment No. 12 specifies that it is a violation of the ICESCR to discriminate with respect to “access to food, as well as to means and entitlements for its procurement.”⁹⁷ National strategies for the right to food should give particular attention to the need to prevent discrimination in access to food or resources for food.⁹⁸ And even when a state faces severe resource constraints, it should undertake measures to ensure that the right to adequate food is met for vulnerable population groups and individuals.⁹⁹

According to General Comment No. 12, a state violates the ICESCR when it fails to ensure the satisfaction of at least the minimum essential level required to be free from hunger. A state that contends that resource constraints make it impossible to provide access to food for those who are unable by themselves to secure such access, needs to demonstrate that “every effort has been made to use all the resources at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations.” If it claims that it cannot carry out its obligation for reasons beyond its control, the state has the burden of proving that it has unsuccessfully sought to obtain international support to ensure the availability and accessibility of the necessary food.¹⁰⁰

Finally, according to General Comment No. 12, a state violates the right to food through “denial of access to food to particular individuals or groups, whether the discrimination is based on legislation or is pro-active; the prevention of access to humanitarian food aid in

⁹⁵ The right to adequate food (Art. 11),’ May 12, 1999. E/C.12/1999/5, CESCR General Comment 12 (23) and (24). (General Comments).

⁹⁶ ICESCR, art. 2,

⁹⁷ ‘The right to adequate food (Art. 11),’ May 12, 1999. E/C.12/1999/5, CESCR General Comment 12 (18). (General Comments).

⁹⁸ ‘The right to adequate food (Art. 11),’ May 12, 1999. E/C.12/1999/5, CESCR General Comment 12 (26). (General Comments).

⁹⁹ Ibid. para. 28.

¹⁰⁰ ‘The right to adequate food (Art. 11),’ May 12, 1999. E/C.12/1999/5, CESCR General Comment 12 (17). (General Comments).

internal conflicts or other emergency situations...and failure to regulate activities of individuals or groups so as to prevent them from violating the right of food of others.”¹⁰¹

As the UN Special Rapporteur on the right to food stated in his 2008 report to the Human Rights Council, “Governments are bound to respect, protect and fulfil the right to food without discrimination, which also means that they should be held accountable to their populations if they violate those obligations.”¹⁰²

Right to Health

All individuals have the right to enjoy the highest attainable standard of health, a right which has been enshrined in international and regional treaties. The right to health is guaranteed by the ICESCR, CEDAW, and the ACHPR. This right imposes an obligation on states to take necessary steps for the prevention, treatment and control of epidemics and other diseases.

The ICESCR guarantees the right of everyone to the highest attainable standard of health, and requires states parties to take steps individually and through international cooperation to progressively realize this right via the prevention, treatment, and control of epidemic diseases and the creation of conditions to assure medical service and attention to all.¹⁰³ “Progressive realization” demands of states parties a “specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of [the right].”¹⁰⁴ According to the WHO, “[w]hen considering the level of implementation of this right in a particular State, the availability of resources at that time and the development context are taken into account. Nonetheless, no State can justify a failure to respect its obligations because of a lack of resources. States must guarantee the right to health to the maximum of their available resources, even if these are tight.”¹⁰⁵ The concept of available resources is intended to include available assistance from the international community.¹⁰⁶

¹⁰¹ Ibid. para. 19.

¹⁰² Report of the Special Rapporteur on the right to food, Jean Ziegler, Human Rights Council, January 10, 2008, A/HRC/7/5, para. 19.

¹⁰³ International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, art. 12.

¹⁰⁴ UN Committee on Economic, Social and Cultural Rights (UNCESCR), “Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights,” General Comment No. 14, The Right to the Highest Attainable Standard of Health, E/C.12/2000/4, (2000), paras. 30-31.

¹⁰⁵ OHCHR and WHO, “The Right to Health,” p. 5.

¹⁰⁶ See Ryszard Cholewinski, “Economic and Social Rights of Refugees and Asylum Seekers in Europe,” *Georgetown Immigration Law Journal*, pp. 714-19.

The right to health is further guaranteed by a number of other international human rights treaties and commitments. The Convention on the Rights of the Child binds states to “recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.”¹⁰⁷ The right to health is also protected under the International Convention on the Elimination of All Forms of Racial Discrimination, CEDAW, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Convention on the Rights of Persons with Disabilities.¹⁰⁸

States committed in the 2001 Declaration of Commitment on HIV/AIDS to “promote and protect all human rights and fundamental freedoms, including the right to the highest attainable standard of physical and mental health”¹⁰⁹ and “in an urgent manner make every effort to: provide progressively and in a sustainable manner, the highest attainable standard of treatment for HIV/AIDS, including the prevention and treatment of opportunistic infections, and effective use of quality-controlled antiretroviral therapy in a careful and monitored manner to improve adherence and effectiveness and reduce the risk of developing resistance.”¹¹⁰

Regional treaties also speak to the right to health. The African Charter on Human and Peoples’ Rights ensures the right to health and binds states parties to “take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.”¹¹¹ Furthermore, the African Charter on the Rights of the Child provides for the right of every child to the best attainable health, and binds states parties to move toward implementing this right, including the provision of “necessary medical assistance and health care to all children with emphasis on the development of primary health care.”¹¹²

¹⁰⁷ Convention on the Rights of the Child, adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 24(2)(b).

¹⁰⁸ The right to the health is recognized by articles article 5(e)(iv) of the International Convention on the Elimination of All Forms of Racial Discrimination; 11(1)(f), 12 and 14(2)(b) of the Convention on the Elimination of Discrimination Against Women; by the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: arts. 28, 43 (e) and 45 (c), and by the 2006 Convention on the Rights of Persons with Disabilities, art. 25.

¹⁰⁹ UN Declaration of Commitment on HIV/AIDS Declaration of Commitment on HIV/AIDS, para. 37.

¹¹⁰ *Ibid.*, para. 55.

¹¹¹ African [Banjul] Charter on Human and Peoples’ Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct. 21, 1986, art. 16.

¹¹² African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force Nov. 29, 1999.

VII. The Regional Failure to Address Zimbabwe's Crisis

Leaders of southern African states have repeatedly ignored the violations of human rights inflicted on the people of Zimbabwe by Robert Mugabe's ZANU-PF government, and they have not taken serious steps to help alleviate their suffering.

ZANU-PF's long history of abuses culminated in the widespread violence in the build-up to the June 27, 2008 presidential election run-off between Mugabe and MDC leader Morgan Tsvangirai. Tsvangirai was forced to pull out of the race after over 160 MDC activists were killed and thousands beaten and tortured.¹¹³

Despite declarations by AU and SADC observers that the subsequent one-candidate elections were not free and fair due to the violence, Mugabe declared himself president. As this and previous Human Rights Watch reports document, serious human rights abuses by ZANU-PF continued, as before, following the signing of the Global Political Agreement between ZANU-PF and the MDC on September 15. Yet neither the AU nor SADC have condemned Mugabe's actions or taken any measures that would promote a genuine democratic transition, including questioning Mugabe's right to assume Zimbabwe's seat at the AU summit.

At the 11th ordinary session of the AU summit from June 30 to July 1, 2008, in Egypt, AU leaders missed an important opportunity to press Mugabe on the worsening human rights situation in a decisive manner.¹¹⁴ An AU resolution on Zimbabwe expressed deep concern at the situation in the country and its impact on the sub-region. The resolution appealed to the parties concerned to refrain from actions that would negatively impact on the climate of dialogue. However, the resolution failed to condemn the widespread violence perpetrated by ZANU-PF before the presidential run-off on June 27, or to hold Mugabe responsible. And instead of demanding respect for human rights in Zimbabwe, the resolution merely endorsed SADC's mediation efforts under former South African president Thabo Mbeki.

As many observers—Zimbabwean as well as international—warned it would, this approach has proven ineffectual. It is beyond time for the AU to act. SADC has not achieved the results

¹¹³ See Human Rights Watch, *"They Beat Me Like a Dog": Political Persecution of Opposition Activists and Supporters in Zimbabwe*, August 2008, <http://www.hrw.org/en/reports/2008/08/11/they-beat-me-dog-o>.

¹¹⁴ African Union, Resolution on Zimbabwe, July 1, 2008, [http://www.africa-union.org/root/au/Conferences/2008/june/summit/dec/ASSEMBLY%20DECISIONS%20193%20-%20207%20\(XI\).pdf](http://www.africa-union.org/root/au/Conferences/2008/june/summit/dec/ASSEMBLY%20DECISIONS%20193%20-%20207%20(XI).pdf) (accessed January 12, 2009).

that all African governments and their leaders must be surely committed to—the end of abuses and the restoration of the rule of law in Zimbabwe. There can be no genuine change in Zimbabwe if abuses are not tackled head-on and their perpetrators held to account.

The combination of political instability, the cholera outbreak, and severe food insecurity has driven thousands of Zimbabweans into neighboring countries. Credible current estimates say that over 38,000 Zimbabweans have lodged asylum claims in the South African border town of Musina since July 2008.¹¹⁵ This is nearly double the total number of Zimbabwean claims in all six of South Africa's refugee reception offices in 2007. This influx also took cholera across Zimbabwe's borders. At least ten people have died from cholera in South Africa and doctors in Musina are treating hundreds of infected in cholera camps.¹¹⁶ The South African authorities themselves declared the border with Zimbabwe a disaster area on December 11, 2008.¹¹⁷ The cholera outbreak has also spread to Zimbabwe's other neighbors including Botswana, Mozambique, and Zambia.¹¹⁸

The crisis threatens the southern African sub-region, but the lack of sub-regional progress so far clearly indicates that the overt engagement of the AU as the wider African inter-governmental body is overdue. The crisis of political legitimacy in Zimbabwe is at the root of the country's problems. The urgent humanitarian needs of Zimbabweans cannot be isolated: their suffering is a direct consequence of ZANU-PF's abusive rule. The AU—and the wider international community—can only restore peace and security to the region by openly acknowledging the scale of the crisis, putting human rights at the top of the agenda, and holding abusers to account.

¹¹⁵ "Zimbabwe: End Strain on Asylum System and Protect Zimbabweans," Human Rights Watch news release, January 8, 2009, <http://www.hrw.org/en/news/2009/01/08/south-africa-end-strain-asylum-system-and-protect-zimbabweans>

¹¹⁶ "Further Cholera Deaths in Limpopo," Mail and Guardian newspaper, December 19, 2008, <http://www.mg.co.za/article/2008-12-19-further-cholera-deaths-in-limpopo>, (accessed December 19, 2008).

¹¹⁷ "SA Declares cholera emergency," News24, December 11, 2008, http://www.news24.com/News24/South_Africa/News/0,,2-7-1442_2440525,00.html, (accessed December 11, 2008).

¹¹⁸ WHO, Weekly emergency situation update, vol.2, no.2, January 12, 2009, http://www.who.int/hac/crises/afro_update_12jan2009.pdf, (accessed January 12, 2009)

VIII. Acknowledgements

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