



ZIMBABWE

All Over Again

Human Rights Abuses and Flawed Electoral Conditions
in Zimbabwe's Coming General Elections

H U M A N
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W A T C H



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Glossary of Acronyms

AIPPA	Access to Information and Protection of Privacy Act
BSA	Broadcasting Services Act
CIO	Central Intelligence Organization (also used to refer to Central Intelligence Officers)
GMB	Grain and Marketing Board
MDC	Movement for Democratic Change
MIC	Media and Information Commission
MISA	Media Institute of Southern Africa
MMPZ	Media Monitoring Project of Zimbabwe
MOA	Miscellaneous Offences Act
POSA	Public Order and Security Act
PTUZ	Progressive Teachers Union of Zimbabwe
RoHRZ	Restoration of Human Rights in Zimbabwe
SADC	Southern African Development Community
ZEC	Zimbabwe Electoral Commission
ZANU-PF	Zimbabwe African National Union – Patriotic Front
ZBC	Zimbabwe Broadcasting Corporation
ZPP	Zimbabwe Peace Project
ZESN	Zimbabwe Election Support Network
ZINASU	Zimbabwe National Students Union
ZTV	Zimbabwe Broadcasting Corporation Television

I. Summary

On March 29, 2008, Zimbabweans will participate in presidential, parliamentary, senatorial, and local government elections synchronized for the first time, following changes to Zimbabwe's constitution in September 2007. As the elections near, all indications are that once again the people of Zimbabwe will not be able to freely exercise their civil and political rights and vote for the candidates of their choice. As in the last parliamentary elections in 2005, the playing field for candidates and their parties is not level.

The Constitution of Zimbabwe charges the Zimbabwe Electoral Commission (ZEC) with holding elections that are “conducted efficiently, freely, fairly, transparently and in accordance with the law.” The conduct of free and fair elections is part and parcel of Zimbabwe's obligations under human rights law as guaranteed in the constitution and in international and African human rights conventions that Zimbabwe has ratified.¹ The Southern African Development Community (SADC) Principles and Guidelines Governing Democratic Elections, to which the government of Zimbabwe is a signatory, call for full participation of citizens in the political process, freedom of association, political tolerance, equal opportunity for all political parties to access the state media, independence of the judiciary, independence of the media, impartiality of the electoral institutions, and voter education.²

The government has yet again failed to adequately meet any of these obligations in the run up to the March 29 elections. Zimbabwe has a history of elections that fall far short of international and regional standards, and of government-sponsored repression of opposition parties. The government has not remedied the serious flaws in the electoral process documented by local and international observers in the

¹ For example, article 25 of the International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), U.N. Doc. A/6316 (1966), entered into force March 23, 1976, acceded to by Zimbabwe on August 13, 1991; and article 13, African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, entered into force October 21, 1986, ratified by Zimbabwe on May 30, 1986.

² SADC Principles and Guidelines Governing Democratic Elections, adopted by the SADC Summit, Mauritius, August 2004, http://www.sadc.int/english/documents/political_affairs/index.php (accessed March 11, 2008).

2005 elections. Instead, the government has been responsible again for similar patterns of violations in the 2008 pre-election campaign period.

In particular, Human Rights Watch has found that the government has not implemented several positive amendments to electoral laws that, in any event, came too late in the day to have any effect on the electoral process, leading to a flawed and chaotic voter registration process. The Zimbabwe Electoral Commission is inadequately prepared to run the elections, and under-resourced. It is still partisan toward the ruling Zimbabwe African National Union – Patriotic Front (ZANU-PF) and not independent or impartial: despite new provisions in the constitution mandating an overhaul in its composition, the ZEC is still managed by former military officials and military personnel who are widely believed to support the ruling party. The ZEC has also failed to adequately educate and sensitize the voting public on the new extremely complex electoral process, which requires voters to simultaneously cast four different ballot papers on the same day. To date, opposition political parties have not been accorded equal access to the state broadcast media, and state media coverage of the elections has so far been overwhelmingly pro-ruling party in nature.

As in previous elections, local government authorities, ZANU-PF supporters, and security forces including the police and central intelligence, are the main perpetrators of the violations being committed in the election run-up. These violations include intimidation and acts of violence against opposition and perceived opposition supporters, restrictions on the rights to freedom of assembly, association, and expression; limits on media freedom; and abuse in the government's distribution of maize and agricultural equipment to achieve political advantage.

It is encouraging that the government and senior police officers have sought to publicly assure voters that they will take a “zero tolerance” approach to violence. However, in spite of such assurances, incidents of violence and intimidation continue to occur and remain a serious concern. And in spite of new provisions in the Electoral Laws Amendment Act banning intimidation and violence, Human Rights Watch recorded 12 incidents of intimidation and violence, mainly perpetrated by

ZANU-PF supporters and security agents, between September 2007 and February 2008 in the areas that we visited to research this report.

The involvement of state security agents and police in incidents of violence and intimidation greatly decreases the public's trust in the police force. In the past year, the high number of such incidents against opposition members, human rights activists, and journalists has deepened the pervasive climate of fear in the country. Minimal changes to repressive laws such as the Public Order and Security Act (POSA), and the Access to Information and Protection of Privacy Act (AIPPA) have failed to open up space for the opposition. The government continues to selectively apply these laws, and others such as the Criminal Law (Codification and Reform) Act, to intimidate and harass opposition candidates and disrupt their campaigning. The authorities have also used these laws against perceived supporters of the opposition including nongovernmental organizations and student groups.

None of the police officers or state security officials responsible for perpetrating acts of violence and intimidation in the past year has been prosecuted. That aspect of the culture of impunity prevailing in Zimbabwe compounds an environment in which government election violations continue unabated and with no one held accountable for them.

Under these circumstances—a deeply flawed and rushed electoral process, as well as continuing violations of civil and political rights—there is little chance the March 29 elections will help Zimbabwe either establish democracy or bring an end to the country's ongoing political crisis. However, in the days remaining, Human Rights Watch calls on the government of Zimbabwe to respect the will of the people, and to meet its obligations under national and international law to allow people to vote for candidates of their choice in an environment that is free of intimidation, fear, and violence.

II. Methodology

On-the-ground research for this report was carried out during three visits to Zimbabwe (seven weeks in total) in September 2007 and February and March 2008. A researcher from Human Rights Watch visited all 10 provinces of Zimbabwe—Mashonaland Central, East and West, Harare, Manicaland, Midlands, Masvingo, Bulawayo, and Matabeleland South and North—and interviewed more than one hundred persons including opposition candidates and supporters, ruling party supporters, journalists, human rights lawyers, representatives of local and international nongovernmental organizations (NGOs), diplomats, and ordinary voters. Additionally, Human Rights Watch researchers extensively reviewed Zimbabwe’s electoral laws and official statements from the government, as well as reports and documents from local and international NGOs.

Efforts to obtain interviews with officials and members of the Zimbabwe Election Commission, police spokespersons, and relevant government officials were unsuccessful—telephone calls either went unanswered or the lines were continuously engaged.

The names of some of the individuals in this report have been omitted for reasons of security.

III. Recommendations

To the Government of Zimbabwe

Regarding electoral violence and acts of intimidation

- Ensure that all allegations of violence and intimidation committed by police officers, intelligence and state security officers, and ruling party supporters are investigated promptly, and that accused persons are brought to trial quickly and tried impartially;
- Issue clear public instructions to police and state security agents that any officer alleged to have committed acts of violence and intimidation will be investigated, and if deemed responsible for such acts, prosecuted;
- Make clear through repeated public statements that any individual who carries out acts of violence or intimidation, abuses food aid for political purposes, denies freedom of association or assembly to supporters of any party, restricts freedom of information, or commits other abuses will be investigated and, depending on the nature of the offense, disciplined or prosecuted;
- Publicly and promptly condemn any acts of violence by ZANU-PF, its supporters, or members of the police and intelligence agencies, and call on all Zimbabweans to respect fundamental rights as enshrined in the constitution.

Regarding the electoral campaign environment

- Ensure that all police officers and state agents act professionally and impartially during and after the campaigning period, and that they take no active part in campaigning;
- Allow all journalists to operate freely and without harassment in Zimbabwe, and withdraw politically motivated charges and restrictions against journalists;

- Respect and enforce the Electoral Laws Amendment Act and the amendments to the Zimbabwe Electoral Commission Act of 2005 regarding equal access to the media for all political parties;
- End and repudiate discriminatory practices that exclude opposition and perceived opposition supporters from accessing government-distributed farming equipment and state-subsidized food. Apply disciplinary measures for staff of the Grain and Marketing Board as appropriate.

Regarding management and oversight of the elections

- Ensure free, fair, and transparent management of the March 2008 elections;
- Take all possible corrective measures in the time remaining to provide the Zimbabwe Electoral Commission with adequate resources to run the elections, and ensure its full independence, in an effort to strengthen domestic and international confidence in the election process and result;
- Ensure that all police officers and state agents take no active part in supervising the electoral process;
- Allow all electoral observers to move freely throughout the country and access all legislation, regulations, and institutions governing the electoral process and environment, consistent with the SADC Principles and Guidelines Governing Democratic Elections.

To Opposition Parties

- Publicly and promptly condemn any violence by supporters and call on party members and supporters to act in accordance with the law.

To the Zimbabwe Electoral Commission

- Promptly, impartially, thoroughly, and transparently investigate all allegations of election irregularities and election-related offenses.

To the Southern African Development Community

- Call on the government of Zimbabwe to ensure that in the days remaining until the vote on March 29, electoral observers have access to all election

sites and are free to move throughout the country and to report on any election-related violence and intimidation;

- Publicly impress upon the government of Zimbabwe the importance of all levels of government taking responsibility for ensuring free and fair elections and election campaigns;
- Ensure that any statement on the outcome of the elections refers to the principles and benchmarks set out in the SADC Principles and Guidelines Governing Democratic Elections and takes a balanced account of all candidates' and parties' views on the conduct of the elections, the conditions in the period leading up to the elections, as well as assessments of civil society organizations monitoring the elections.

To Local and International Observers

- Call on the government of Zimbabwe to ensure that in the days remaining until the vote on March 29, all electoral observers have access to all election sites and are free to move throughout the country and to report on any election-related intimidation and violence;
- Take into account all aspects of the electoral process and the views of all stakeholders when assessing the elections, including the following issues: pre-election human rights abuses, intimidation, and media bias;
- Issue urgent public statements noting any concerns about electoral conditions and recommending corrective measures in advance of March 29;
- Remain in Zimbabwe for a reasonable period beyond the vote count to monitor and promptly publicly report on possible election-related human rights violations occurring post-election.

IV. Background

Zimbabwe has an extremely poor record of respect for civil and political rights. In the past eight years, Zimbabwe's political development has been marked by government efforts to close political space and to shield itself from public scrutiny and competition from credible rivals among the domestic political opposition. This trend was defined by major developments during parliamentary elections in 2000 and 2005, and a presidential election in 2002.³

Many international observers found that elections in 2000 and 2002 fell far short of established international standards.⁴ In each of these elections it was clear that violations began in the early stages of the election campaign process and continued through to election day. During the parliamentary elections in 2000 and presidential election in 2002, international observers and international organizations documented widespread and extreme violence and serious electoral irregularities including flawed registration procedures, coercion of voters, and interference in the distribution of food aid for political gain.⁵ Human Rights Watch documented similar violations in parliamentary elections in 2005.⁶ Those elections, while significantly more peaceful than those in 2002, were however just as flawed and marked by widespread intimidation in the rural parts of the country.

Violations of the electoral code in Zimbabwe have rarely been prosecuted, and the same can be said of abuses perpetrated by the police and other security agents. The

³ Human Rights Watch, *Not a Level Playing Field: Zimbabwe's Parliamentary Elections in 2005*, March 2005, <http://hrw.org/backgrounder/africa/zimbabw060603.htm>; see also Lisa Laasko, "Votes, Money and Violence: Political Parties and Elections in Sub-Saharan Africa," in Matthias Basedau, Gero Erdmann, Andreas Mehler, eds, *Nordiska Afrikainstitutet*, Upsala, Sweden, 2007, pp. 241–246.

⁴ See Preliminary Report of the Commonwealth Observer Group to the Zimbabwe Presidential Election, 9–10 March 2002, Harare, March 14, 2002, http://www.afrol.com/Countries/Zimbabwe/documents/commonw_elections_group.htm (accessed February 28, 2008); Preliminary Statement on Presidential Elections by the Norwegian Observer Team, Oslo, March 13, 2002, http://www.afrol.com/Countries/Zimbabwe/documents/commonw_elections_group.htm (accessed February 28, 2008); and SADC Parliamentary Forum Observer Mission, Statement on the Zimbabwe Elections, Harare, March 13, 2002, <http://www.africaaction.org/docso2/zimo203.htm> (accessed February 28, 2008).

⁵ Amnesty International, "Terror tactics in the run-up to elections," June 2000, <http://web.amnesty.org/library/Index/ENGAFAR460142000?OPEN&of=ENG-ZWE> (accessed February 28, 2008); Amnesty International, "The Toll of Impunity," June 25, 2002, <http://web.amnesty.org/library/Index/ENGAFAR460342002?OPEN&OF=ENG-ZWE> (accessed February 28, 2008).

⁶ Human Rights Watch, *Not a Level Playing Field*.

lack of an independent judiciary in Zimbabwe perpetuates impunity for government interference in the electoral process. The public has little trust in the courts and consequently often will not bring cases before them. Many of the cases of violations during the electoral period against government and ruling party supporters brought by opposition parties in 2000 and 2002 are still pending in the courts.⁷

State-Sponsored Violence and Intimidation against Opposition Members and Human Rights Defenders in 2007

The 2008 elections come in the midst of widespread human rights violations occurring across Zimbabwe, and an ever-deepening economic crisis.⁸

Developments in Zimbabwe in 2007 have had a profound effect on prospects for a free and fair election. Incidents of political violence perpetrated by the police and other state agents against human rights defenders, journalists, and opposition members have intensified the climate of fear that already existed in the country, and affected the ability of the opposition to build its party structures and prepare for the elections.

Incidents of police violence and intimidation increased significantly in January and February 2007, culminating in the arrest and beating of more than 50 opposition members and civil society activists including Morgan Tsvangirai, the leader of the Harare-based faction of the Movement for Democratic Change (MDC), on March 11, 2007.⁹ This precipitated a widespread crackdown on the opposition and people perceived to be opposition supporters in the high-density suburbs of Harare. In late March and early April, the Tsvangirai-led MDC's campaigning structures were effectively disrupted when more than 30 of its officials were arrested and tortured in police custody, after police accused them of carrying out a bombing campaign in the

⁷ Human Rights Watch interview with MDC spokesperson Nelson Chamisa, Harare, February 21, 2008.

⁸ In January 2008 inflation was officially at 100,000 percent and the country is experiencing severe shortages of fuel and key food items.

⁹ Human Rights Watch, *Bashing Dissent: Escalating Violence and State Repression in Zimbabwe*, vol. 19, no.6 (A), May 2007, <http://hrw.org/reports/2007/zimbabw0507/>. In 2005 the MDC split into two factions: one led by Morgan Tsvangirai and with its base in Harare, and the other led by Arthur Mutambara and with its base in Bulawayo.

days after March 11.¹⁰ A high court judge presiding over the case condemned the torture of the activists,¹¹ and after more than 72 days in police custody the activists were acquitted of all charges due to lack of evidence.¹²

Failure of SADC Mediation Talks

In response to the brutal police beating of the opposition members and civil society activists on March 11, 2007, SADC leaders convened an extraordinary summit on March 28, 2007, in Dar es Salaam, Tanzania, to address the political crisis. The SADC mandated South African President Thabo Mbeki to mediate talks between the MDC and the ruling Zimbabwe African National Union – Patriotic Front (ZANU-PF), and report back to the SADC on progress.¹³

The intervention of the SADC highlighted the extent of the political crisis in Zimbabwe. It also emphasized the determination of the regional body and its leaders to resolve the crisis in a manner that would reestablish institutions that would make it possible for democratic elections to take place in the country.

President Mbeki made it clear that one of the mediation’s main objectives was to create conditions for free and fair elections in 2008 and that the talks should result in “elections whose outcome would not be contested.”¹⁴ However, the mediation talks stalled in early January 2008 when President Mugabe announced that the elections would take place in March 2008 against the opposition’s call for the elections to be postponed to a much later date. On January 17 President Mbeki visited Harare in an attempt to reactivate the talks, but came back with little in the way of concrete results.¹⁵ The South African government’s subsequent claims that the talks had ended positively despite the setbacks were repudiated by the MDC. In

¹⁰ Human Rights Watch, *Bashing Dissent*.

¹¹ “MDC activists appear in Harare court,” *SABC news*, April 3, 2007, http://www.sabcnews.com/Africa/southern_africa/0,2172,146512,00.html (accessed February 28, 2008).

¹² Zimbabwe Human Rights NGO Forum, “Political Violence Report, August 2007.”

¹³ Communique from the 2007 Extra-Ordinary Summit of Heads of State and Government held in Dar es Salaam, United Republic of Tanzania 28th to 29th March 2007. See also Human Rights Watch, *Bashing Dissent*.

¹⁴ International Crisis Group, “Zimbabwe: A Regional Solution?” Africa Report No.132, September 18, 2007.

¹⁵ “President Thabo Mbeki to hold Discussions with Zimbabwean Political Leaders,” Department of Foreign Affairs media release, January 16, 2008, <http://www.dfa.gov.za/docs/2008/zimbo117.htm> (accessed February 26, 2008).

a joint press conference in Johannesburg, South Africa, on February 21 the secretaries general of the two factions of the MDC, Tendai Biti and Welshman Ncube, announced that the Zimbabwe government had reneged on agreements to implement a new constitution and make legislative reforms before elections were held.¹⁶

The failure of the SADC mediation talks to reach an agreement over issues related to the elections makes it increasingly unlikely that the March 2008 election results will not be contested. This also raises serious concerns about the high potential for election-related violence after the elections (see also Chapter VI, below).

¹⁶ “Mbeki’s Zimbabwe mediation has failed,” IOL (South Africa), February 22, 2008, http://www.iol.co.za/index.php?from=rss_South%20Africa&set_id=1&click_id=13&art_id=vn20080222112349801C434308, (accessed February 26, 2008).

V. Electoral Institutions and the Legal Environment

For the first time in its history Zimbabwe will be holding simultaneous presidential and parliamentary elections, as well as elections for members of the senate and for local councillors, all on the same day. The main contenders for the presidency are the incumbent, Robert Mugabe, leader of ZANU-PF, Morgan Tsvangirai, leader of the MDC (Tsvangirai) faction, and Simba Makoni, former minister of finance and member of ZANU-PF's politburo who is running as an independent.¹⁷ The 210-seat House of Assembly will be contested by seven parties including ZANU-PF, the MDC (Tsvangirai) faction, and the breakaway faction of the MDC led by Arthur Mutambara, as well as several independent candidates.¹⁸ The official campaign period began after nominees presented their papers to the nomination courts on February 14, 2008. The main political parties officially launched their political campaigns soon afterwards.

On September 18, 2007, parliament unanimously passed Constitutional Amendment Act No. 18, which made significant changes to the country's electoral framework. Among other things, the amendment set out the framework for synchronized parliamentary and presidential elections, increased the number of constituencies in the country from 120 to 210, and empowered the Zimbabwe Electoral Commission (ZEC), the body responsible for overseeing the elections, to delimit parliamentary and local constituencies.¹⁹

The Electoral Laws Amendment Act came into effect on January 11.²⁰ The Act made several improvements to the existing electoral laws. For example, it abolished the Electoral Supervisory Commission, which was previously in charge of managing the election process, thereby eliminating any confusion between it and the ZEC,²¹ and

¹⁷ A fourth candidate, Langton Towungana, is also contesting the presidency.

¹⁸ Zimbabwe Electoral Support Network (ZESN), "Pre-election Update No.4," February 18, 2008.

¹⁹ Constitutional Amendment Act No. 18, 2007 (distributed by Veritas Trust, Zimbabwe). Previously, a Delimitation Commission, made up of presidential appointees, delimited the district boundaries for the 2005 elections, while the Registrar General organized the inspection of the voters' roll and the nomination courts.

²⁰ The Act amends the Electoral Act of 2005 and the Zimbabwe Electoral Commission Act of 2005 and brings them into line with recent provisions brought about by Constitutional Amendment No.18.

²¹ Constitution of Zimbabwe, 1979, Section 61.

ensured that polling stations were located in places readily accessible to the public.²² Registration is now to be conducted on a continuous basis to keep the voters' roll up-to-date.²³ Crucially the new law has a section explicitly and unequivocally prohibiting intimidating practices during the campaign period.²⁴ At the same time as the Electoral Laws Amendment Act, parliament amended other laws likely to have an effect on the electoral environment including the Public Order and Security Act (POSA), the Access to Information and Protection of Privacy Act (AIPPA), and the Broadcasting Services Act (BSA) (referred to later in this report).

Despite the improvements to the electoral laws, the late passage of the legislation created an extremely tight timetable for campaigning and for the ZEC to prepare for voting day scheduled for March 29, 2008: It allowed only three months of preparation for the country's first synchronized elections. It also left very little time for key changes to be put into place, including changes to the composition of the electoral commissions as required by Constitutional Amendment No.18.

Due to the increased number of parliamentary seats introduced by Constitutional Amendment No.18, a fresh delimitation exercise was carried out by the ZEC, but it was beset by problems. The Delimitation Report, which highlighted the new constituencies and wards (voting precincts), was only finalized on January 17, leaving no time for political parties to assess the changes or debate them in parliament (section 61 A (8) of the constitution provides that the president must table the preliminary delimitation report in parliament, but there was no initial debate on the report, and only one copy of the final report was presented before parliament, which adjourned before the report could be debated).²⁵ The lack of debate around the delimitation of boundaries opened the ZEC to accusations that it had delimited the constituencies and wards in favor of the ruling party.²⁶

²² Electoral Laws Amendment Act, 2007 (distributed by Veritus Trust), clause 38.

²³ Ibid., clause 19. In addition, the commission is given the power to provide, within seven days after calling of the election concerned, to every political party and candidate contesting the election and every accredited observer group, one electronic copy of every voters' roll to be used in the election.

²⁴ Electoral Laws Amendment Act, 2007, clause 71.

²⁵ Human Rights Watch interview with Noel Kututwa, ZESN chairperson, Harare, February 7, 2008.

²⁶ Human Rights Watch interviews with MDC and ZESN officials, Harare, February 4–24, 2008.

Further, as Human Rights Watch has found, the amendments to the electoral laws did not address several crucial issues that have a significant effect on the electorate, such as questions over the ZEC's independence and impartiality, the commission's exclusive control over voter education, bias in the accreditation of observers, and onerous proof of residency requirements that effectively disenfranchise a significant number of voters.

Under the Electoral Laws Amendment Act, voters will vote at assigned polling stations in their wards (of which there are 1,958 in total), and not at any polling station of their choosing within their constituencies, as in previous elections. As of December 4, 2007, 5.6 million people were registered to vote.

VI. Political Violence and Intimidation in 2007 and 2008

The history of violence and intimidation during Zimbabwe's previous elections does not bode well for these elections. Of particular concern is the impunity that perpetrators of past violence enjoy, in particular those from the ruling party. The increasing involvement of the police and officers from the Central Intelligence Organization (CIO) in incidents of violence and intimidation in the past three years, and the lack of punishment for those officers involved in such violence, have eroded the public's trust in the police force.

In the run up to the March 2008 elections, the government and senior police officers have publicly sought to assure voters that they will take a "zero tolerance" approach to violence.²⁷ But with perpetrators of past violence continuing to operate around the country,²⁸ it is difficult to see how Zimbabweans can openly display their support for the opposition, especially in the countryside.

While conducting our research in September 2007 and February 2008, in the areas that we visited Human Rights Watch was informed of 12 incidents of intimidation and violence, mainly perpetrated by ZANU-PF supporters and security agents. In spite of the new provisions in the Electoral Laws Amendment Act explicitly banning intimidation and violence, which came into force in January, three of the incidents of violence took place after the amendments. Local organizations such as the Zimbabwe Human Rights NGO Forum and the Zimbabwe Peace Project (ZPP) reported a far higher number of such incidents during the period from September 2007 to February 2008.²⁹

²⁷ "Police ban dangerous weapons," *The Herald* (Harare), February 20, 2008; "Blitz on political violence nets 13," *The Herald*, February 21, 2008. See also comments by Minister of Information and Publicity Sikhanyiso Ndlovu in "UK, US regime change agenda doomed: Ndlovu," *The Herald*, February 22, 2008.

²⁸ Zimbabwe's long history of impunity for perpetrators of violence and torture is well documented by Human Rights Watch and by organizations such as Redress and Amnesty International. See, for example, Redress and the Amani Trust, "Torture in Zimbabwe, Past and Present," June 2005, <http://www.redress.org/publications/Amaniz2005.pdf> (accessed March 11, 2008); Redress, "Zimbabwe: From Impunity to Accountability: Are Reparations Possible for Victims of Gross and Systematic Human Rights Violations?" March 2004, <http://www.redress.org/publications/Beyond%20impunityA5.pdf> (accessed March 11, 2008), p. 29; and Amnesty International, "The Toll of Impunity."

²⁹ Zimbabwe Human Rights NGO Forum monthly violence reports, <http://www.hrforumzim.com> (accessed February 28, 2008); and Zimbabwe Peace Project Monthly Monitoring Reports, on file with Human Rights Watch.

High levels of intolerance continue to exist in provinces considered to be ruling party strongholds such as Mashonaland West, East and Central. For example, a local activist from Makonde in Mashonaland West informed Human Rights Watch that opposition activists were forced to campaign at night due to threats from ruling party supporters.³⁰

Human Rights Watch is concerned that incidents of violence may increase immediately after the elections as the political intolerance that has been on display during the past eight years continues to manifest itself. A recent statement attributed to the commander of Zimbabwe's army, Gen. Constantine Chiwenga, also raises the serious possibility of post-election violence. The general was quoted by *The Standard* newspaper as saying that "the army will not support or salute sell-outs and agents of the West before, during and after the presidential elections."³¹

During past elections, government officials and ruling party supporters and members have been the main perpetrators of violence. Human Rights Watch observed that this appears to remain the same in the run up to the 2008 elections, although there have been some incidents of violence perpetrated by the opposition. In a positive move, police recently stepped up arrests of supporters from all parties involved in acts of politically motivated violence. However, the concern remains that opposition supporters are more vulnerable to arbitrary arrests, while ruling party supporters who are often the main perpetrators of violence are able to act with impunity.

Beating of Members of the Progressive Teachers Union of Zimbabwe by ZANU-PF Supporters in February 2008

In an act of political intolerance and violence that has significantly affected the political environment in the pre-election period, nine members of the Progressive Teachers Union of Zimbabwe (PTUZ)³² were seized by a group of up to 70 ZANU-PF supporters on February 19, 2008, in Harare as they tried to distribute flyers for the

³⁰ Human Rights Watch interview with local human rights activist, Harare, March 7, 2008.

³¹ "Army chief warns of coup if 'sell outs' win," *zwnews* online, March 11, 2008, <http://www.zwnews.com/issuefull.cfm?ArticleID=18356> (accessed March 12, 2008).

³² The PTUZ represents teachers' rights around the country.

organization's "save our education" campaign. The campaign called on the government to address the country's collapsing education system.³³ The ZANU-PF supporters took the PTUZ members to ZANU-PF provincial headquarters in Harare, and beat them with iron bars, pieces of wood, and pieces of furniture for over an hour. A woman PTUZ member was sexually assaulted. At a press conference describing their experience, Raymond Majongwe, secretary general of PTUZ, narrated what happened to the PTUZ members:

The plan was for us to distribute flyers in every urban set up. Teams were sent to distribute them around the city. One of the teams went to 4th Street. I had just dropped them off when I got a call from one of them saying that they had been abducted by ZANU supporters, then someone who identified himself as a policeman took the phone from my colleague and said, "Majongwe, come and pick your people." I went to ZANU HQ together with my colleague Harrison Mudzuri to pick them up in my PTUZ vehicle, but as soon as I got out I was pounced upon and they started beating us—Oswald Madziwa, Washoko Bernard, Hillary Jana, Linda, and Charles. We were beaten for one-and-a-half hours with iron bars, logs, sticks, booted feet, and clenched fists. One of our women comrades was forced to take off her clothes, kicked in the private parts, and taunted. Harrison passed out twice.³⁴

The ZANU-PF supporters accused the PTUZ members of supporting the MDC. Raymond Majongwe continued,

We were accused of being sent by Tsvangirai to distribute the flyers to decampaign [campaign against] ZANU-PF. We were forced to sing songs and chant ZANU-PF slogans. Hillary was asked to sing songs and do slogans, and then they started thumping her until she passed out.

³³ Human Rights Watch interview with members of PTUZ, after press conference, Harare, February 21, 2008.

³⁴ Raymond Majongwe speaking at PTUZ press conference attended by Human Rights Watch, Harare, February 21, 2008.

We were being beaten by groups of youths. They were about seven groups that would take it in turns to beat us up.³⁵

The president of PTUZ, Takafavira Zhou, explained to those at the press conference,

When I got the call that my comrades were taken, I went to ZANU HQ and they asked, “How do you know they are here?” When I said I was the president of PTUZ over 30 of them jumped on me and started beating me saying “there is only one president.” When I got to the room where my comrades were I found that Majongwe had passed out, Mudzuri had passed out.³⁶

The ZANU-PF supporters also took cell phones, money, and watches from the PTUZ members. The PTUZ members informed Human Rights Watch that a number of police officers and CIO officers were present during the beatings. According to Raymond Majongwe,

There were consultations as they were beating us up. When the CIOs would come into the room, the beatings would stop. Members of the Zimbabwe Republic Police came in, left, and the beatings continued. Then they [the ZANU-PF supporters] panicked about the medical condition of Harrison Mudzuri and they stopped.³⁷

After noting the serious injuries they had inflicted on the PTUZ members, the ZANU-PF supporters called the police present at the ZANU PF headquarters into the room. The police then transported the PTUZ members to Harare police station and then to the Avenues clinic for treatment. At the clinic, the group was kept under heavy police guard. Majongwe told Human Rights Watch, “When we were beaten they [the police] were panicking. They were loads of them at the hospital and they were checking

³⁵ Ibid.

³⁶ Takafavira Zhou speaking at PTUZ press conference attended by Human Rights Watch, Harare, February 21, 2008.

³⁷ Raymond Majongwe speaking at PTUZ press conference attended by Human Rights Watch, Harare, February 21, 2008.

everyone for cameras to stop photos of us being taken. It is funny that even though we were the victims, we were being treated as criminals.”³⁸

All nine of the PTUZ members sustained serious bruises to their bodies and were hospitalized for two days. Two of the PTUZ members showed visible marks to Human Rights Watch on their backs and buttocks two days after the incident. A medical doctor who treated the victims told Human Rights Watch that the severe bruising and marks on the victims’ bodies were consistent with beatings by blunt objects.³⁹

Police response

The alleged presence of police officers during the beatings calls into question the police’s stated adoption of a “zero tolerance” stance toward politically motivated violence. In response to the beatings, police spokesperson Wayne Bvudzijena was quoted in the state-run *Herald* newspaper as saying that the PTUZ members were injured during clashes with ZANU-PF supporters and that they had provoked the supporters by throwing flyers with provocative political messages; the PTUZ members and their lawyers deny this.⁴⁰

According to lawyers representing the PTUZ, police accused the PTUZ members of contravening sections of the Criminal Law (Codification & Reform) Act outlawing the distribution of pamphlets, placards, etc. in public places and or buildings.⁴¹ Police informed the PTUZ members that they would be summoned to answer the charges at a later date.⁴²

Later on the day of the attacks, police arrested two of the ZANU-PF supporters believed to have been responsible.⁴³ At this writing, however, it was not clear what charges the police were bringing against these two, or whether police would arrest

³⁸ Ibid.

³⁹ Human Rights Watch interview with medical doctor (name withheld), Harare, February 23, 2008.

⁴⁰ “Blitz on political violence nets 13,” *The Herald*.

⁴¹ Zimbabwe Lawyers for Human Rights, “Press statement on the assault of PTUZ members,” February 21, 2008.

⁴² Response of PTUZ members to question put by Human Rights Watch, PTUZ press conference, Harare, February 21, 2008.

⁴³ “Blitz on political violence nets 13,” *The Herald*.

others of the 60 or so ZANU-PF supporters allegedly involved in the beating of the PTUZ members.

Intimidation and Violence by ZANU-PF Supporters against Teachers in 2007 and 2008

The beating of the PTUZ members is not a new phenomenon. In the past, attacks on teachers in Zimbabwe by ruling party supporters have often intensified in the period before elections. In previous elections, ruling party supporters, youth militia, and war veterans⁴⁴ targeted teachers because they perceived them as being supporters of the opposition and of having an influence on local communities.⁴⁵ In the run up to elections in 2008 this has not changed.

In one incident in early August 2007, seven youth militia attacked a primary school teacher with clubs in Bikita, Masvingo province, and accused him of belonging to the MDC after they heard him encouraging people to register to vote.⁴⁶ He was hospitalized for two days and the scars on his head were still visible when a Human Rights Watch researcher interviewed him.⁴⁷ He reported the case to the police, who took note of the incident (he showed Human Rights Watch the police docket) but they had not found the perpetrators.

Human Rights Watch interviewed four other teachers in Masvingo who were concerned that incidents of intimidation and violence against them were likely to increase as the date of the elections drew closer.⁴⁸

Human Rights Watch was also informed of cases of intimidation and violence early on in the voter registration process in a number of rural areas, in particular those believed to be strongholds of ZANU-PF. For example, in September 2007 Human

⁴⁴ War veterans are former guerillas who fought for Zimbabwe's independence against the Rhodesian government in the 1970s. The war veterans are widely seen as staunch ZANU-PF loyalists, and many were widely implicated in acts of violence during Zimbabwe's fast-track land reform program.

⁴⁵ Amnesty International, "The Toll of Impunity."

⁴⁶ Human Rights Watch interview with teacher (name withheld), Bikita, Masvingo province, October 4, 2007.

⁴⁷ Ibid.

⁴⁸ Human Rights Watch interviews with teachers (names withheld), Masvingo province, October 4, 2007.

Rights Watch interviewed seven villagers who had been harassed and intimidated by ZANU-PF supporters in the provinces of Mashonaland West, Masvingo, and Midlands.⁴⁹ The villagers were suspected of supporting the MDC. Two of the villagers, one in Mashonaland West and the other in Masvingo, were local high school teachers. One of the teachers told Human Rights Watch, “Once the voter registration started, the ZANU supporters started targeting us. They warned us that they were watching us because we are teachers and that we would be chased from the village if we engaged in political activities.”⁵⁰ All those interviewed by Human Rights Watch said that police were unwilling to do anything to deal with the violence from ruling party supporters.

Police Involvement in Incidents of Intimidation and Violence against the Opposition, Students, and NGOs in 2008

The partisan nature of policing in Zimbabwe has been well documented by Human Rights Watch and other international organizations such as the International Bar Association.⁵¹ As the election date draws closer the police have targeted particular groups that they perceive to be supporters of the opposition including students, human rights activists, and representatives of certain NGOs.

On February 14, 2008, police raided the offices of the Crisis in Zimbabwe Coalition (Crisis Coalition)⁵² looking for Marvellous Khumalo, advocacy officer for the Zimbabwe National Students Union (ZINASU).⁵³ Marvellous Khumalo is a student who is running for a parliamentary seat for the MDC (Tsvangirai) in St Mary’s constituency, Chitungwiza, Harare.

⁴⁹ Human Rights Watch interviews with villagers, Mashonaland West, Masvingo, and Midlands provinces, September 24–October 6, 2007.

⁵⁰ Human Rights Watch interview with teacher, Masvingo province, October 4, 2007.

⁵¹ Human Rights Watch, *You Will Be Thoroughly Beaten: The Brutal Suppression of Dissent in Zimbabwe*, November 1, 2006, <http://hrw.org/reports/zimbabwe1106/zimbabwe1106web.pdf>. International Bar Association, “Partisan Policing, An obstacle to human rights and democracy in Zimbabwe,” November 2007, http://www.ibanet.org/humanrights/Country_Reports.cfm, (accessed February 28, 2008).

⁵² The Crisis Coalition, of which ZINASU is a member, is a coalition of organizations working for democratic change in Zimbabwe.

⁵³ Human Rights Watch interview with Crisis Coalition Coordinator Xolani Zitha, Harare, February 20, 2008.

Xolani Zitha, who coordinates the Crisis Coalition, told Human Rights Watch about the case:

I got a call from the office that four people from the Law and Order Criminal Investigation Department were looking for Marvellous Khumalo. When they didn't find him they started to harass our staff asking them about why we were hiding this person. They took materials from the office including a camera. After an hour of harassment they were told that Marvellous was at the ZimRights office so they took two of my staff to the offices. I went to ZimRights with two lawyers from Zimbabwe Lawyers for Human Rights. When they were informed I was coordinator of the organization they arrested all of us and asked us why we were keeping Marvellous. They kept asking us about who funds us, why we have an organization called Crisis, saying that there is no crisis in Zimbabwe and that we are filling the internet with lies and false pictures. They told us that they would deal with us accordingly. We were questioned for two hours and then released without charge.⁵⁴

According to Xolani Zitha, two days before the incident the police had already arrested Marvellous and were holding him in police custody in Chitungwiza on charges of committing political violence. He was later cleared of the charges, and it was not clear why the police claimed that they were still looking for him. Xolani Zitha suggested to Human Rights Watch that “the police just wanted to frustrate Marvellous’s campaign and prevent him from presenting his papers to the nomination courts.”⁵⁵

In another case, police beat and arrested 25 members of the organization Restoration of Human Rights in Zimbabwe (RoHRZ) in Harare on January 25, 2008, as they marched to protest against repressive legislation and police harassment of the MDC.⁵⁶ Police disrupted the march a few minutes after it began and told the

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Human Rights Watch interviews with members of ROHRZ (names withheld), Harare, February 11, 2008.

protestors to go back to where they had come from. As the crowd was walking away, a truck transporting up to 15 police officers arrived and arrested four of the members of RoHRZ, including the vice chairman and national chairman. The rest of the members were sent away, and walked to the organization's offices, about 10 minutes away. About 30 to 45 minutes later, a truck full of riot police arrived at the offices, forced the members outside, and started beating them with batons. Police then arrested 25 of the members and took them to Harare Central Police station. One of the activists told Human Rights Watch about their treatment beginning at the RoHRZ offices:

A policeman hit me on the nose with his fist and then hit me with his baton on my back and on my feet. It was raining; they took us outside and made us lie down in the dirty water and made us crawl as we were being beaten. In the car they were hitting us again and made us put our dirty shoes in our mouths. At the station they told us, "You will never take the president out of power. It will never happen."⁵⁷

According to medical examinations, most of the activists sustained numerous bruises consistent with beatings with a blunt object.⁵⁸

Those arrested were made to pay fines for "disorderly conduct or conduct likely to cause a breach of the peace" under the Miscellaneous Offences Act. The vice chairperson of RoHRZ was charged with violating the POSA for "failure to notify the regulating authority to hold public procession or demonstration."⁵⁹

⁵⁷ Ibid.

⁵⁸ Human Rights Watch interviews with medical personnel (names withheld), Harare, February 11, 2008. Documents from medical personnel who treated the activists privately show that they received extensive bruising and swellings to various parts of their bodies including the legs, buttocks, and back. The document also highlighted that "for the first time there were reports and evidence of heavy beatings on the palmar surfaces of the hands which is very painful."

⁵⁹ Section (25) (5) of POSA amendment number 18/ 2007. Human Rights Watch interview with Tafadzwa Mugabe, lawyer, Zimbabwe Lawyers for Human Rights, Harare, February 6, 2008.

VII. Politicization of Agricultural Equipment and Grain and Marketing Board Distribution of Food

The independent (non-governmental) election monitoring body Zimbabwe Electoral Support Network (ZESN) and nongovernmental organizations such as the Zimbabwe Peace Project (ZPP) have expressed serious concerns over political interference in the distribution of free agricultural equipment (under the government's farm mechanization program) and state subsidized maize and seed from the government's Grain and Marketing Board (GMB).⁶⁰ On January 10, 2008, ZESN reported political interference in the government's farm mechanization program (funded by the Reserve Bank) to distribute free plows, donkey carts, seeds, and other equipment to farmers. ZESN reported that in a number of provinces Zimbabwean farmers were forced to show loyalty to the ruling party by producing party cards to receive the equipment and seeds.⁶¹

Human Rights Watch did not witness any political interference in the distribution of food by the GMB but received more than 20 reports of alleged manipulation of food distribution from villagers in provinces such as Masvingo, Manicaland, Midlands, and Matabeleland North and South.⁶² In view of the credible reports from ZESN and ZPP, and the evidence gathered from the villagers interviewed by Human Rights Watch in the provinces it visited, there are well-founded reasons to believe that the government's subsidized food program and its farm mechanization program are being manipulated by ZANU-PF and the government to achieve political gain.

Perceived political adversaries of ZANU-PF or the government have encountered obstacles in gaining access to food or agricultural equipment. Those denied access to the government's programs include perceived supporters and members of the MDC, teachers, farmers, and human rights activists. In Mutare, Manicaland province,

⁶⁰ See "Concern over pre-election environment, Election Update (1)," ZESN press statement, January 25, 2008; Zimbabwe Peace Project, "Food Monitoring Report, September, 2007"; and Zimbabwe Peace Project (ZPP), "Partisan Distribution of Food and Other Forms of Aid: A National Report, October 2007," January 17, 2008.

⁶¹ "Concerns over pre-election environment." ZESN press statement.

⁶² Human Rights Watch interviews with ordinary voters (names withheld), Mashonaland West, Masvingo, and Matabeleland provinces, September 24–October 6, 2007, and February 4–24, 2008.

Human Rights Watch interviewed a ZANU-PF supporter who confirmed that grain distribution from the GMB was subject to political interference. She told Human Rights Watch, “The mealie meal is only being accessed by us. It is very easy. Only those who are on the councillors’ lists can access the grain. A person who is not on the list cannot. Even at our rallies only known supporters of ZANU-PF are allowed to attend the rallies.”⁶³ In effect, without a ZANU-PF party card people cannot register for or receive government-subsidized grain or farming equipment. It seems likely that such incidents of political interference will increase as the election date approaches.

In Marange, Manicaland province, an elderly villager told Human Rights Watch,

Maize that comes through GMB is given to the councillors who then give it to ZANU-PF supporters only. First of all you go through a rigorous exercise where they [local ZANU-PF councillors] go to kraal heads who ask about every individual and whether they go to ZANU-PF meetings. If someone hates you he can accuse you of belonging to the MDC and then [you] don’t get any food. A lot of people even though they support the MDC, they will not say it because you will starve if you say you support the MDC.⁶⁴

Human Rights Watch received numerous similar reports during the course of its research missions. In its report on partisan food distribution, the ZPP documented discriminatory practices in the distribution of seed, tilling equipment, and agricultural credit. In total the organization recorded 179 such cases in September 2007.⁶⁵

The politicization of giving out agricultural equipment and government-subsidized food in the period before the elections severely restricts the ability of Zimbabweans to freely support and vote for the party and candidate of their choosing.

⁶³ Human Rights Watch interview with ZANU-PF supporter (name withheld), Chikanga, Mutare, Manicaland province, February 10, 2008. Several minutes into the interview the supporter expressed concern about revealing the ruling party’s activities in the area to Human Rights Watch and asked, “So am I a sell out now that I am telling you party secrets?”

⁶⁴ Human Rights Watch interview with elderly villager (name withheld), Marange, Manicaland province, February 10, 2008.

⁶⁵ ZPP, “Monthly Food Monitoring Report, September 2007.”

VIII. Government Restrictions on the Right to Freedom of Expression, Association, and Assembly

Election protagonists' ability to campaign is premised on their right to hold meetings and rallies freely without any obstacles. Further, the SADC Principles and Guidelines call on states to safeguard freedom of movement, assembly, association, expression, and campaigning during electoral processes.⁶⁶ However, in the past eight years and in the run up to the 2008 elections this has not been the case in Zimbabwe, where police have selectively applied and interpreted laws such as the Public Order and Security Act (POSA) and Access to Information and Protection of Privacy Act (AIPPA) to prevent the opposition from campaigning.⁶⁷

Human Rights Watch has long argued that these laws significantly limit the rights to freedom of expression, association, and assembly, and as a result significantly impact on the ability of Zimbabweans to freely exercise their will during elections, and on the ability of opposition parties to campaign.⁶⁸ As part of the SADC mediation talks, the government agreed to review the laws, and (as noted above in Chapter V) parliament passed a number of amendments to POSA and AIPPA (the amendments to the latter are discussed in Chapter IX, below). However, the amendments to these laws—which came into force on January 11, 2008—do not go far enough, and there is little evidence that they have been implemented on the ground.

The Public Order and Security Amendment Act (No. 18. 2007) amends provisions of Part IV of the Public Order and Security Act 2002 relating to public meetings, processions, and demonstrations: notifications for public rallies or demonstrations can now be given to the nearest police station (previously notification was given to the regulating authority in which the gathering was to be held). Appeals against prohibition orders will be dealt with on an urgent basis at a magistrates court, and

⁶⁶ SADC Principles and Guidelines, section 7.4.

⁶⁷ Human Rights Watch, *Not a Level Playing Field*; Human Rights Watch, *You will be Thoroughly Beaten*.

⁶⁸ *Ibid.*

police powers to disperse disorderly or potentially disorderly gatherings are defined, which was not the case previously.⁶⁹ Yet these amendments to POSA have in reality failed to improve the political environment as the police continue to selectively use the law to prevent opposition meetings and rallies.

For example, on January 23, 2008, police prevented hundreds of members of the Tsvangirai-led faction of the MDC from carrying out a “freedom march” for a new constitution even though the party had notified the police in accordance with the new amendments.⁷⁰ Police initially sanctioned the march but later withdrew permission, arguing that they had evidence the march would be violent.⁷¹ The MDC appealed to the magistrate’s court in Harare as provided for in the amendments to POSA, but the magistrate upheld the police decision and instead ordered the MDC to hold a rally and not a march. In reaction to attempts by MDC supporters to continue their march in defiance of the order, police used teargas and beat the supporters with batons.

Lawyers informed Human Rights Watch that the amendments to POSA are unlikely to open up the space for the opposition to campaign, as has been widely claimed by the government. Incidents documented by Human Rights Watch and local organizations such as Zimbabwe Lawyers for Human Rights (ZLHR) indicate that either the police and the judiciary have yet to familiarize themselves with the amendments to POSA, or are deliberately misinterpreting the law to prevent demonstrations from taking place. Irene Petras, the director of ZLHR, informed Human Rights Watch that two MDC freedom marches in Mutare could not take place in January when the police issued prohibition orders. Despite appeals, the Mutare magistrate’s court decided to allow the party to congregate but not to march through the town.⁷²

⁶⁹ The 2007 POSA amendments introduce a prohibition on gatherings near parliament, courts, and protected places (as declared in terms of the Protected areas and Places Act (Chapter 11:12).

⁷⁰ Human Rights Watch interview with Nelson Chamisa, February 21, 2008.

⁷¹ Statement by Zimbabwe Lawyers for Human Rights, January 23, 2008.

⁷² Human Rights Watch interview with Irene Petras, director, Zimbabwe Lawyers for Human Rights, Harare, February 6, 2008.

While the MDC and independent candidate Simba Makoni have been able to hold major rallies in the main cities and some of the ruling party strongholds of the country in the build up to these elections, opposition representatives in the rural areas, in particular in the ruling party strongholds, have not been able to campaign or meet as freely.

A recent report in the state-run *Herald* newspaper offers an example of the opposition's inability to campaign freely in ruling party strongholds, despite the amendments to POSA: On February 20 a magistrate sentenced an MDC party chairman in Bindura to six months' imprisonment, three of which were suspended, for convening an unsanctioned political meeting on February 10. The MDC party chairman had called a meeting of 20 MDC activists at a compound in the area.⁷³ The magistrate later ordered the party chairman to serve 105 hours of community service.⁷⁴

In September 2007 Human Rights Watch interviewed four opposition supporters from Manicaland who said that they were unable to hold MDC meetings or workshops in the rural areas because of intimidation and harassment from local militias and war veterans.⁷⁵ On the one occasion they attempted to hold a small meeting in September, they were arrested by police under POSA for holding a meeting without police permission. In February 2008 five MDC supporters from the same area told Human Rights Watch that they were forced to hold clandestine meetings because police frequently denied them permission to hold meetings in the area.⁷⁶ On March 5, 19 MDC youths were arrested in Karoi, Mashonaland West, and accused of gathering without police approval. The youths claimed they were putting up posters and people had gathered around to see the posters. They were released on bail on the following day.⁷⁷

⁷³ "Official Sentenced," *The Herald*, February 21, 2008.

⁷⁴ Ibid.

⁷⁵ Human Rights Watch interview with MDC supporters, Tsonzo, Manicaland province, September 29, 2007.

⁷⁶ Human Rights Watch interview with MDC supporters (names withheld), Mutare South, Manicaland, February 10, 2008.

⁷⁷ Human Rights Watch interview with human rights monitor (name withheld), Chinhoyi, Mashonaland West, March 9, 2008.

IX. Violations of Media Freedom

As a daily source of information in Zimbabwe, there is still no alternative to the state-run broadcaster the Zimbabwe Broadcasting Corporation (ZBC) and the state-run *Herald* newspaper. On January 11, 2008, amendments to AIPPA came into force. AIPPA is a law that Human Rights Watch and other local and international organizations have argued limits Zimbabweans rights to freedom of expression and information.⁷⁸ The government has claimed that in the run up to the 2008 elections the amendments to AIPPA significantly open up the space for free media and information throughout the country. Human Rights Watch has analyzed the amendments and has also spoken to several media experts and lawyers, and argues that the amendments do little to improve the state of media freedom in Zimbabwe.

Among other things, the amendments reconstitute the Media and Information Commission (MIC), the body in charge of media regulations, into the Zimbabwe Media Commission (ZMC). But although the amendments to AIPPA should have effectively dissolved the MIC—which was widely perceived to be partisan and not independent—in practice the ZMC has not yet been put into place and the MIC continues to regulate the media.⁷⁹ In any case, members of the renamed commission would still be appointed by the president from a list of persons provided by the Parliamentary Committee on Standing Rules and Orders,⁸⁰ and MIC chair Tafataona Mahoso—who is widely perceived as partisan by independent journalists and media organizations—remains in charge.

The amendments to the act abolish the offense of “journalism without accreditation,”⁸¹ but it remains a criminal offense for a journalist without accreditation to cover official events such as the elections or to talk to election officials. Under the amendments unaccredited journalists will be barred from full-

⁷⁸ Human Rights Watch interviews with Abel Chikomo, advocacy coordinator, MMPZ, Harare, February 4, 2008, and Wilbert Mandinde, legal officer, MISA Zimbabwe, Harare, February 5, 2008.

⁷⁹ Access to Information and Protection of Privacy Amendment Act, 2007 (distributed by Veritus Trust), clause 3.

⁸⁰ *Ibid.*

⁸¹ *Ibid.*, clause 18.

time employment by mass media services and news agencies operating in Zimbabwe.⁸² In addition, sections 15 and 16 of POSA, which criminalize certain media offenses, have not been dealt with by the amendments.⁸³

In a clear example of how little has changed on the ground for journalists, Human Rights Watch documented the case of Brian Hungwe, a well-respected Zimbabwean journalist of 10 years' professional experience. Hungwe applied for accreditation to work as a freelance journalist in March 2007, but in September 2007 the MIC banned him from practicing journalism for a year. On February 26, 2008, the MIC upheld that decision following Hungwe's appeal. The MIC accused him of contravening sections of the AIPPA, relating to conditions under which journalists are accredited.⁸⁴ Hungwe told Human Rights Watch,

I got the determination in September 2007. I was told that I would be banned from any events to do with journalism until August 2008. If I breached these conditions I was told I would be banned for life. I appealed to the minister of information in late September who handed me over to Bright Matongo, his deputy, who also assured me that I would get accreditation. In November 2007 I asked about the status of my accreditation and once again I was assured that I would get accreditation. In January 2008 I went to the MIC and was told that by approaching the minister of information I showed a lack of confidence in their ability to deal with my case. Soon afterwards amendments to AIPPA came into place and I thought things would be sorted out and I would get my accreditation. Today I got a letter rejecting my appeal for the ban to be reconsidered and that despite amendments to AIPPA I was still banned from reporting. If I breach that I will be deleted from

⁸² Access to Information and Protection of Privacy Act, 2002.

⁸³ Section 15 of POSA makes it an offense to publish or communicate false statements that may be prejudicial to the state. Section 16 of POSA makes it a crime punishable by imprisonment of up to one year to make statements construed as engendering feelings of hostility towards the president.

⁸⁴ Specifically he was charged with violations of sections 90 and 79 (5) of AIPPA as read with section 6 of Statutory Instrument 169 C of 2002. The sections relate to conditions under which the MIC can accredit journalists and to the representation of offices of foreign mass media services. "MIC imposes illegal ban against journalist in violation of AIPPA Amendment Act," MISA media alert, February 27, 2008.

the roll of journalists for life. This means I will be unable to report on the elections. I have been deprived of my livelihood for over a year, and now I will be deprived for another year and yet I have done nothing wrong. I am a Zimbabwean who just wants to practice journalism for my livelihood.⁸⁵

On February 26, Reporters without Borders issued a press release highlighting its concerns over a growing government crackdown on the independent media.⁸⁶ The organization stated that “journalists have been arrested, summoned and ordered to reveal sources, charged with ‘publication of false news’ and newspapers threatened with closure if they fail to comply.”⁸⁷ The organization went on to cite a number of cases that highlighted the upsurge in government abuses against journalists. The cases included a raid on the offices of the privately-owned weekly *Masvingo Mirror* on February 9 by state security agents after the paper published articles referring to presidential candidate Simba Makoni.

In a statement issued by the *Herald* on February 22, Minister of Information and Publicity Sikhanyiso Ndlovu threatened to sue the *Financial Gazette* newspaper for publishing a story about the refusal of key ZANU-PF members to sign the nomination papers of Robert Mugabe. The minister was quoted as saying, “As Minister responsible for Information and Publicity, I will not hesitate to institute the necessary corrective measures upon the paper in accordance to (sic) our laws and regulations as stipulated by the Access to Information and Protection of Privacy Act (AIPPA).”⁸⁸

The government has also prevented journalists from working by deliberately creating delays in court cases in which they face charges. For example, a journalist from the Zimbabwe Congress of Trade Union weekly publication who was arrested on March 3, 2007, still had his case pending in the court almost a year later.⁸⁹ In another example

⁸⁵ Human Rights Watch telephone interview with Brian Hungwe, Johannesburg, February 27, 2008. See also “MIC imposes illegal ban against journalist in violation of AIPPA Amendment Act,” MISA media alert.

⁸⁶ Reporters sans Frontieres, “Zimbabwe: Government Steps up Hounding of Independent Press Ahead of Presidential Elections,” February 26, 2008.

⁸⁷ Ibid.

⁸⁸ “UK, US regime change agenda doomed: Ndlovu,” *The Herald*.

⁸⁹ Human Rights Watch interview with Wilbert Mandide, February 5, 2008.

highlighted by Reporters without Borders, three journalists working for the weekly *Network Guardian*, Blessed Mhlanga, James Muonwa, and Wycliff Nyarota, appeared in court in Kwekwe, Midlands province on February 18 charged with “publishing false news” in an article that appeared on March 26, 2006, immediately where after charges against the journalists were first brought by the government. The judge set the date for their trial as April 15, 2008.⁹⁰

The government’s determination to ensure that there is no independent daily press is exemplified by the case of the *Daily News*, Zimbabwe’s only independent newspaper, which was shut down by the government in 2003. Despite claims by the government that it would consider the paper’s reapplication for accreditation under the new laws, the government has stalled, and at this writing the paper’s application has yet to be heard by the courts even though the paper had submitted a fresh application to the MIC.⁹¹

The importance of an independent print media can not be underestimated given the partisan and negative nature of political reporting in the state-run *Herald* newspaper, and the reluctance of the paper to objectively present the views of the opposition. MDC spokesperson Nelson Chamisa informed Human Rights Watch, “We took our adverts to the *Herald* a week ago, and they are dillydallying saying that they have to speak to their bosses. They still haven’t come back to us.”⁹²

Unequal Access of the Opposition to the Media

The lack of diverse media information in Zimbabwe underlines the need for more equal and fair coverage of the elections on the part of public broadcasters. But, as in past elections this has not been the case for the 2008 contest. The opposition continues to have little or no access to the state broadcast media. Section 16 C (d) on access to public broadcasting media of the Zimbabwe Electoral Commission Act as amended (by the Electoral Laws Amendment Act, 2007) calls for “a fair and balanced allocation of time between each political party and independent

⁹⁰ Reporters sans Frontieres, “Zimbabwe: Government Steps up Hounding of Independent Press Ahead of Presidential Elections.”

⁹¹ “Daily News Set to Bounce Back,” *Zimbabwe Standard*, February 17, 2008.

⁹² Human Rights Watch interview with Nelson Chamisa, February 21, 2008.

candidate” and requires that “each political party and independent candidate is allowed a reasonable opportunity to present a case through the broadcasting service concerned.”⁹³ Additionally, all broadcasters or print publishers “shall offer the same terms and conditions of publication, without discrimination, to all the political parties and candidates contesting the election.”

Despite these comprehensive provisions, political coverage on the state-funded Zimbabwe Broadcasting Corporation (ZBC) radio and ZBC television (ZTV) is imbalanced both quantitatively and qualitatively. It is dominated by coverage of ZANU-PF rallies and election campaigns. For example, the Media Monitoring Project of Zimbabwe (MMPZ), an independent nongovernmental body that monitors the state of the media in Zimbabwe, found that in the week between February 14 and 21, 2008, of the 93 news reports ZTV carried on political campaigns and rallies, 72 were on the ruling party, seven on the MDC, 11 on presidential candidate Simba Makoni, and three on other parties.⁹⁴ Between February 5 and 29 ZTV accorded a total of three hours and 36 minutes to ZANU-PF’s electoral activities in its main news bulletins; in contrast, just nine minutes were allocated to the two MDC factions, 26 minutes to Simba Makoni, and other political parties got four minutes.⁹⁵ According to MMPZ, ZBC radio stations followed a similar pattern: SPOT FM devoted 50 stories to ZANU PF and only two reports on the MDC’s activities, while Radio Zimbabwe carried 68 stories on ZANU PF while only three reports were on the MDC.⁹⁶ ZANU-PF’s monopoly of the state media is not only incompatible with Zimbabwe’s laws, but also the SADC Principles and Guidelines, which call for “equal opportunity for all political parties to access the state media,” during the campaigning period.⁹⁷

On March 7, 2008, the government gazetted the ZEC (Media Coverage of Elections) Regulations which address the content of election broadcasts by the ZBC and the duration of broadcasting election events, and ensure that there is equitable

⁹³ Electoral Laws Amendment Act, 2007, clause 12.

⁹⁴ Media Monitoring Project of Zimbabwe (MMPZ), “Weekly Media Update,” February 21, 2008.

⁹⁵ MMPZ presentation to the Diplomatic Community attended by Human Rights Watch, Harare, March 12, 2008.

⁹⁶ Ibid.

⁹⁷ SADC Principles and Guidelines, section 2.1.5.

allocation of airtime to all political parties.⁹⁸ However, organizations such as the MMPZ argue that these regulations come too late in the day to address the imbalance.⁹⁹

What little coverage is given to the opposition is often used to present them in a negative way. MDC spokesperson Nelson Chamisa told Human Rights Watch, “ZBC interview us and they distort what we say and give us as little airtime as possible. It has reached the stage where we’ve said if you distort what we say we will refuse to be interviewed by you.”¹⁰⁰ The MMPZ reflects this point and has criticized ZBC for constantly presenting skewed coverage of the elections in favor of ZANU-PF. Abel Chikomo, MMPZ advocacy coordinator, told Human Rights Watch, “The public media has ceased being a media of any kind and has become a propaganda organ for the ruling party.”¹⁰¹

The Broadcasting Services Act (BSA) of Zimbabwe has always allowed for private broadcasting. However, the January 2008 amendments to the BSA do not address the ban on foreign funding for private broadcasters, or the issue of regulations that would allow private or community radio stations to become operational, the cost of applications, or the duration of licenses for broadcasting.¹⁰² Due to the lack of clarity on these issues, media experts have argued that there is not enough time for any private broadcaster to be operational before the elections.¹⁰³

⁹⁸ Zimbabwe Election Support Network briefing, March 12, 2008.

⁹⁹ MMPZ presentation to the Diplomatic Community attended by Human Rights Watch, Harare, March 12, 2008.

¹⁰⁰ Human Rights Watch interview with Nelson Chamisa, February 21, 2008.

¹⁰¹ Human Rights Watch interview with Abel Chikomo, advocacy coordinator, MMPZ, Harare, February 5, 2008.

¹⁰² Ibid.

¹⁰³ Human Rights Watch interviews with Abel Chikomo, Harare, February 4, 2008, and Wilbert Mandide, Harare, February 5, 2008.

X. Flaws in the Electoral Process in the Run Up to March Elections

Performance of the Zimbabwe Electoral Commission

The ZEC is the body that oversees general elections in Zimbabwe. It directs and controls the registration of voters, compiles the voters' roll, and keeps the public informed of other electoral issues such as the delimitation of constituencies. The Electoral Laws Amendment Act of 2007 widened the responsibilities of the commission: the responsibilities for delimiting wards and constituencies, and of keeping the voter's roll, are new, as is the function of accrediting observers.¹⁰⁴ Despite these greater responsibilities, the commission was given little time—about three months—to prepare for the March 2008 polls including implementing its new responsibilities, and is under-resourced.¹⁰⁵

The ZEC is composed of a chairman who under the Constitution of Zimbabwe must be a judge of the high court, and six other members who are appointed by the president from a list of nine nominations.¹⁰⁶ According to the Zimbabwe Electoral Commission Act, the commission also “endeavors to establish such provincial and district offices as will enable it to exercise its functions more efficiently throughout Zimbabwe.”¹⁰⁷

Commission composition issues

The ZEC has faced controversy since its formation in 2005, with charges that it is biased toward ZANU-PF and dominated by ZANU-PF sympathizers.¹⁰⁸ In its report on the 2005 parliamentary elections, Human Rights Watch expressed serious concerns about the independence and impartiality of the commission.¹⁰⁹ Human Rights Watch questioned the composition of the commission and detailed how there were no

¹⁰⁴ As amended in Section 61 of the Constitution of Zimbabwe, 1979.

¹⁰⁵ ZESN, “Pre-election Update No.3,” January 22 to February 6, 2008.

¹⁰⁶ Section 61, Constitution of Zimbabwe, 1979.

¹⁰⁷ Clause 7, Zimbabwe Electoral Commission Act 2004.

¹⁰⁸ Human Rights Watch, *Not a Level Playing Field*.

¹⁰⁹ Ibid.

adequate restrictions preventing high-ranking political party officeholders from being appointed as commissioners. The independence and impartiality of ZEC was questioned by human rights organizations and the nongovernmental Zimbabwe Electoral Support Network early on in the 2008 election voter registration process.¹¹⁰

In September 2007 the Constitutional Amendment Act No. 18 legislated for changes to the composition of the commission to be put in place before the 2008 elections.¹¹¹ However, despite those amendments the impartiality and independence of the electoral commission is undermined by some of the provisions of the electoral laws that do not meet SADC standards that there be “impartiality of the electoral institutions.”¹¹² For example, the state president continues to exercise too much control over the composition of the commission, there is excessive ministerial intervention, and there are inadequate safeguards to prevent partisanship on the part of commissioners.

The Electoral Laws Amendment Act prohibits the secondment of military and civil servants and all other uniformed forces to ZEC and calls for the commission to have its own employees as opposed to military officers temporarily brought in from the army.¹¹³ However, the proposed overhauls came too late in the day to have a significant impact on ZEC and the election preparations, particularly the voter registration process. For example, there were no significant changes to the personnel and staff of the commission, in particular former or serving military officials. The chairman of ZEC, Justice George Chiweshe, is a former military officer, and was also head of the commission during Zimbabwe’s flawed 2005 elections.¹¹⁴ The opposition also informed Human Rights Watch that the official in charge of the ZEC in Manicaland province was a sitting military officer.¹¹⁵

¹¹⁰ Human Rights Watch interview with Noel Kututwa, February 7, 2008.

¹¹¹ Constitutional Amendment Act No. 18, 2007.

¹¹² SADC Principles and Guidelines, section 2.1.7.

¹¹³ Before amendments to the Electoral Act, the ZEC could require the chairpersons of commissions in charge of the public service and the uniformed services—the prison services, the defense services and the police service—to second their employees to serve under the control and direction of the ZEC as constituency election officers and polling officers.

¹¹⁴ Human Rights Watch, *Not a Level Playing Field*.

¹¹⁵ Human Rights Watch interview with Nelson Chamisa, February 21, 2008.

In September 2007, 10 villagers in Manicaland and Masvingo provinces informed Human Rights Watch that the ZEC officials responsible for overseeing the mobile voter registration process were either former or retired military officers or in other cases military officers transferred to work at the ZEC for set periods of time.¹¹⁶ Others were reportedly from the CIO or plainclothes policemen. Of the 10 villagers, five were volunteer registration officers involved in the mobile voter registration process.

Human Rights Watch interviewed two volunteer registration officers involved in the mobile voter registration process in Tsonzo area, Manicaland province, and Bikita area, Masvingo province, who alleged that they had been trained by ZEC officials whom they later discovered were military officers.¹¹⁷ One of the registration officers alleged that most of the ZEC officials working in her area were from the military because her education officer (the officer responsible for training the registration officers on the mobile registration process) warned her to be careful about what she said in the presence of all ZEC officials because some were security personnel. The other registration officer claimed that he knew that the ZEC was composed of military and intelligence officers after he established friendships with some of the officers during the two-month training course for all registration officers.

In another example, a human rights activist in Harare informed Human Rights Watch that when he went to check his name on the voter's register in September, at the Mablereign voter registration office in Harare, he noticed that uniformed police were in the registration room and also playing an active role in checking the names of voters.¹¹⁸

The alleged presence of military officers (including former officers) and police personnel in the ZEC raises serious questions about its impartiality and independence and also causes unnecessary fear and tension amongst the voting population. The location of ZEC offices in some provinces is also of concern. For example, MDC officials in Mutare South informed Human Rights Watch that ZEC

¹¹⁶ Human Rights Watch interviews with villagers and voluntary voter registration officers (names withheld), Masvingo and Manicaland provinces, September 24–October 6, 2007.

¹¹⁷ Human Rights Watch interviews with voluntary voter registration officers (names withheld), Masvingo and Manicaland provinces, September 24–October 6, 2007.

¹¹⁸ Human Rights Watch interview with human rights activist (name withheld), Harare, February 21, 2008.

officials there were housed in government offices.¹¹⁹ Opposition officials told Human Rights Watch that as a result of the location, people were scared to take any complaints they had to commission officials because of the high number of officers from Zimbabwe's Central Intelligence Organization at the government building.

Despite the fact that they are responsible for compiling complaints about the electoral process, ZEC officials have proved reluctant to speak officially to key stakeholders including the opposition and officials from the ZESN. According to Noel Kututwa, chair of ZESN, "We haven't been able to meet with ZEC officially. They refuse to meet us, so we haven't been able to raise any of our concerns. The fact that they are inaccessible means they aren't quite as independent as they claim."¹²⁰ This sentiment was echoed by MDC spokesperson Nelson Chamisa, who told Human Rights Watch, "ZEC have refused to meet us on several occasions. We have letters from them that state that they cannot meet with us."¹²¹

Other problems with voter registration and inspection of the voters' roll

Zimbabwe's voter registration process officially started on June 17, 2007, when the government announced a mobile voter registration exercise to allow voters who were not registered to vote, or had moved to new constituencies to register themselves as voters. The mobile registration process was run by ZEC, and run concurrently with the issuing of identity cards (IDs) to those that do not have them (all Zimbabweans are required to have an identity card in order to vote) by the office of the Registrar General. Voter registration at stationery registration offices for the purposes of participating in the election commenced on February 2, 2008 and closed on February 14, 2008 (see below).¹²²

From the start, the mobile voter registration exercise was beset by significant problems including a lack of resources and materials for the exercise, and the disenfranchisement of potential voters. In all the provinces visited by Human Rights

¹¹⁹ Human Rights Watch interview with MDC official (name withheld), Mutare South, Manicaland province, February 10, 2008.

¹²⁰ Human Rights Watch interview with Noel Kututwa, February 7, 2008.

¹²¹ Human Rights interview with Nelson Chamisa, February 21, 2008.

¹²² Human Rights Watch interview with ZESN official (name withheld), Harare, September 26, 2007.

Watch in September 2007 and February 2008 mobile voter registration was poorly advertised with few people aware that the exercise was taking place (Andy Moyes, director of the MMPZ, informed Human Rights Watch that the list of places to register to vote only appeared once in the *Herald* newspaper).¹²³ In addition, due to the fact that in some places the mobile registration sites were open only for a brief period, and often operated on irregular hours or closed at whim, many people told Human Rights Watch that they did not know where and when to register, and may have been excluded from the process altogether.

In the provinces of Mashonaland West, Masvingo, and Matabeleland South, villagers told Human Rights Watch that in some cases information about mobile registration sites and hours was provided only to people whose political affiliation was known.¹²⁴ Activists from ZESN told Human Rights Watch that they had received credible reports of people only being allowed to register if they had ruling party membership cards.¹²⁵ Although Human Rights Watch was unable to verify these claims in many of the provinces it visited, villagers in one constituency of Matabeleland South and in another constituency in Masvingo province informed Human Rights Watch that ZEC officers had asked them for their ruling party cards to register to vote.¹²⁶ However, it was not clear whether those who did not have the cards were excluded from the voter registration process.

The mobile voter registration process was also not consistently conducted in all the constituencies. In some areas, particularly opposition strongholds, officials from the Registrar General's office issued people with IDs and then told them that they would only be allowed to register to vote at a later date. In other areas (almost all of them ruling party strongholds), the process was much clearer with people provided with IDs and then almost immediately allowed to register. In several constituencies that Human Rights Watch visited in Masvingo villagers claimed that no mobile voter registration had taken place at all.

¹²³ Human Rights Watch interview with Andy Moyes, director, MMPZ, Harare, February 6, 2008.

¹²⁴ Ibid.

¹²⁵ Human Rights Watch interview with ZESN officials (names withheld), September 2008.

¹²⁶ Human Rights Watch interviews with villagers (names withheld), Mashonaland West, Masvingo, and Matabeleland South, September 24–October 6, 2007.

In areas known to be opposition strongholds, in particular parts of Matabeleland and Manicaland, Human Rights Watch found that the procedures to get an ID and to register to vote were much more stringent, with people required to provide copies of birth certificates and permission from kraal chiefs, and to produce two witnesses to verify their identity when copies of birth certificates and permission from the kraal chief would have sufficed. In these areas there were also specific problems with the registration of young people of voting age. On four separate occasions in the provinces of Manicaland, Matabeleland South, and Matabeleland North, 10 young people in total informed Human Rights Watch that they were turned away from registration sites because of the stringent requirements such as the need for permission from kraal chiefs and witnesses.¹²⁷ In contrast, the registration requirements for older people were not as stringent. ZESN officials confirmed that many young people had been turned away from registration sites: ZESN believed that the young people were turned away because they were widely perceived by the ruling party and government officials as being more likely to vote for the opposition.¹²⁸

To the government's credit, the mobile voter registration was extended by another two months from August to October because of the many logistical problems and poor publicity surrounding the process. However, the operations of the ZEC in many provinces, in particular the rural provinces remained patchy and inconsistent throughout the registration period.

On February 2, 2008, the ZEC announced the commencement of the second voter registration exercise and the inspection of the voters' roll at an estimated 5,000 inspection centers. Those not covered by the mobile registration exercise were able to register as voters, check their names or rectify any errors in their details. However, the inspection centers had only been designated on January 30, just two days before the process actually started, leaving little time for people to find out where they could check their names.¹²⁹ Further, ZESN reported that they were no ZEC voter

¹²⁷ Human Rights Watch interviews with young voters (names withheld), Matabeleland South, North, and Manicaland, September 24–October 6, 2007, and February 2008.

¹²⁸ Human Rights Watch interview with ZESN officials, Harare, September 25, 2007.

¹²⁹ ZESN, "Pre-election Update No.3," January 22 to February 6, 2008.

educators informing people about the exercise prior to the commencement of the inspection period.

Minimal Voter Education

The complexity of Zimbabwe's first synchronized presidential and parliamentary elections, which require voters to simultaneously cast four different ballot papers on the same day, makes voter education an extremely important element of the electoral process. However, there seems to be very little understanding around the country about the conduct of the elections that will be taking place. Less than two months before the elections, Human Rights Watch interviewed 30 people in the provinces of Manicaland and Matabeleland North and South in February 2008, who said that although they were aware that elections were taking place, they did not know which wards they would be voting in or that they would vote in four separate elections in one day. According to a ZESN election monitor from Lupane, "People have no idea how these elections will be conducted. They don't even know that the elections will take place in one day. They keep saying they are four separate elections, so we will vote over four days. Very little information is out there."¹³⁰

Under the Electoral Amendment Act, the ZEC should commence a voter education program not later than 90 days before polling day.¹³¹ However, Human Rights Watch visited numerous areas in Zimbabwe's provinces and found that very little voter education was taking place. Many people informed Human Rights Watch that they had not seen any ZEC officers in their areas. ZEC officers were observed carrying out voter education exercises in the main cities of Harare and Bulawayo but not in the rural areas, where such education is especially necessary given the lack of media access and the lower literacy rate of voters. ZESN officials did note an increase in the number of voter education officers deployed by ZEC around the country in the weeks before the elections. However, ZESN argued that the information provided by the voter education officers was often inaccurate or not extensive enough.¹³²

¹³⁰ Human Rights Watch interview with ZESN election monitor (name withheld), Bulawayo, February 14, 2008.

¹³¹ Zimbabwe Electoral Commission Act, 2004, section 15 A (1), as amended by the Electoral Laws Amendment Act of 2007.

¹³² Human Rights Watch interview with Noel Kututwa, Harare, March 12, 2008.

The lack of voter education by the ZEC has been criticized by MMPZ, which pointed out that there was little publication of information for voters on the complicated electoral process. MMPZ noted that all 53 voter education advertisements that the organization had monitored on the Zimbabwe Broadcasting Corporation in the week commencing February 10 were placed by private bodies.¹³³

The SADC Principles and Guidelines call for voter education programs to be carried out.¹³⁴ The lack of basic voter education activities by the ZEC is of even greater concern given that the ZEC has been given almost exclusive control over voter education. Under the September 2007 constitutional amendments, the ZEC has been given the powers to monitor voter education provided by other organizations for correctness and impartiality,¹³⁵ and the Zimbabwe Electoral Commission Act provides that no person other than the commission, or a political party or a person appointed by the commission, shall provide voter education unless the person meets stringent requirements.¹³⁶

While the commission has an express duty to monitor voter education, in theory it may direct that voter education activity be modified or cease only when the commission considers content false or misleading.¹³⁷ However, as ZESN chairperson Noel Kututwa informed Human Rights Watch, the ZEC has not limited its role to preventing “misleading” education. He explained that on February 23, the ZEC banned his organization from carrying out voter education because under the new laws the ZEC had a monopoly over voter education. According to ZESN, ZESN adverts deemed to be direct voter education were scrapped from the electronic and print media following a letter from the ZEC asserting that the law only allowed the conducting of voter education by institutions authorized to do so by the ZEC. This was despite the fact that according to Kututwa, ZESN has carried out voter education during past elections in 2005 without actually applying for permission from ZEC.

¹³³ MMPZ, “Weekly Media Update,” February 15, 2008.

¹³⁴ SADC Principles and Guidelines, section 2.1.8.

¹³⁵ Constitution of Zimbabwe, 1979, section 15 A, as amended by clause 11 of Constitutional Amendment Act No. 18, 2007.

¹³⁶ Zimbabwe Electoral Commission Act, 2004, Clause 15 (1). Under clause 16 the commission alone is permitted to receive foreign contributions for voter education and may allocate it to political parties or other persons providing voter education as it chooses.

¹³⁷ *Ibid.*, clause 15 (1).

Kututwa said, “We have always had an understanding with ZEC that we would be allowed to carry out voter education.”¹³⁸

On February 28 the *Herald* reported that the ZEC had started licensing civic organizations ahead of the elections.¹³⁹ The ZEC public relations director Shupikai Mashereni was quoted as saying that the body was still considering applications from civic organizations such as ZPP and ZESN.

On March 12 Kututwa told Human Rights Watch that ZESN had applied for permission to conduct voter education soon after the ban, but they were still waiting for approval from ZEC. He told Human Rights Watch, “We have tried to have meetings with ZEC who say they will look into it and get back to us. We are becoming disillusioned because we don’t think we will get the permission to carry out voter education.”¹⁴⁰

Restrictions on International Electoral Observers

Since the presidential election in 2002 the government has used selective and in effect discriminatory practices in inviting local and international electoral observers. International electoral observers such as the Commonwealth Electoral Observer Mission and the SADC Parliamentary Forum Electoral Observer Mission, which issued critical statements on the 2002 election, were not invited for the 2005 elections.¹⁴¹ In a statement in the *Herald* on February 22, 2008, Minister of Information and Publicity Sikhanyiso Ndlovu made it clear that with respect to the upcoming elections only international observers deemed friendly to the government would be invited.¹⁴² This is not compatible with the SADC Principles and Guidelines, which state that one of the rights of electoral observers is to gain accreditation as electoral observers on a nondiscriminatory basis. The biased nature of observer accreditation in Zimbabwe dilutes the transparency and credibility of the elections.

¹³⁸ Human Rights Watch telephone interview with Noel Kututwa, ZESN chairperson, February 28, 2008.

¹³⁹ “ZEC licenses civic organizations,” *The Herald*, February 28, 2008, <http://www.herald.co.zw/inside.aspx?sectid=31385&cat=1> (accessed February 28, 2008).

¹⁴⁰ Human Rights Watch interview with Noel Kututwa, Harare, March 12, 2008.

¹⁴¹ SADC Principles and Guidelines, section 6.1.2.

¹⁴² “UK, US regime change agenda doomed: Ndlovu,” *The Herald*.

Unfortunately, such bias has not been remedied by the new legal provisions governing elections. Under Zimbabwe's amended electoral laws, the ZEC now decides who can be accredited as an observer and who can be invited. The Electoral Laws Amendment Act provides for the ZEC to establish a committee to accredit observers, foreign and local.¹⁴³ However, as the presence of a foreign observer in the country is dependent on an invitation from the Minister of Foreign Affairs to observe an election, the executive arm of the government still has the power to decide the composition of accredited observer missions.

The SADC Principles and Guidelines also recommend that the government should issue invitations to electoral observers 90 days before election day to “allow adequate preparation for the deployment of the Electoral Observer Mission.”¹⁴⁴ But, just over a month before the elections, there was no clear indication of which, if any, international observers had been invited for the elections. By February 22—weeks after the critical period of voter registration had begun—no international observers were on the ground, and ZEC only announced a period of accreditation from February 19. On March 7 Minister of Foreign Affairs Simbarashe Mumbengengwi announced a list of 47 teams to observe the elections.¹⁴⁵ About 50 members of a 120-strong SADC Observer Mission arrived on March 10.¹⁴⁶

The necessity of electoral observation to commence at an early stage of the process is underlined by the fact that, as in past elections, hostile conditions likely to impact on the ability of Zimbabweans to vote freely have been observed weeks if not months before the elections.

¹⁴³ Electoral Laws Amendment Act, 2007, clause 17. Under the clause individuals representing local organizations are accredited by the ZEC, but the minister of justice can object or invite whomever he wants. In terms of Electoral Supervisory Commissions or bodies the ZEC can issue invitations but cannot provide accreditation if the Ministry of Foreign Affairs objects.

¹⁴⁴ SADC Principles and Guidelines, section 7.10.

¹⁴⁵ “Zimbabwe invites 47 teams to observe election,” *The Herald*, March 7, 2008.

¹⁴⁶ “First SADC observer team arrives,” *The Herald*, March 11, 2008.

XI. Conclusion

The combination of restrictions on campaigning, flawed electoral procedures, the politicization of the distribution of agricultural equipment and food, an overwhelmingly pro-government media bias, arrests, beatings and other forms of intimidation during the run up to the March 29 elections precludes the possibility of holding free and fair elections. It is clear that the government has not respected the right of Zimbabweans to freely exercise their right to vote or to participate in the government through freely chosen representatives.¹⁴⁷ Nor has it met benchmarks for free and fair elections such as those set out in the SADC Principles and Guidelines.

The government is to be commended for introducing amendments to electoral laws that improve electoral procedures. However, as highlighted in this report, there has been little time to implement the changes, and questionable political will or intent to do so. Further, changes to other laws such as POSA and AIPPA were not as positive and have done little to improve the electoral environment.

The international community, in particular the SADC, should evaluate the political context in which these elections are being held as well as the electoral process as a whole, and should promptly and unequivocally condemn serious breaches of international and regional standards. The SADC, which has played an instrumental role in finding a resolution to Zimbabwe's political crisis, should ensure that there are consequences for the government of Zimbabwe if it again flouts its international commitment to hold free and fair elections. Another round of flawed elections should not be seen as "business as usual" in relations between the SADC and the government of Zimbabwe.

¹⁴⁷ See for example, Human Rights Committee General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25, ICCPR), July 12, 1996.

All Over Again

Human Rights Abuses and Flawed Electoral Conditions in Zimbabwe's Coming General Elections

On March 29, Zimbabweans cast their ballots in presidential, parliamentary, senatorial and local council elections, the first synchronized elections since changes to the constitution in 2007. This report documents serious electoral flaws and human rights abuses, primarily by the government and President Robert Mugabe's ruling Zimbabwe African National Union –Patriotic Front (ZANU-PF), which have undermined a free and fair vote.

The report based on research conducted over seven weeks in Zimbabwe's 10 provinces documents how the government and the ruling party ZANU-PF, in the run up to the 2008 elections, have engaged in widespread intimidation of the opposition; have restricted freedom of association and assembly; and have manipulated food and farming equipment distribution to gain political advantage. Human Rights Watch also documented biased media coverage in addition to numerous incidents of police and state-security violence against human rights activists and perceived opposition supporters throughout Zimbabwe.

The report also highlights serious flaws in the country's electoral procedures, in spite of changes to electoral laws. The flaws include a chaotic and thus easily abused voter-registration process, disenfranchisement of voters, and an unprepared, under-resourced, and partisan electoral commission. Despite a new and complex voting process, voter education around the country has been extremely poor.

The report calls on international observers, in particular those from SADC in Zimbabwe, to monitor the elections and to judge the political context in which the elections are being held, not just the electoral process itself. SADC observers should publicly, promptly, and clearly condemn failures to uphold regional and international standards.