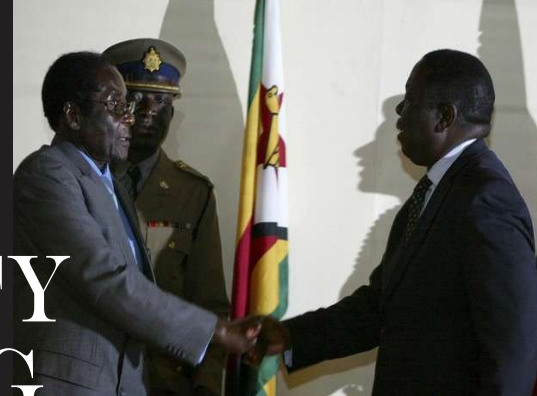




CIVIL SOCIETY MONITORING MECHANISM (CISOMM)



January - March 2009

Contents

Foreword.....	3
General Overview and Background to the GPA.....	5
1. Economic Recovery.....	9
2. Humanitarian and Food Assistance.....	12
3. Constitutional Reform.....	14
4. Political Justice and Transition.....	18
5. Institutional Transformation.....	22
6. Respect for Human Rights.....	27
7. Freedom of Expression.....	30
Conclusion.....	36
Annexure 1.....	38
Annexure 2.....	44
Annexure 3.....	54

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Foreword

In the aftermath of the harmonised elections of 29 March 2008 and the subsequent disputed presidential election run-off of 27 June 2008 the principals of the three political parties represented in Parliament, Morgan Tsvangirai, Robert Mugabe and Arthur Mutambara, were forced into political negotiations to chart the way forward for the country. Mr. Tsvangirai, using the platform of an interview on South Africa's *etv*, located the rationale of these negotiations as *“not about power sharing”* but rather *“the restoration of democracy and the return of the rule of law”*. It was in this context that the Interparty Political Agreement (IPA) was signed and the three political parties committed themselves *“... to the democratic values of justice, fairness, openness, tolerance, equality, respect of all persons and human rights”*.

Mediated by former South African President, Thabo Mbeki, civil society organisations (CSOs) were sidelined from the negotiations, and only learned what the agreement contained after the document was made public on 15 September 2008. The IPA is a political agreement – thus a compromise document. Mindful of this and the exclusion of civil society in its intent and formulation, and given the lofty expectations presented in the IPA, CSOs have a critical role to play in consistently scrutinising the actions of the parties to the agreement, offering encouragement where positive progress is made, yet also holding parties accountable where they fail to adhere to both the scope and spirit of the IPA.

As responsible citizens and organisations, we realize and are invested in contributing to the real need for change and transformation in Zimbabwe at the civil, political and socio-economic levels. We are also determined that, despite the challenges which have faced our country in the past – and which include economic mismanagement, ruinous government policies, political and social polarization, human rights violations and a culture of impunity – our political leaders can and must ensure that the actions and policies executed in terms of the IPA comply with Zimbabwe's regional and international obligations (voluntarily assumed) and established norms, standards and best practices which will entrench democracy, good governance, constitutionalism and a respect for the Rule of Law.



It is in this context that the Civil Society Monitoring Mechanism (CISOMM) has been established to assess and evaluate - independently of the monitoring mechanisms existing in the IPA - the adherence to and implementation of the agreement by the inclusive government, through jointly developed benchmarks and standards. It will scrutinize seven clusters, namely Economic Recovery, Constitutional Reform, Political Justice and Transition, Institutional Reform, Humanitarian and Food Assistance, Freedom of Expression and Respect for Human Rights. This report is the first of monthly reports which will be distributed to government institutions and actors, the Joint Monitoring and Implementation Committee, international and regional mechanisms, and – perhaps most importantly - ordinary Zimbabweans, to engender debate, increase publicly scrutiny, and encourage increased transparency and state accountability. Through the synergies and links that various CSO's have fostered, it is hoped that their work shall guide the three political parties in their future endeavours to adhere to and achieve the ideals set out in the IPA so as to achieve a lasting peace and better life for all Zimbabweans.



Irene Petras

Executive Director
Zimbabwe Lawyers for Human Rights

General Overview and Background to the GPA

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



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 people¹. 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 Symposium Declaration: Civil Society and Justice in Zimbabwe. Johannesburg, South Africa 13 August 2003.

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 implementation 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



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*”².

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).

² Minister Patrick Chinamasa – see Hansard of 5 February 2009



**NO MORE
CONSTITUTIONAL
AMENDMENTS**

A person is seen from behind, holding a green rectangular sign with both hands. The sign has the text "NO MORE CONSTITUTIONAL AMENDMENTS" in white, bold, sans-serif capital letters. The person is wearing a white short-sleeved shirt. In the background, there are multi-story buildings and a clear sky. Other people are partially visible in the foreground and background, suggesting a public gathering or protest.

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 Justice and Transition

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.



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.



ZIMBABWE

WE DEMAND
A RESPECT
OF HUMAN
RIGHTS

DETAINEES
NOW

STOP AB
F HUMAN
ID OPPOS
ACTIVIST

TS

STICE

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 of 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, Andriison Manyere, who remained incarcerated at Chikurubi Maximum Security Prison on terrorism charges together with other political abductees and detainees.





ZIMTILE
Zimbabwean Tile Manufacturers
Established 1981
• Quality Tiles
• Free Delivery
• Free Installation
• Free Design
• Free Estimates
• Free Quotes
• Free Samples
• Free Consultation
• Free Design
• Free Estimates
• Free Quotes
• Free Samples
• Free Consultation

**DeMbare win as CAPS
United stumble** See Back Page

The Herald

Established 1981

It's a landslide!

President names
first cabinet



Figs. 1 to 4

Fig 1: Stories on the parties in the Government Press

Medium	Political Parties		
	ZANU PF	MDC-T	MDC-M
The Herald	12	25	4
Chronicle	16	9	7
The Sunday Mail	5	2	1
The Sunday News	1	2	2
Manica Post	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
The Herald	12	33	4
Chronicle	22	11	7
The Sunday Mail	5	3	1
The Sunday News	1	3	2
Manica Post	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



***Campaign For A Community
Broadcasting Licence***

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.



Conclusion

The inclusive government which has been established has raised the hopes of most people that it will ameliorate social and economic suffering and bring redress for victims of violations suffered in the aftermath of the violent and tumultuous post-29 March 2008 election, including urgent institutional transformation. In analysing the achievements, challenges and failures during the first two months of the IPA, these expectations must remain in the forefront of the minds of all political and civil society players, as well as the regional and international community.

In this review, which cuts across all areas of governance, the sad reality remains that the expectations of the public remain largely unmet. The IPA sets priorities for a government which is transitional in nature, and which is expected to ensure that reforms are undertaken which will allow for a free and fair election to be held under a new constitution in the next 18-24 months. Hence, processes relating to institutional transformation, addressing human rights violations, and the restoration of democracy and the Rule of Law need to be prioritised. In this vein, absence of any movement towards a people-driven constitution through a truly participatory, consultative and inclusive process will likewise not bode well for the inclusive government.

The inclusive government, whilst rightly focussing attention on economic stabilisation and recovery, should not lose sight of the importance of these priorities if people are to be allowed to express themselves freely in elections and have their vote and choice respected. Only where there is full power and authority by a popularly-elected government will there possibly be political will to address the long-term needs of society, including full institutional reform, national healing and reconciliation, as well as social and economic justice.

The inclusive government has also not shown itself to be sensitive to issues of national healing and respect of human rights, as shown by the continued persecution of political detainees, the unjustified arrests and detention of political and non-political figures rather than the real perpetrators of violence, and the complicity of various institutions of state in violations, particularly relating to assaults on farms, farmers and farm workers. Various freedoms are still not enjoyed, especially around freedom of expression and access to balanced information from diverse sources.

However there have been commendable instances of compliance with the IPA. Standing out under the economic recovery cluster is the commitment towards ending all quasi-fiscal policies by the Reserve Bank Governor. This shift therefore represents a positive step in the right direction. The establishment of Ministry Responsible for National Healing has been largely applauded and if the process is eventually followed through with full and unimpeded public participation – particularly at the local level - it will go a long way towards the process of healing of a nation which has shed a lot of tears as a result of violent and repressive policies.

However, for it to succeed, the inclusive government has to dig in and start implementing what it undertook to deliver as opposed to the largely cosmetic actions seen thus far. As the process of monitoring continues, the government is urged to put aside the apparent suspicions and machinations between the parties and decisively address the immediate issue at hand which include the restoration of the Rule of Law, humanitarian assistance, economic recovery and of course the initiation in earnest of a people-driven constitution. There are benchmarks which form part of this report which the government needs to take into account in crafting its policies. These will continually be used to assess how the inclusive government is faring.

