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**Amnesty International USA
Zimbabwe: Remarks on Current Human Rights Conditions and Concerns Surrounding the
Approaching Referendum and Elections
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Amnesty International is a Nobel Peace Prize-winning grassroots activist organization with more than 3 million supporters, activists and volunteers in more than 150 countries campaigning for human rights worldwide. The organization investigates and exposes abuses, educates and mobilizes the public, and works to protect people wherever justice, freedom, truth and dignity are denied.

Background

Zimbabwe experienced high levels of electoral violence surrounding the 2008 presidential and parliamentary elections. Amnesty International documented disappearances, murder, torture and rape. In the wake of contested election results where Robert Mugabe was declared President, a negotiated Government of National Unity (GNU) was established between ZANU-PF and the two factions of the MDC. The Southern African Development Community (SADC), through President Jacob Zuma of South Africa, continues to mediate this agreement. The parties to the GNU have agreed on an election 'road map' detailing key issues to be addressed and reforms to be undertaken. These include reform of the media and the national electoral process, and de-politicization of the police, army and central intelligence organisation. However, the implementation of agreements remains hampered by suspicion, mistrust within the government and lack of party reforms in ZANU-PF which remains a key player in national politics.

ZANU-PF continues to resist security sector reform and opening up the broadcasting space for more players including for community radio and independent television channels. These reforms were agreed as part of Zimbabwe's Global Political Agreement which paved the way for the GNU. Security sector interference in political affairs has heightened the level of mistrust between the parties to the GNU resulting in further delays in the political processes. The second stakeholder's constitutional conference is scheduled to take place October 20-23rd in Harare. The referendum on a new constitution is more than a year behind schedule and is currently expected to take place in November 2012. Elections will follow in 2013. President Mugabe has called for elections in March, while Prime Minister Tsvangirai states elections cannot occur before June. Leader of the smaller MDC faction, Welshman Ncube, concurs on the June date.

At the March 2011 summit of SADC's Organ on Politics, Defence and Security held in Livingstone, Zambia, the Organ was presented with the report of South Africa's President Zuma on Zimbabwe. Though the report itself was private, in its public communiqué following the summit, SADC openly criticised on-going human rights violations in the country for the first time. In the communiqué SADC expressed disappointment with the lack of progress in the implementation of the Global Political Agreement (GPA). SADC noted "with grave concern the polarization of the political environment as characterized by, inter alia, resurgence of violence, arrests and intimidation in Zimbabwe." As the body tasked with the promotion of peace and security within the region including preventing, containing and resolving intra-state conflict by peaceful means, the Organ has been the guiding instrument on SADC's intervention in the crisis in Zimbabwe.

During the review of Zimbabwe at the Universal Periodic Review in October 2011, South Africa made the surprise recommendation that Zimbabwe 'Investigate all credible allegations related to the Presidential elections in 2008, particularly in the areas of torture, arbitrary detentions and enforced disappearances.' Though Zimbabwe rejected the recommendation, like the communiqué issued by SADC in 2011 following the report of President Zuma, such public recognition of human rights violations in Zimbabwe is another indication of a shift in stance suggesting that the unfettered ability to inflict violence on the population as was seen in 2008 is unlikely to be repeated. However, as Mediator of the parties to the GPA, President Zuma has yet to secure resolution on long running

disputes over its implementation and there remains cause for concern because of ongoing unacceptable levels of limitations of freedom of expression, association and assembly.

Political Violence/Impunity

Talk of the upcoming election, mainly by President Mugabe and ZANU-PF members, has increased tensions in rural and suburban communities that were mainly affected by the 2008 state-sponsored violence. There have been reports of harassment and intimidation by ZANU-PF supporters against perceived opponents. In some areas this has led to inter-party clashes. There remains a widely-held perception that ZANU-PF supporters are above the law and this appears to be substantiated when police only arrest opponents of ZANU-PF. Although President Mugabe has publicly spoken against political violence, this has not been followed up through ensuring non-partisan application of the law.

ZANU-PF continues to mobilise its members to defend the party against political opponents it accuses of collaborating with Western powers to reverse the gains of the struggle for independence. There are elements of ZANU-PF supporters including some veterans of the war for independence and beneficiaries of the party's violent land reform programme and economic empowerment activities that can be mobilised to use violence against political opponents if the need arise as was the case when the party lost the March 2008 elections. The campaign of violence unleashed between March and June 2008 suggests it would be unrealistic not to expect human rights violations in the forthcoming election. However such blatant and widespread human rights violations may not be considered a viable option as a result of increased regional pressure. The deployment of election observers (including human rights monitors) before, during and after the elections will be crucial in thwarting such abuses.

The issue of impunity for the perpetrators of the 2008 election violations remains unresolved since hardly any of the perpetrators have been brought to justice and the likelihood of retaliatory attacks against ZANU-PF supporters responsible for the 2008 violence is high. However, with the senior leadership of the security forces still aligned with ZANU-PF it is likely that any violent incident involving MDC supporters would be brutally suppressed. Much of the potential for violence will hinge on the strength of the roadmap to the elections in countering human rights violations together with SADC's ability and commitment to overseeing its implementation.

Concerns continue about the involvement of former members of the security forces in organising ZANU-PF party operations, especially in rural areas. Under the Government of National Unity the security ministries remain under ZANU-PF control and senior members of the security forces (Defense Forces Chief Chiwenga, Police Commissioner Chihuri) have publicly declared their allegiance to President Mugabe. The security forces, particularly senior ranks, were implicated in the state-sponsored violence that engulfed the country between April and July 2008. More than 200 people were killed and 10,000 were injured. Tens of thousands of people were internally displaced.

Amnesty International is concerned about the activities of politically aligned gangs in Zimbabwe and the response of the security forces to them. In September 2012 police arrested 308 people following clashes between soldiers and touts controlling minibuses stations in the capital Harare. The minibus touts, known as *mandimbandimba* are suspected to be linked to a gang known as Chipangano which has gained notoriety for violence and extortion over the past few years. The gang controls most of the public bus ranks in Harare and its activities include extorting money from minibus drivers. Chipangano has become notorious for using violence to wrestle control of small businesses and market stalls across the capital. The gang is affiliated with President Mugabe's Zanu-PF party and it appears to have enjoyed relative impunity despite being accused of violence against members of the public. Amnesty International is concerned about the response of the security forces to the gang. The recent attempt to apprehend the gang by the security forces, including regular police, anti-riot police and military police, is believed to have put members of the public who were swept up in the crackdown at risk. There are also indications of previous collusion between the police and Chipangano. Police have been accused of handing criminals over to Chipangano gang members who have subjected them to torture before they were taken back into custody and charged. There is real risk that similar gangs aligned to some faction leaders in ZANU-PF could emerge in other parts of the country in the run up to elections. Amnesty International has received reports of a similar gang in the central Zimbabwe town of Kwekwe calling itself "Al Shabab."

Freedom of Expression/Assembly

The use of repressive legislation to restrict freedom of expression, association and peaceful assembly remains a concern, for example in the selective application of the Public Order and Security Act (POSA), the law used to regulate public gatherings. Police have arbitrarily denied permission to the two MDC parties to hold meetings. The reason given is often lack of resources to police such meetings. However, where organisers went ahead with unsanctioned meetings, anti-riot police have used excessive force to break up the meetings. Permission for ZANU-PF meetings is invariably granted.

At the community level, ZANU-PF structures continue to disrupt meetings and legitimate activities of their opponents with impunity. Local level leaders of ZANU-PF and some traditional leaders continue to be gate keepers of community access, restricting freedom of expression and association in local areas. At an Amnesty International organised event in one community in Harare held in June 2012, ZANU-PF activists threatened to prevent with violence or disrupt the event if organisers tried to set up. Though the issue was eventually resolved, this is one example of ongoing constraints on freedom of expression and assembly within communities.

Amnesty International also remains concerned about tokenistic media reforms which do not seek to increase diversity or Zimbabweans' access to alternative views. On 24 November 2011, the Broadcasting Authority of Zimbabwe awarded commercial broadcasting licences to the state-controlled Zimbabwe Newspapers Group and AB Communications. Both media houses were seen as close to ZANU-PF. For alternative information Zimbabweans have had to rely on television channels received on free to air satellites dishes or short wave radio broadcasts from radio stations run by exiled Zimbabweans including SW Radio Africa, VOA's Studio 7, Voice of the People and Radio Dialogue.

Human Rights Defenders/Civil Society

Human rights defenders have, over the last decade, been targeted with arbitrary arrest, unlawful detention, torture and general violence by the previous ZANU-PF government and its supporters. Zimbabwean police, army and the Attorney General's Office have been willing tools for targeting ZANU-PF opponents. Arbitrary arrests targeted at perceived opponents of ZANU-PF including Civil Society leaders have continued since the formation of the GNU, though at a lower level than was seen prior to the unity government. In light of events in Tunisia, Libya and Egypt, the security forces in Zimbabwe announced that they would not tolerate protests in Zimbabwe. As a result civil society organisations, such as Woman of Zimbabwe Arise (WOZA), have seen their capacity to organise protest come under pressure and harassment remains unpredictable in the current context. For example, some WOZA protests have been allowed to take place peacefully without state interference, whilst at other times there appears to be an upsurge in repression through arbitrary arrests and detentions.

Civil society has recently reported increased scrutiny and pressure on their activities. Offices are frequently raided, individuals followed, activities monitored and a generalized, pervasive atmosphere of heightened monitoring is occurring.

Economic, Social, Cultural Rights

More than seven years after the Government of Zimbabwe's 2005 programme of mass forced evictions in which 700,000 people lost their homes, their livelihoods, or both, survivors continue to suffer daily abuses of their rights because of the government's failure to provide effective remedies. 'Operation Garikai' was the only government response to the mass forced evictions and provided for just a tiny proportion of the victims. For those who were resettled in Operation Garikai settlements an even smaller proportion were provided with houses that were unfinished, lacking floors, doors and windows. The majority of those resettled in Garikai settlements were allocated bare plots of land and most erected shacks with the assistance of humanitarian organisations. In most of the settlements, survivors are still living in the now dilapidated shacks. In addition, many residents of Operation Garikai settlements have no access to clean water, sanitation, health care, education or means of livelihood. Survivors of Operation Murumbatsvina also remain at risk of further forced evictions because of lack of security of tenure.

US Government

Although countries like the United States have limited leverage on the Zimbabwean government, it is important they continue to engage in raising human rights concerns and the need for appropriate levels of monitoring for free and fair conditions for all elections and all the parties in the GNU and through SADC and the African Union countries. In particular, Angola and Malawi offer potential opportunities to apply pressure on the Zimbabwean government through their unique relationships with the United States, by virtue of being regional neighbors and their stature on the continent.

Angola is the only other country in the region to have a bi-lateral trade agreement with the US and is one of the top 10 oil importers into the US. Malawi is a large aid recipient of the US, particularly through the Millennium Challenge Corporation, and now boasts the second female president in Africa. Ms. Banda in her short term of office has already notified Sudan president al-Bashir of her intent to follow through with Malawi's obligations under the Rome Statute to arrest him if he attended a scheduled African Union conference in Llongwe.

There is also the need to increase material and financial support to civil society to enable them to document human rights violations, respond to violations and to organize their legitimate activities. Amnesty International is concerned that small groups organizing at community level often have not have enough financial resources to carry out activities that would build ordinary people's confidence to demand their rights and increase space to exercise freedom of expression and association.