

Monitoring Government Follow-Through Tools

XIV. Civil Society Monitoring Mechanism (CISOMM) Report One – Zimbabwe

XV. CISOMM Report Two – Zimbabwe

XIV. 1ST CIVIL SOCIETY MONITORING MECHANISM (CISOMM) REPORT

This is an example of monitoring report developed by CISOMM, NDI's partner coalition in Zimbabwe, that analyzes the government's implementation of the Interparty Political Agreement (IPA). It is the first report of two that CISOMM produced.

GENERAL OVERVIEW

On the 29th of March 2008 Zimbabweans went to vote in the harmonised elections for local council, House of Assembly, senatorial and presidential vacancies. The run-up to these elections was relatively calm as compared to previous elections. There were fewer reports of actual violence prior to voting. Subtle forms of violence such as intimidation and politicisation of access to humanitarian aid, social services and public schemes were rampant. However, as the results of the parliamentary ballot began to emerge, regional and domestic observers noted that the election had been conducted in a fairly conducive environment though the delay in the announcement of results was a cause for concern. The notable delays in announcing the results of the election were in respect of the presidential results.

It eventually took the Zimbabwe Electoral Commission (ZEC) in excess of a month to release the results of the presidential vote which showed that Morgan Tsvangirai of the Movement for Democratic Change (MDC) had triumphed over the incumbent, Robert Mugabe of Zimbabwe African National Union – Patriotic Front (ZANU-PF). Debatably, the MDC candidate had not garnered enough votes to avoid a run-off against the candidate with the second most votes. There is little doubt that ZANU-PF had fared dismally and had been saved from the jaws of total defeat by what appeared to be a fraudulent manipulation of figures and processes by ZEC, as evidenced by the long and unprecedented period it took ZEC to announce the results. ZEC eventually set the run-off date as the 27th of June 2008.

The gazetting of the date of the presidential election run-off triggered an unprecedented nationwide wave of political and retributive violence perpetrated mainly by ZANU-PF office-bearers, members and supporters, war veterans and the youth militia, and unfortunately with the participation of law enforcement agents such as the police force and the military. The conduct of these non-state and state actors received explicit support from President Robert Mugabe, who declared that the pen could not defeat the gun. Though ZANU-PF purported to proceed with a one-man election on the 27th of June 2008, it was clear that even the staunch supporters realised that the so-called election was a farce because of the shocking levels of pre-election violence and intimidation conducted by ZANU-PF. Consequently the so-called “*landslide victory*” lacked domestic and international legitimacy. The respected regional and sub-regional observers including the Pan-African Parliament stated that the vote was so fraught with violence that it was not representative of the will of the people.

It is interesting to note that all observer missions did not categorically call for fresh elections but endorsed the Southern African Development Community (SADC) mediation process which had started after 11 March 2007. This disastrous election process led to painful back-and-forth negotiations involving the three major political parties, the SADC bloc, the African Union (AU) and other influential international bodies and culminated in the eventual signing of the Memorandum of Understanding (MOU) on the 21st of July 2008. The MOU signed by Tsvangirai on behalf of MDC-T, Mugabe on behalf of ZANU PF, Arthur Mutambara on behalf of MDC-M and Thabo Mbeki in his capacity as the SADC facilitator paved way for the SADC-supported and AU-guaranteed talks which culminated in the signing of the Interparty Political Agreement (IPA) on the 15th of September 2008. This was mooted as a route to resolve Zimbabwe’s multi-faceted crisis and begin a journey to the restoration of the Rule of Law, democracy, human rights and the reconstruction and development of the country.

However, the actual process of formulating a government continued to be stalled over a number of outstanding issues - principally disagreement over allocation of key Ministries as well as the continued exhibition of bad faith by ZANU-PF through abductions/enforced disappearances and various other human rights violations. However, the decision by the MDC National Council to join the inclusive government on the 31st of January 2009, and the subsequent passage of the 19th Amendment of the Constitution which led to the formal establishment of the government on the 13th of February 2009 meant that the inclusive government could finally begin to function.

Against this backdrop, Civil Society Organisations announced on the 25th of February 2009 that they had formed an independent monitoring and evaluating mechanism in order to assess how the implementation of the IPA would lead to a restoration of democracy, human rights and the rule of law. Further, the monitoring mechanism is in place not only for purposes of accountability and transparency, but also as it acts as a confidence-building measure for the people. It must be noted here that the IPA has an inbuilt monitoring body, the Joint Monitoring and Implementation Committee (JOMIC), which comprises representatives of the three protagonists. However, Civil Society Organisations realised the compromises that can befall this body – particularly since Civil Society was completely excluded from the processes leading to the formulation and adoption of the IPA - hence the need for an independent monitoring mechanism.

Civil Society Organisations are non-partisan, independent and impartial bodies whose main functions are to foster a culture of human rights, justice, and social and economic improvement and to promote and advance the interests of marginalised

and victimised people.²³ They remain authoritative voices for a large portion of the population through their representative grass-roots structures. The 25th February announcement itself was a culmination of meetings held with various Civil Society Organisations, at which specific benchmarks were agreed upon and allocated to specific organisations based on resources, capacity and technical expertise. This first report, which covers the period from the end of January 2009 to the 31st of March 2009, represents a fruition of these meetings and a juxtaposition of the activities on the ground against the agreement by the three political parties.

1. ECONOMIC RECOVERY

1.1 Summary

The cluster on economic recovery is particularly seized with the process of the establishment of a National Economic Council and how this shall lead to a more diverse economic planning process. It also evaluates the process of a comprehensive land audit as well as an audit of the public debt. However, this remains an area with little to no progress to date. As such, the evaluation process was largely of events and processes peripheral to the provisions of the GPA.

1.2 Compliance

The declaration by the Reserve Bank of Zimbabwe (RBZ) that it would end all quasi-fiscal measures was a welcome development towards having the central bank acting within the four corners of the Reserve Bank Act. Further, and to that end, was the introduction of stable currencies through the multicurrency system which stemmed hyperinflationary pressures driven by the local currency. This translated to payment of wages and salaries in foreign currency which also stemmed erosion of savings.

Other measures that were in line with a drive for economic growth were the relaxation of exchange controls for cash limits for importers which enabled retailers to restock faster and producers to import raw materials, thereby demobilizing the bridling parallel market for commodities. In addition the relaxation of exchange controls for payment of external debts without prior Exchange Control approval removed the need to access foreign currency from the parallel market and created an incentive for money to circulate in the official channels.

The foreign currency retention for exporters improved from 15% to 7.5% of proceeds, with the result that exporters now retain 95% of their proceeds. Furthermore the 21-day liquidation of Foreign Currency Accounts (FCAs) was revoked, enabling exporters to hold onto their forex indefinitely. In addition, the RBZ no longer requires vendors and hawkers to surrender 5% to the RBZ after payment of a once-off USD25 licence. This is a critical step, considering that the economy is largely now informal.

The removal of price controls stimulated manufacturers' productivity at more competitive prices and increased stock levels for retailers. The launch of the RBZ audit of the Farm Mechanisation Programme and the hosting of a Tourism Stakeholders Summit was also in the spirit of the Agreement. However, in relation to the RBZ audit, it must be noted that this is not an independent and impartial audit; the Terms of Reference and procedures lack transparency making it difficult to scrutinise progress and ascribe accountability and appropriate sanction. Allegations abound about the role of the Reserve Bank Governor and other key RBZ officials in activities which the audit purports to address, and the RBZ and its officials should have no role to play in such an audit and its investigatory procedures. There also exists the possibility that the audit can and/or will be used for malicious purposes, to persecute members of one political party whilst shielding others suspected of committing offences from scrutiny and potential prosecution.

1.3 Non-compliance

The failure by the inclusive government to establish the National Economic Council (NEC) before the launch of the Short Term Economic Recovery Programme (STERP) was clearly against the letter of the IPA, which accords it the responsibility "[to provide] *advice to Government, formulating economic plans and programmes for approval by government*". This means that there is still absolutely no inclusivity of diverse voices and interests in processes to restore economic stability and growth in Zimbabwe.

The adoption of privatisation as part of the short-term stabilization measures is against the objectives of economic recovery in the IPA. Technically, privatisation cannot be achieved with entities that are as inefficient as those obtaining in Zimbabwe. Further, privatisation is based on the philosophy of liberalisation which has a poor legacy in Zimbabwe, after the implementa-

²³ Symposium Declaration: Civil Society and Justice in Zimbabwe. Johannesburg, South Africa 13 August 2003.

tion of the Economic Structural Adjustment Programme (ESAP). Therefore the inclusion of privatisation in the short term stabilisation goes against the aims of the IPA.

2. HUMANITARIAN AND FOOD ASSISTANCE

2.1 Summary

The IPA acknowledges the right of citizens to access humanitarian aid and assistance from the state regardless of race, ethnicity, gender or political affiliation. Activities related to such access and processes have continued to lack transparency and accountability.

2.2 Compliance

The distribution of food assistance appears to be ongoing in different parts of the country. Forty-eight (48) districts out of sixty-two (62) have reported presence of food distribution from humanitarian agencies. It must be noted however that this assistance is covering only extreme cases of vulnerability and falls far short of actual requirements.

Regional players have also contributed to humanitarian efforts, for instance, SADC's contribution of agricultural inputs.

2.3 Non-compliance

There continue to be reported cases of people who are being denied access to state-funded food assistance as well as food from non-governmental organisations (NGOs) due to their political affiliation – perceived or stated. The main perpetrators are traditional leaders and councillors, a trend which is perpetuating the political favouritism which has been documented since before the formation of the inclusive government.

The authorities have failed to put in place mechanisms to effectively monitor distribution of aid and assistance and ensure that there is transparency in the allocation and use of funds. In this regard, SADC's provision of monetary assistance for purposes of agricultural inputs was shrouded in secrecy and lack of accountability, which eventually necessitated an audit. The procedure and outcome of this audit have not been transparent and do not foster much-needed public confidence in the process.

3. CONSTITUTIONAL REFORM

3.1 Summary

The cluster on constitutional reform is mandated with monitoring the process of constitution-making as enshrined in Article VI of the IPA. In doing so it has to consider various benchmarks that are set out in Appendix "A" annexed hereto. These benchmarks are the result of a wide consultative process among civic formations in a concerted effort to measure with empirical evidence the progress as far as implementation of the IPA is concerned. In this regard it will monitor not only the Article VI process, but also how far this process complies with established civil society processes and benchmarks, as set out in various documents, including the Crisis in Zimbabwe Yellow Paper, the 2005 All-Stakeholders' Conference Resolutions, and the Zimbabwe Peoples' Charter.

The cluster monitors both the process of constitution-making, as well as the content. This includes the establishment of various mechanisms including the Parliamentary Select Committee and the sub-committees, amongst others, that will drive the process. The fundamental principle is the imperative of ensuring that all processes adopt consultative and participatory approaches and that the voice of the people is not only heard, but also taken on board throughout the process.

3.2 Compliance

As at the end of February 2009 the constitutional reform process had not yet commenced in earnest. Thus, no time-lines have been missed.

The Minister of Parliamentary and Constitutional Affairs held several informal meetings with CSO representatives to discuss their concerns, express his own, and advise on certain processes which were to be undertaken in an attempt to make the process more consultative, inclusive and participatory. Issues which will have to be addressed, and which were noted by the Minister and the CSOs, include but are not limited to the composition of the Parliamentary Select Committee and the sub-

committees (which are seen by CSOs as excessively controlled by the legislature and non-representative of sectoral and special interests), overriding Parliamentary control over the content of the final draft and a danger that it can be changed by Parliament before a referendum, and the potential for unacceptable use of the “Kariba Draft” constitution as a starting point for the process. These were all noted, and the consultative process and openness of the Minister was a positive sign.

3.3 Non-compliance

The constitution-making process in terms of Article VI of the IPA was not included as part of the current Constitution of Zimbabwe by way of Constitution of Zimbabwe (Amendment No.19). This Amendment refers to Schedule 10 (which sets out the Article VI process), which was initially included as part of the Amendment when it was a Bill; however this was then excluded when the Bill was signed and gazetted into law. A potential risk is therefore that there is no legally mandated time-frame for the constitution-making process, the process is not entrenched, and cannot be enforced. The Minister of Justice and Legal Affairs has confirmed in Parliament that Article VI has no constitutional effect and is merely for “*public information purposes*”.²⁴

However, this also offers a potential opportunity, as this would allow for improvements to be made to the Article VI process to make it more inclusive, consultative and participatory.

There is still lack of clarity in relation to whether the Kariba Draft will form the basis for the constitution-making process. Public utterances have varied according to the individual concerned, and needs to be addressed to prevent further public confusion.

Apart from the constitution-making process, there have been notable instances on non-compliance with certain procedures as well as provisions of the present Constitution of Zimbabwe, as amended by Constitution of Zimbabwe (Amendment No.19).

Amendment No.19 itself was passed without public input and submissions, against the accepted norm. The National Security Council Bill was similarly fast-tracked – again without room for public input and submission, and in the absence of a properly- and transparently-constituted Committee on Standing Rules and Orders and Parliamentary Legal Committee.

Further, on the 13th of February 2009 and the 19th of February 2009, President Mugabe swore into office 41 Government Ministers and 19 Deputy Ministers respectively in direct contravention of the Constitution which, in Schedule 8 (the only Schedule constitutionally entrenched to give force and effect to the inclusive government) stipulates that there shall be 31 Government Ministers and 15 Deputy Ministers. This bodes ill for a return to respect for the Constitution and the laws and procedures of the country.

4. POLITICAL TRANSITION AND JUSTICE

4.1 Summary

This cluster pays particular attention to matters of equality, national healing, cohesion, equality, traditional leadership, the national youth training programme and accountability by the leaders themselves. Whilst a positive development is that of the appointment of Ministers Responsible for National Healing, the resurgence of politically-motivated and retributive violence negatively impacts on compliance with the IPA, and the failure by government leaders and responsible personnel to act against perpetrators has negatively impacted on the potential for national healing and instead reinforced the culture of impunity. It remains too early to report on and assess any visible and practical measures that have been put in place to address historical imbalances in the development of regions. Other vital elements of national healing such as the re-conceptualisation of the national youth training programme and depoliticisation of traditional leaders, as well as training of the police and army in human rights, are yet to be commenced.

4.2 Compliance

The appointment of three Ministers of State Responsible for National Healing is a positive mechanism towards the envisaged establishment of an Organ on National Healing and Reconciliation. Moreover, the engagement of the Ministers with CSOs to seek advice and recommendations on a framework on national healing is evidence of civic participation.

However, it must be noted that such consultation took place without the participation of one of the three Ministers, namely John Nkomo; a negative inference may be drawn as to the willingness of the ZANU-PF representative and his party to take these issues seriously.

²⁴ Minister Patrick Chinamasa – see Hansard of 5 February 2009

4.3 Non-compliance

Mechanisms for transitional justice are yet to be established, including the mechanism to make recommendations to government on national healing. In addition, the process of public consultation has been very limited, particularly at the community level.

There was no end to politically-motivated violence and other human rights violations. Disturbingly cases of retributive violence with their origins in the violence which erupted after the harmonised elections in March 2008 were recorded in Mutoko, Buhera, Zimunya, Nyanga, Mutare Urban, Odzi, Penhalonga, Epworth, Gokwe, Chiredzi, and Bindura. These arose after attempts to recover property which was seized, mainly by ZANU-PF members and supporters from those perceived to have voted for the MDC in March 2008. Attacks on an MDC activist in Glenview and attacks on people at an MDC meeting in Mufakose are illustrative of the failure to move towards national healing. In all, 25 cases of assault were recorded during the period, and none of the perpetrators have been prosecuted, despite the fact that they are known within their communities. This is an indictment on the Ministry of Home Affairs, commanding officers and subordinates within the Zimbabwe Republic Police (ZRP), and the office of the Attorney General.

The unilateral appointment of Permanent Secretaries by the office of the President threw into serious doubt the capacity and willingness of the inclusive government to operate, or at the very least, facilitate a transition. The appointments were inconsistent with the principle of sharing of power, as these must be made with agreement or in consultation with the other principals of the IPA. By acting unilaterally, President Robert Mugabe significantly undermined the potential for national healing in Zimbabwe.

Contrary to the spirit of national healing, ZANU PF leaders have made utterances that are divisive and which have the potential to incite hatred. Such state representatives as the Minister of Defence (Emmerson Mnangagwa), President Robert Mugabe and First Lady Grace Mugabe have made utterances that can be classified as hate speech and that continue to undermine the operation of the IPA. For instance, President Mugabe was aired on the 26th of February 2009 on ZTV dismissing inclusive government benchmarks, including media freedom, as “*nonsensical*” and a product of Western demands.

The conferment of national hero status remains a purely partisan exercise by the ZANU-PF Politburo, rather than that of the inclusive government. This was highlighted by the conferment of National Hero status on the late Retired General Vitalis Zvinavashe.

No concrete measures (legislative or administrative) have been put in place to ensure the political neutrality of traditional leaders. This is exacerbated by the fact that the 9th Schedule of the Constitution of Zimbabwe (Amendment No. 19) Bill, which provides for the political neutrality of traditional leaders, was omitted from the final Act and therefore has no constitutional force or effect.

It was also noted that political appointments still do not meet internationally recognized quotas of gender equality in government ministries, departments and institutions.

5. INSTITUTIONAL TRANSFORMATION

5.1 Summary

The operation of State institutions must be juxtaposed against the Constitution, national laws, and regional and international norms and standards in order to reveal whether there has been a move towards transformation of institutions at the national and local level. This remains one of the least satisfactory issues in terms of compliance with the spirit and letter of the IPA, with absolutely no efforts to commence the vital process of reform and transformation.

5.2 Compliance

None

5.3 Non-compliance

In relation to transformation of the Executive arm of government, there has been no sign of a change in mindset in relation to the streamlining of government in line with available resources for its proper and continued functioning and accountability to taxpayers and other funding partners. The failure to abide by the number of Ministers and Deputy Ministers set out in the Eighth Schedule of the Constitution has placed an unsustainable and unjustifiable financial and administrative burden on the already-suffering public and the fiscus. It has also given rise to the perception that political foes have joined forces and jointly approved the violation the Constitution for the sake of political expediency.

Institutions critical for effective justice delivery, including the police, the office of the Attorney General (AG), the judiciary, the prison service, and the Ministry of Justice and Legal Affairs have failed to evidence any signs of transformation and a return to performing and complying with their constitutional mandate.

The ZRP continues to enforce the law in a partisan manner, and the culture of impunity for police who are perpetrators of human rights violations remains intact. There were documented accounts of police involvement (from the command level to individual police officers) in the continuing assault on the farms. Police have failed to investigate, arrest, and prosecute known and/or identifiable perpetrators of politically-motivated retributive violence described previously. Demands remain for the training curriculum for uniformed forces to be urgently revised with inclusion of experts from civil society for the process or re-orienting members to commence. Recruitment, training and discipline continue to lack transparency and accountability. Of particular concern is the use of weapons of war during the course of ordinary policing. The immediate cessation of routinely arming the police with automatic weapons by the police is of paramount importance, and a consequent return to civilian policing

The contestation over the appointment of the Attorney General continues to remain unresolved. Both the office of the AG, and the AG himself, have consistently failed to demonstrate independence, impartiality and non-partisanship. There are documented cases of interference by the office of the AG in the role and function of the police and the judiciary (particularly the Magistrates' Courts) in relation to the ongoing farm invasions and violence which has ensued thereon. The role of this office in inciting defiance of the ruling of the SADC Tribunal on spurious legal grounds was also noted.

The AG's behaviour in cases relating to political detainees has continued to highlight political interference with the independence of the courts, incitement of the executive to defy court orders, and political persecution and selective application of the law against political opponents of ZANU-PF. The AG's conduct on the 27th of February 2009 in the cases of the *State vs. Jestina Mukoko and Others; The State vs. Kisimusi Dhlamini and Others; The State vs. Concillia Chinanzvavana and Others* where he offered to agree to admit the political detainees on bail on condition that they withdrew all applications against him in the courts was a crass exhibition of lack of independence and impartiality as well as an assault on their constitutionally-guaranteed fundamental rights and freedoms. Further, the A-G's office has continued to abuse Section 121 of the Criminal Procedure and Evidence Act in order to deny political detainees bail.

The courts too continue to err on the side of partiality. One example was seen on the 4th of February 2009, in the bail application of *Jestina Mukoko vs. the State*, in which the judge made the contestable decision to dismiss the application reasoning that the accused had to be placed on remand first before bail was granted, although the remand placement was being challenged. This precedent clearly indicates the courts abdication of its duty to protect the rights of the individual, leaving them subject to the whims and excesses of the executive arm of government and its unaccountable agents. A further example is the documented case of the Chief Magistrate receiving instructions from the AG's office at a meeting with police and representatives of the Ministry of Justice (David Mangota, the Permanent Secretary) to deny bail to political opponents and fast-track prosecutions and convictions of farmers still on their land and protected by the ruling of the SADC Tribunal and other orders of local courts. No visible attempts have been made to address the institutional deficiencies of the courts (superior and local), a Code of Conduct for judicial officers remains outstanding, and the Rule of Law continues to be eroded without remedy.

6. RESPECT FOR HUMAN RIGHTS

6.1 Summary

The period under review showed the State's continued struggle to conform to international, regional and domestic human rights norms. The police and prison officials continued to exhibit tendencies and mannerisms totally divorced from the scope and spirit of the IPA. The minimal indications of compliance concerned only political meetings and gatherings. However the phenomenon of arrests and detention of human rights defenders and the wanton invocation of the infamous Section 121 of the Criminal Procedure and Evidence Act continued unmitigated.

6.2 Compliance

Respect for human rights and fundamental freedoms in the period under review was mostly in the realm of political gatherings and meetings. The MDC was able to hold a rally at Glamis Stadium following the inauguration of the Prime Minister, and CSOs were able to carry out activities in some areas previously considered impenetrable. A example was that of ZimRights, which was able to hold meetings at Neshuro and Maziva. A final facet of compliance was action in accordance with the bail order granted to Jestina Mukoko and other political detainees on the 5th of March 2009, after a long list of previous defiance.

6.3 Non-compliance

The period under review was witness to a single disruption of a legitimate gathering, involving the Spokesperson of the National Constitutional Assembly (NCA), Maddock Chivasa, and the Youth Forum. Unlawful arrests and detentions, human rights abuses committed by police and other state and non-state actors were also perpetuated through incidents involving 72 University of Zimbabwe students as well as the continued detention of Jestina Mukoko, Chris Dhlamini and other political detainees. Activists from pressure group Women of Zimbabwe Arise (WOZA) were arrested at their traditional Valentines' Day demonstration, but this time police went further to detain lawyers who were representing them. NCA demonstrators also met the same fate in Masvingo. Protracted struggles were fought to secure medical treatment, which was denied to political detainees at Chikurubi Remand Prison, with prison officials adamant in denying them access to the same. Other notable arrests during the period included the arrest of Chris Jarrett and four other farmers in Matabeleland North as well as the 13th of February 2009 abduction and subsequent detention of Deputy Minister designate and MDC National Treasurer, Roy Bennett.

7. FREEDOM OF EXPRESSION

7.1 Summary

The media environment in Zimbabwe remains repressive, with no demonstrable movement towards compliance. There have only murmurings and speculation of the advent of a new daily newspaper (*News Daily*) as well as another unnamed publication. Freedom *after* expression remains a threat for the media in Zimbabwe even with assurances from the political parties that they are committed to the letter and spirit of the IPA.

7.2 Compliance

The JOMIC chairperson for the month of February 2009, Welshman Ncube, urged Zimbabwe's public and private media to shun hate language and work towards promoting national healing. Newly appointed Media, Information and Publicity Deputy Minister, Jameson Timba, promised to restore media freedom in Zimbabwe by immediately returning closed publications and freeing the airwaves in accordance with Article 19 of the IPA. Concrete action in relation to such statements, however, was not seen.

7.3 Non-Compliance

On the 16th of February 2009, the Committee to Protect Journalists wrote to Zimbabwe's new Prime Minister Morgan Tsvangirai urging him to act swiftly and scrap repressive media laws and lift the ban on several newspapers including the *Daily News* forced to close six years ago by the Media and Information Commission, a statutory media regulatory body. Despite this, there was no movement by legislators to tackle this issue of legislative repeal, amendment in Parliament.

Overall coverage in the State media remained biased towards ZANU-PF, with important events such as press conferences and hospital visits by the Prime Minister and members of his party being sidelined in favour of ZANU-PF events. A detailed review of the same appears below.

The political environment however, remains volatile, as manifest in the arrest on the 21st of March 2009 of 63-year old poet Julius Chingono after what the police deemed to be subversive presentations. Mr Chingono was shortly detained after presenting a poem entitled "My Uniform" which captures how the corrupt police officers used what he termed uniformed strategies during trying time for survival. This case was documented in addition to the outstanding matter of freelance journalist, Andrison Manyere, who remained incarcerated at Chikurubi Maximum Security Prison on terrorism charges together with other political abductees and detainees.

Although these statistics show a significant improvement in the official media's coverage of the country's main political parties, they do not fully address or do justice to the bias that still discredits their coverage of the activities of the Inclusive Government. This bias has chiefly manifested itself through the suffocation and censorship of important MDC activities and announcements; story angling, prioritization and story placement.

Free expression issues were scarcely dealt with in the media during the months of February and March. The public media carried 15 stories on media issues and the private media featured seven. The inclusive government has pledged to ensure the emergence of "a free and diverse media" in line with Article 19 of the IPA. But media analysis reveals that the inclusive government sent out discordant messages on the issue of media freedom and freedom of expression.

Fig 1: Stories on the parties in the Government Press

Medium	Political Parties		
	ZANU PF	MDC-T	MDC-M
<i>The Herald</i>	12	25	4
<i>Chronicle</i>	16	9	7
<i>The Sunday Mail</i>	5	2	1
<i>The Sunday News</i>	1	2	2
<i>Manica Post</i>	4	4	1
Total	38	42	15

Fig 2: ZBC stories on parties in the inclusive government

Station	Political parties		
	ZANU PF	MDC-T	MDC-M
ZTV	78	34	7
Spot-FM	43	20	2
Radio Zimbabwe	32	22	3
Total	153	76	12

Fig 3: Voice distribution in the government Press

Medium	Political Parties' voices		
	ZANU PF	MDC-T	MDC-M
<i>The Herald</i>	12	33	4
<i>Chronicle</i>	22	11	7
<i>The Sunday Mail</i>	5	3	1
<i>The Sunday News</i>	1	3	2
<i>Manica Post</i>	4	7	1
Total	44	57	15

Fig 4: Voice distribution on ZBC

Station	Political parties' voices		
	ZANU PF	MDC-T	MDC-M
ZTV	84	35	5
Spot-FM	45	17	3
Radio Zimbabwe	24	18	1
Total	153	70	9

XV. 2ND CISOMM REPORT

CISOMM's second report is a second example of what a policy implementation monitoring initiative can produce.

CIVIL SOCIETY MONITORING MECHANISM

APRIL 2009

EXECUTIVE SUMMARY

In April, the Civil Society Monitoring Mechanism (CISOMM) noted compliance and non-compliance with the Interparty Political Agreement under seven broad categories. The findings of the April report are summarised below:

1. ECONOMIC RECOVERY

Compliance

- Three-way talks between labour, business and government initiated under the framework of the resurrected Tripartite Negotiating Forum (TNF).
- A Sports, Tourism, Image and Communication Taskforce formed to promote tourism in advance of the 2010 World Cup.
- Medium- and long-term financial planning initiated by the inclusive government.
- Credit lines secured from SADC, COMESA, South Africa and Botswana.
- Voucher system of payment for civil servants abolished.

Non-compliance

- National Economic Council, a mandatory body under the IPA, not formed by the end of April.
- Economic programs, including the Short Term Economic Recovery Plan (STERP), formulated and implemented without public consultation or the input of the National Economic Council.
- Agricultural production disrupted by a fresh wave of farm invasions; complicity of state security forces reported; no decisive action taken by the inclusive government.
- International donors discouraged from supporting Zimbabwe's economic recovery by failures of the rule of law.

2. HUMANITARIAN AND FOOD ASSISTANCE

Compliance

- International aid organisations able to operate without political interference.
- Cholera outbreak subsides, in part due to interventions by humanitarian aid organisations.

Non-compliance

- Government-sponsored food and agricultural assistance distributed along political lines in many parts of the country, often with unelected ZANU-PF officials overseeing processes that should have been facilitated by elected MDC officials.
- Aid distributions by international organisations scaled back in 26 of 62 districts.
- No steps taken by the inclusive government to address prison conditions.

3. CONSTITUTIONAL REFORM

Compliance

- Select Committee of Parliament established one day before the April 13 deadline set by the IPA.

Non-compliance

- Subcommittees of the Select Committee of Parliament, which are to incorporate civil society representatives, not established as of the end of April.
- No apparent preparations made for All Stakeholders Conference, which must be held by July 13 according to the IPA.
- Political parties dominate constitutional reform process; Select Committee of Parliament and Minister of Constitutional and Parliamentary Affairs fail to conduct significant public consultation or incorporate civil society in discussions on how constitution-making should be carried out.

4. POLITICAL JUSTICE AND TRANSITION

Compliance

- Reduced cases of political violence reported by civil society.
- Government distribution of food aid depoliticised in some areas of the country.
- Civil society allowed to conduct programs aimed at ending violence and promoting national healing without state interference.

Non-compliance

- Violence continues to seriously impact the political environment.
- Administration of social services remains highly politicised in many parts of the country.
- Elected MDC-T officials kept from exercising their duties by unelected ZANU-PF officials.
- Inclusive government fails to take steps to ensure the equitable distribution of national resources among geographic regions.

5. INSTITUTIONAL TRANSFORMATION

Compliance

- None.

Non-compliance

- Three prison officials arrested for an alleged role in producing a documentary on the condition of Zimbabwe's prisons.
- Police and military officers make unauthorised arrests and ban political rallies without justification.
- Human rights defenders, political activists and journalists persecuted through arrests, detentions and prosecutions.
- Edmore Hwarare, a ZANU-PF activist, released from police custody on the orders of Justice Minister Patrick Chinamasa, despite overwhelming evidence of guilt in a fraud case.
- No steps taken by the inclusive government to depoliticise state institutions, despite IPA requirements to conduct trainings for military forces and make efforts to restore the rule of law.

6. RESPECT FOR HUMAN RIGHTS

Compliance

- Rallies, meetings and workshops by political parties and civil society held with relatively little political interference.
- Formation of the Zimbabwe Human Rights Commission announced; but the role of the broader human rights community in forming the commission not specified.

Non-compliance

- Violence, intimidation, arrests and prosecutions used extensively by state security agents against human rights defenders, political activists and journalists.
- No steps taken by the inclusive government to establish the whereabouts of missing MDC activists.

- University students arrested or expelled following peaceful protests over fees.
- Fresh farm invasions facilitated by state security agents; senior government officials implicated; no decisive action taken by the inclusive government.

7. FREEDOM OF EXPRESSION

Compliance

- Preparations made for the launch a new independent daily newspaper.

Non-compliance

- Inclusive government fails to establish the Zimbabwe Media Commission by the end of April, casting doubt on the process of registering new media houses and journalists.
- Public media institutions fail to offer fair and balanced coverage.
- Journalists arrested for publishing articles critical of state security agents; others face continued prosecution on trumped up charges.
- Information Minister Webster Shamu threatens that “defiant news organisations” that publicise “Cabinet deliberations without authorisation... risk being punished.”

INTRODUCTION

What follows is the second report by the Civil Society Monitoring Mechanism (CISOMM), a grouping of Zimbabwean organisations affiliated for the purpose of assessing the implementation of the Inter-party Political Agreement (IPA) signed on September 15, 2008 and evaluating the operation of the inclusive government which the IPA established. Whereas the first report covered January through March 2009, this report covers only the month of April. For the remainder of the lifespan of the inclusive government, CISOMM will release monthly reports.

In April, the inclusive government took several steps towards the implementation of the IPA. A Select Committee of Parliament was formed to oversee the constitution-making process, international aid organisations were allowed to operate largely without interference and some political detainees were released from police custody. However, the inclusive government failed to de-politicise government institutions and did not take many of the concrete actions required by the IPA. For example, the inclusive government has not yet established a National Economic Council or subcommittees to the Select Committee of Parliament. Moreover, in April, violence and the breakdown of the rule of law continued to mar Zimbabwe’s political environment.

1. ECONOMIC RECOVERY

1.1 Summary

In April, the inclusive government implemented measures designed to promote financial stability and economic recovery in Zimbabwe. However, the inclusive government failed to comply with specific requirements of the IPA, which include the establishment of a National Economic Council and the encouragement of agricultural production. Moreover, the failure to abide by the rule of law created some hesitancy among the international donor community, setting back prospects for economic recovery which is dependent on budgetary and balance of payments support.

1.2 Compliance

The Short Term Economic Recovery Plan (STERP), which was signed in March, was an important first step by the inclusive government to meet its economy-related obligations under the IPA. However, as specified by the agreement, the inclusive government is not only responsible for formulating an economic recovery strategy, but also for implementing it and addressing issues such as food security, poverty, inflation, interest rates and exchange rates. In April, the inclusive government took demonstrable steps to execute STERP and promote economic recovery in Zimbabwe.

Of particular significance was the resumption of talks by the Tripartite Negotiating Forum (TNF), which brings together leaders from business, labour, and government. The TNF, meeting for the first time since breaking off talks in June 2007, discussed various matters relating to economic recovery and labour relations. The parties to the TNF also set up a technical committee to assess the agreements made before the disruption of talks two years ago.

In April, the inclusive government sought to promote tourism by forming a Sports, Tourism, Image and Communication Taskforce, headed by Information and Publicity Secretary George Charamba. The Taskforce was mandated to implement programs that will restore Zimbabwe's status as a premier travel destination. Specifically, the taskforce has been asked to prepare Zimbabwe for the economic opportunities presented by the 2010 World Cup in South Africa.

The inclusive government also began working on an economic planning blueprint that would supplement STERP's short-term agenda with medium- and long-term plans for promoting financial stability and economic growth. The Economic Planning and Investment Promotion Deputy Minister stated that the development of this plan will be "stake-holder driven." However, it is yet to be seen how the inclusive government will incorporate the views of the public into future economic planning.

The inclusive government also succeeded in securing credit lines from neighboring countries in April. Zimbabwe received pledges of credit lines of \$200 million each from SADC and COMESA, and additional bilateral pledges from South Africa and Botswana. Welshman Ncube, the Industry and Commerce Minister, indicated that these lines of credit would be extended to Zimbabwean entrepreneurs to assist in the rebuilding of Zimbabwe's domestic economy. However, it is unclear what conditions need to be fulfilled in order to access these lines of credit and it is thus unclear how easily such credit will be available to Zimbabwean companies. Presumably, if the loans are guaranteed by the respective governments, banks lending criteria may be relaxed to some extent. Nonetheless, the operating environment for Zimbabwean companies remains hostile and the lending policy of banks is likely to remain cautious. It is yet to be seen how much credit is actually extended rather than merely available subject to conditions.

Finally, in April, the government abolished the voucher-system of payment for civil servants, allowing them to collect their pay in hard currency. Although the level of pay for civil servants still remains an issue of vital concern, the shift to direct payment has greatly improved the lot of workers who had enormous difficulty redeeming vouchers at banks.

1.3 Non-compliance

As outlined above, several significant economic initiatives were implemented in April. These programs may help the inclusive government to achieve the goal of economic stability and growth set out by the IPA. However, without budgetary and balance of payments support their impact is likely to be marginal. The IPA does more than just impose a general obligation to work towards economic recovery, and imposes specific duties on the inclusive government. These concrete requirements of the agreement have not been complied with by the inclusive government.

Most importantly, by the end of April, the inclusive government had yet to establish a National Economic Council. According to the IPA, the Council, which is to be comprised of representatives from the signatory political parties and various other economic sectors, ought to be the body which formulates economic plans and programs. The role of the inclusive government is to approve the programs developed by the National Economic Council. Therefore, the inclusive government has violated the IPA by designing and implementing economic programs before constituting the Council. Furthermore, the fundamental purpose of the creating a National Economic Council is to allow the voices and interests of diverse stakeholders to be considered in economic decisionmaking. The unilateral formulation of STERP by the inclusive government and the subsequent implementation of economic programs without public input violates the IPA's spirit of inclusivity and consultation.

The IPA also obligates the political parties to "create conditions that would ensure that the 2008/2009 agricultural season is productive." In April, agricultural production was severely hampered by a fresh wave of farm invasions that coincided with the harvest season. Often, farm produce rotted on the plant or in storage vessels as workers were prevented from conducting farm business by illegal occupiers. In many cases, the invasion of a farm was led by, or done on behalf of, senior officials in the inclusive government or political parties. The invasions were often supported by police or military officers. This disruption of farm operations is a direct violation of the undertakings by the parties to the IPA to promote agricultural productivity.

The inclusive government's ability to ensure "economic stability and growth in Zimbabwe" and thus fulfill its obligations under the IPA was also undermined in April by the continued failure to abide by the rule of law in the country. Many international donors have declared that they will not provide aid or credit to Zimbabwe until the inclusive government proves its ability to rein in undemocratic elements and behavior and ensure minimum levels of accountability and transparency. These donors,

which include the United States and Britain, have cited farm invasions, politically-motivated arrests and breaches of the IPA as reasons for not providing aid that could help turn around Zimbabwe's battered economy.

2. HUMANITARIAN AND FOOD ASSISTANCE

2.1 Summary

The most recent agricultural season resulted in a large-scale drop in crop production due to a lack of agricultural inputs, social upheaval and the displacement of farm workers. There was thus extensive need for humanitarian and food assistance. While international organisations were largely successful in distributing food aid without political interference, many organisations scaled back operations in April, leaving certain sectors of Zimbabwean society vulnerable to acute dietary shortages. Meanwhile, government food aid and agricultural inputs were often distributed along political lines and the situation in Zimbabwe's prisons continued to deteriorate without remedial action by the inclusive government.

Only isolated pockets of the country reported a good harvest from the most recent agricultural season, so the distribution of food aid was essential in April. During the month, 32 out of 62 districts reported the presence of humanitarian agencies distributing food aid in cases of extreme vulnerability. In 26 districts, food assistance has been scaled down, even though in many of these areas households report insufficient food supplies.

In April, aid organisations were, for the most part, able to operate without political interference. There were no reported cases of civil society organisations in the humanitarian sector being prevented from operating. Many of these agencies have indicated an unwillingness to partner with organs of the inclusive government that might compromise their ability to reach all vulnerable groups. Downscaling of humanitarian assistance was due entirely to the shrinking of aid by the World Food Programme (WFP) and other international organisations.

Reports from United Nations agencies like the World Health Organisation (WHO) and the United Nations Office for the Co-ordination of Humanitarian Affairs (OCHA) indicate that there is a downward trend in reported cholera cases. But despite this welcome decrease, the Zimbabwean Health Cluster, reporting under the OCHA framework, has warned that the population remains at risk of another major outbreak as long as the water and sanitation reticulation infrastructures are not revitalised.

2.3 Non-compliance

Although international agencies and local organisations were able to distribute food assistance without interference in April, government provision of food and agricultural inputs was highly politicised. The operations of the Grain Marketing Board (GMB) were extremely limited in April, but in areas across the country where the GMB was active, there were reports of the abuse of food distribution mechanisms. For example, in Mashonaland West, MDC councillors were not allowed to officiate at the GMB food distribution. Instead, ZANU-PF shadow councillors were carrying out these functions, even though the elected councillors were present.

With reports of the widespread failure of the most recent harvest, food assistance was extremely important in April to stave off starvation in many parts of the country. However, in its April report, OCHA indicated that some organisations stopped funding the seasonal Vulnerable Group Feeding (VGF) Programme, maintaining only distribution taking place under the year-round safety net activities. The report noted that food distribution had been scaled down in 26 of 62 districts. Many households that experienced cuts were in desperate need of food assistance and were no longer able to meet their dietary needs.

The situation for inmates in prisons throughout Zimbabwe is quickly deteriorating, due to lack of food, insufficient medical services, and inadequate clothing and blankets. In April, the inclusive government took no steps to remedy the situation, which is worsening with the onset of the cold season. The Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender (ZACRO) reported that at least two inmates were dying in prison every day due to hunger and disease. Many prisoners lack clothing and must move about the prison naked, a violation of the right to human dignity. Civil society organisations note the efforts of the International Committee of the Red Cross (ICRC), to assess the situation in Zimbabwe's prisons and call upon the inclusive government to work closely with the ICRC to ensure that prisoner's rights are respected.

3. CONSTITUTIONAL REFORM

3.1 Summary

In April, the inclusive government appointed a Select Committee of Parliament, satisfying the timeline set out by the IPA. However, very little has been done to demonstrate that the inclusive government will facilitate a truly people-driven constitu-

tional reform process. Rather, the process described in Article 6 of the IPA has remained the sole preserve of the legislators of the country. As a result, the public has generally not been excited by the process as it has proceeded, leading it to be viewed as an elitist affair, similar to the negotiations which led to the signing of the IPA.

3.2 Compliance

Article 6 of the IPA requires the establishment of a Select Committee of Parliament within the first two months after the inception of the new government. Therefore, April 13, 2008 was the deadline for establishment of the committee. On April 12, 2009, the Speaker of the House of Assembly announced a 25-member Parliament Select Committee. According to a decision of the Committee for Standing Rules and Orders, nine members of the Select Committee were chosen by ZANU-PF, nine by MDC-T, three by MDC-M and one by chiefs. Additionally, three were chosen by Parliament's presiding officers. The various parties are represented in the Committee as follows:

MDC-T

- Amos Chibaya
- Gladys Dube
- Ian Kay
- Cephas Makuyana
- Evelyn Masaiti
- Editor Matamisa
- Douglas Mwonzora
- Jabulani Ndlovu
- Brian Tshuma
- Jessie Majome
- Gift Chimanikire

MDC-M

- David Coltart
- Dalumuzi Khumalo
- Edward Mkhosi

ZANU-PF

- Flora Buka
- Walter Chidakwa
- Edward Chindori-Chininga
- Joram Gumbo
- Martin Khumalo
- Paul Mangwana
- Tambudzai Mohadi
- Olivia Muchena

- Monica Mutsvangwa
- Thokozani Mathuthu

CHIEFS

- Chief Fortune Charumbira

The IPA is silent on who should chair the Select Committee of Parliament, leaving room for heated debate between the inclusive government and civil society. On April 21, Douglas Mwonzora of MDC-T and Paul Mangwana of ZANU-PF were named as co-chairs of the Select Committee, with the political parties suggesting that they might be replaced by an independent chair drawn from outside of Parliament. In May, Senator David Coltart, was added to the co-chairing arrangement as a representative of MDC-M. To date, no indication has been given as to whether the principals to the IPA are still considering an independent chair for the committee.

3.3 Non-compliance

The only deadline concerning the constitution-making process which fell within April was the April 13 cut-off date for establishing a Select Committee of Parliament. As described above, this deadline was met. However, there are other mandatory aspects of Article 6 that are not accompanied by concrete deadlines. The inactivity of the inclusive government and its Select Committee, give reason to suspect that the full scope of constitutional reform activities described in Article 6 may not be realised.

Of particular note is the failure of the Select Committee of Parliament to establish subcommittees. The IPA lists the establishment of subcommittees as the first task of the Select Committee. Indeed, the subcommittees are supposed to be the mechanism by which voices in civil society are allowed to input into the constitution-making process. The failure to establish these bodies brings into question the lawmakers' commitment to an inclusive approach to constitutional reform.

Moreover, according to Article 6, one of the main duties of the Select Committee is to engage in public consultation. Although the Minister of Constitutional and Parliamentary Affairs, Eric Matinenga, has addressed civil society, the Select Committee has not yet engaged the public on the appropriate constitution-making process. This is particularly worrisome given the looming July 13 deadline for hosting an All Stakeholders Conference. Without meaningful consultation on how the conference should be organised and who should attend, it will have to be postponed or will become an event dominated by the political parties. Furthermore, the ability to engage the public in the process continues to be constrained by a lack of plurality and restrictions in media space (see below).

While Article 6 clearly states that the Select Committee is to be made up of representatives of the parties, the same document emphasises that the constitution-making process must be “inclusive and democratic” and “driven by the people.” When the IPA was incorporated into Amendment 19, Article 6 was not included in the published Act (even though it was included in the Bill passed by Parliament), suggesting that the political parties can legally alter the constitution-making process without violating the Constitution or without further constitutional amendment. While this omission opens the door to political manipulation of the constitutional reform process, it also offers political leaders the opportunity to alter Article 6 to better incorporate the Zimbabwean public in constitution-making. For example, members of civil society could be added to the Select Committee or could chair subcommittees, or the All Stakeholders Conference could be given final authority for preparing a constitutional proposal to be sent to a referendum. Such changes would embody the IPA's stated spirit of inclusivity and public participation. It should be noted that while the IPA committed the parties to the enactment of Constitutional Amendment 19 (establishing the inclusive government), there is no similar provision requiring the passage of a new constitution approved in a referendum through parliament. A two-thirds majority will still be required, which no party alone can muster. This suggests that the final product may be the result of a political compromise between parliamentary parties rather than a reflection of public input.

4. POLITICAL JUSTICE AND TRANSITION

4.1 Summary

In April, there were some signs of progress in the realm of political justice and transition. Violence subsided in some areas and a number of government officials began to execute their responsibilities in a more impartial, less partisan manner. However, the inclusive government failed to make satisfactory efforts to contain political intimidation and harassment and to promote an open political environment. Moreover, the inclusive government has not included civil society in the design and implementation of programs to promote national healing.

4.2 Compliance

In April, some civil society organisations indicated a slight reduction in reported cases of violence from across the country. A few areas that had formerly been “no go areas” for MDC supporters have apparently been opened, with the MDC being able to conduct consultative meetings. Reports were also made that aid distribution was de-politicised in some areas. For example, in Gutu Central, the District Administrator, who had previously refused MDC officials access to agricultural inputs, began allowing an MDC councillor to purchase such supplies. Although improvements in the areas of political violence and de-politicisation of service delivery were relatively minor, the significance of a visible change in behavior or policy from some government and political party officials should not be discounted.

The inclusive government also appeared to be making efforts to ensure that women were represented in new government offices.

In the area of national healing, cohesion and unity, civil society was able to conduct many programs aimed at ending the culture of violence, intolerance and hate speech that characterised the 2008 election period. Some elected officials from both MDC-T and ZANU-PF actively promoted reconciliation and peaceful co-existence. The Ministers of State responsible for national healing held a consultative meeting with local church leaders and discussed possible reconciliation and justice mechanisms.

4.3 Non-compliance

Although there was a slight decrease in reported violence, intimidation and aggression continued to seriously impact the political atmosphere in April. Many of the acts of violence reported by civil society organisations were related to farm invasions (see 6. Respect for Human Rights). However, other incidences involved attacks at party gatherings or attacks made because of party affiliation. These incidents involved aggressors from both ZANU-PF and the MDC formations. Often the police refused to investigate these incidents.

In many areas, the administration of social services remained highly politicised. There were multiple reports by civil society organisations of agricultural inputs being distributed along political lines. In Mashonaland East, farming supplies were sold to select individuals affiliated with ZANU-PF. These individuals then sold the inputs to the general public at exorbitant prices.

In April, the activities of elected MDC-T officials in their constituencies were sometimes interrupted by local ZANU-PF officials. In Mutasa North, a sitting parliamentarian for MDC-T was denied access to his constituency office, which is being used as a ZANU-PF office. Similar incidents occurred in other parts of the country.

Although the Ministers of State responsible for national healing have made a few efforts to discuss with civil society appropriate avenues for pursuing justice and reconciliation, consultation has been neither broad nor inclusive. Moreover, these ministers have talked derisively about civil society initiatives to discuss national healing and transitional justice mechanisms.

Civil society organisations have noted that, as of the end of April, the inclusive government has not taken any significant steps to satisfy its obligations to ensure an equitable distribution of national resources among geographic regions. Moreover, in workshops held by civil society organisations, traditional leaders have demonstrated a lack of trust in the inclusive government and have indicated that government officials have made no efforts to reach out to them to explain the meaning or requirements of the IPA. In fact, the only interactions reported by traditional leaders are interventions by ZANU-PF to encourage them to stick to the “old order.”

5. INSTITUTIONAL TRANSFORMATION

5.1 Summary

In April, public bodies and institutions exhibited an ongoing unwillingness to make a progression towards more lawful, transparent and accountable service delivery to the people of Zimbabwe. Specifically, the Zimbabwe Republic Police (ZRP), Zimbabwe Prison Services (ZPS), the Ministry of Justice and the Attorney General's Office have continued to predicate their day-to-day operations on expedient political considerations, thereby failing to stabilise the political environment in the country. Moreover, the inclusive government did not satisfy the requirements of the IPA to implement programs aimed at ensuring the rule of law. As such, there remains no demonstrable movement towards the independence of state institutions or their conformity with the Constitution, national laws, or regional and international standards.

5.2 Compliance

None.

5.3 Non-compliance

The IPA requires that all state institutions should be free from political control. In April, state organs, including the uniformed forces and the justice delivery system, demonstrated a lack of independence and a tendency to execute their duties along political lines.

On March 31, 2009, the South Africa Broadcasting Corporation (SABC) aired a documentary on the state of prisons in Zimbabwe on the program, *Special Assignment*. Three prison officials suspected of being involved in the production of the film were arrested on April 3 and charged under the Official Secrets Act. Even though the charges later fell away, they were still summarily dismissed from the Prison Services, and two of the men had new charges leveled against them.

In Buhera constituency, army personnel have instigated arrests, thereby usurping the duties of the police force. Army officials in the area are reportedly giving instructions to court officials on how they should treat suspects. Moreover, police officers in the constituency have continued to make arrests along political lines. In some places, the police have used their authority for overtly political activities, such as banning rallies by the MDC. Similar accounts of the abuse of power by police and army officials have been reported across the country.

The ongoing detention and prosecution of human rights defenders, political activists and journalists demonstrates the lack of institutional transformation in the ZRP, Zimbabwe Prison Services (ZPS) and the Attorney General's Office. MDC officers Kisimusi Dhlamini and Ghandi Mudzingwa and freelance photojournalist Andrisson Manyere, who were abducted in November 2008, were still in custody at the end of April on what many believe to be trumped up charges. Although the three were granted bail and released on April 9, the Attorney General's Office appealed the bail order. The appeal was granted by Justice Bhunu even though a seven-day limit for appeal under the Criminal Procedure and Evidence Act had expired. The defence team was never served with notice of the appeal. The three were rearrested, with Dhlamini and Mudzingwa being placed under police guard at Avenues Clinic, where they are receiving medical treatment for injuries they suffered at the hands of state agents during their abduction and *incommunicado* detention. Many other activists and journalists, including Jestina Mukoko, continue to endure stringent bail conditions and face prosecution on unfounded charges.

In April, the Minister of Justice, Patrick Chinamasa, manipulated the release of a former ZANU-PF Masvingo provincial political commissar and self-proclaimed President of the Zimbabwe Sugar Milling Industry Workers Union, Edmore Hwarare, who was accused of stealing 380 tons of sugar. Prosecutors in Chiredzi remained flabbergasted at the release of Mr. Hwarare, notwithstanding the fact that 300 witnesses had been lined up to testify against him. Officials in the Ministry of Justice have indicated that Minister Chinamasa personally ordered Mr. Hwarare's unlawful release.

The IPA also calls for the inclusive government to take concrete steps to depoliticise state institutions and restore the rule of law. For example, the IPA requires that members of the uniformed services be trained in human rights, humanitarian law and statutory law. Although civil society has conducted some small-scale training workshops, no comprehensive training program or agenda has been implemented or discussed. Neither has the inclusive government met its obligations to undertake initiatives to ensure that "institutions observe the principles of the rule of law," penalise those who violate laws governing state institutions, or depoliticise state recruitment policies. In short, the inclusive government has taken few, if any, steps towards transforming state institutions.

6. RESPECT FOR HUMAN RIGHTS

6.1 Summary

In April, the inclusive government promised the imminent establishment of a constitutionally-mandated human rights commission. However, the government has failed to make significant progress on ensuring that human rights are respected on the ground. Indeed, a fresh outbreak of violence on white-owned farms threatens the credibility of the inclusive government in this respect.

6.2 Compliance

Although the human rights environment in Zimbabwe did not improve drastically in April, the month offered some positive trends. To a large extent, political parties and human rights organisations were able to enjoy the freedom of association and held many rallies, public meetings and workshops. Although MDC-T reported that one of its rallies was cancelled due to a police ban, it held other large rallies without incident. Some local human rights organisations reported that in April they often

had improved access to the public in rural areas, with police officers readily offering permission and even protection for their gatherings.

In April, the Minister of State in the Prime Minister's Office, Gordon Moyo, stated that the Zimbabwe Human Rights Commission would be established sometime in May. The Commission, if made truly independent and given adequate powers, could demonstrate the inclusive government's commitment to upholding human rights in Zimbabwe. However, the government has not indicated the method that will be used to select Commissioners and has given no indication that the larger human rights community will be involved in setting up the Commission.

6.3 Non-compliance

As indicated in the preceding section, in April, the rule of law was not respected, leading to the arbitrary arrest, detention, and prosecution of many human rights defenders, political activists, and journalists. Violence and intimidation also continued to be used as a political tool by state security agents and certain elements of Zimbabwean society. Moreover, the inclusive government has taken no measures to establish the whereabouts of seven MDC activists who were abducted in November 2008 and are still missing. Civil society organisations that deal with victims of political violence indicate that the actual number of missing persons is much higher, and the seven known missing are only those whose abductions were witnessed.

In April, many university students took to the streets to protest exorbitant education fees. In some instances, the students were assaulted and arrested. On April 22, 22 students from Great Zimbabwe University were arrested during a peaceful protest and detained for periods up to seven days. Students were also arrested at a similar demonstration at the National University of Science and Technology. The repressive Public Order and Security Act (POSA) continued to be cited by police officers as justification for the arrest and detention of individuals exercising their right to assembly.

Invasions of white-owned farms intensified in April. The invasions were often accompanied by serious assaults on farm workers whom have often required medical attention as a result. There is one reported death resulting from the invasions. A single NGO, the Counseling Services Unit, received 15 new clients in April, most of whom were victims from attacks on farms in the Chegutu area. Often, farm invasions were conducted with the assistance of army or police personnel. In a prominent case, Edna Madzongwe, the President of the Senate, has used police officers to guard the home which she acquired after producing a fraudulent letter of acquisition. Later, her guards tortured and executed a man who was allegedly stealing oranges from the farm at night. Many farm workers and owners have been arrested by the police after attempting to resist illegal invasions of their property.

7. FREEDOM OF EXPRESSION

7.1 Summary

The media landscape in Zimbabwe registered no change in April. New media houses were not registered, state media institutions did not alter their practices, and journalists were subjected to continued intimidation and harassment. However, the announcement of the possible publication of a new daily newspaper provides hope that diverse opinions will be presented to the public.

7.2 Compliance

While there was little done in April to change the formal legal structure of the media in Zimbabwe, several developments signaled that new voices may soon be heard in the popular press. There were media reports suggesting that the editorial staff at *The Herald* will undergo changes in the near future. If these changes occur, they may help the staff of *The Herald* to shift the paper towards objectivity and sound journalistic standards. Also in April, Trevor Ncube, publisher of *The Standard* and *The Independent*, announced the appointment of senior editors of *NewsDay*, a new daily newspaper that he hopes to launch in the next few months. Rumors have also circulated in the media and elsewhere about the possible launch of an independent daily by the publishers of the weekly *Financial Gazette*. While the status of registration of these new outlets remains unclear, the addition of independent daily newspapers could offer alternatives to *The Herald* and force that paper to offer solid reporting in order to compete in the market.

7.3 Non-compliance

The IPA obligates the inclusive government to immediately undertake a process of registration and re-registration of media outlets and journalists according to the Broadcasting Services Act and the Access to Information and Protection of Privacy

Act. Constitution of Zimbabwe Amendment (No. 19) Act disbanded the Media and Information Commission, which was the authority tasked with registering media houses and journalists, and replaced it with the Zimbabwe Media Commission. Despite promises that the Commission would be in place by the end of April, Parliament has yet to constitute that body and therefore registration of independent media houses and journalists has not been able to proceed.

Moreover, existing public media institutions, such as the Zimbabwe Broadcasting Holdings (ZBC) and the Zimpapers' stable, have not shown the much needed paradigm shifts demanded by the IPA. ZANU PF is still portrayed with ingratiating partisanship, while the political activities of the MDCs are rarely given any coverage, or when covered, are portrayed in a negative light. Whenever there is coverage of MDC officials it is usually in the context of the government work undertaken outside government. There is effectively still a media blackout relating to the MDCs.

April also saw the continued harassment and intimidation of Zimbabwean journalists. Photojournalist Shadreck Manyere was back in police custody at the end of the month following a decision by a High Court Judge to grant the state's appeal of bail conditions, despite the fact that the time period specified for such an appeal had lapsed. The editor and a journalist from the state controlled *Chronicle* were charged with criminal defamation in Bulawayo for publishing a story which alleged police involvement in a maize scandal at the Grain Marketing Board.

The repressive media environment is promoted by officials at the highest levels of the inclusive government. On April 24, Information Minister Webster Shamu threatened that "defiant news organisations" that publicise "Cabinet deliberations without authorisation... risk being punished."

It is essential that the media, particularly the electronic media, is opened to a plurality of media houses in order to disseminate the values of the IPA and to foster debate on issues around transitional justice and constitution-making.

CONCLUSION

In April, the inclusive government took significant steps to implement the IPA and resolve Zimbabwe's political, social and economic crisis. In particular, progress was made through the implementation of economic recovery programs and the liberalisation of the operating environment for international aid organisations, civil society groups and political parties.

However, the inclusive government failed to meet many of the requirements of the IPA. Specifically, the inclusive government did not make sufficient efforts to restore the rule of law in the country. Violence and political persecution continued to significantly impact the political environment in the country. There was also not significant space provided for civil society and the general public to contribute to the constitution-making process or other matters of vital concern. Moreover, the inclusive government did not take many of the concrete steps required by the IPA, such as forming a National Economic Council and conducting training with the uniformed services. For these reasons, the public's expectations in terms of the speed and earnestness of the inclusive government's compliance with the IPA have not been satisfied. These matters must be addressed by the inclusive government in the coming months to ensure that the promises of the IPA are realised.

