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# THE ELEPHANT IN THE ROOM

Reforming Zimbabwe's Security Sector Ahead of Elections



# **The Elephant in the Room**

## Reforming Zimbabwe's Security Sector Ahead of Elections

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## Reforming Zimbabwe’s Security Sector Ahead of Elections

<b>List of Abbreviations .....</b>	<b>ii</b>
<b>I. Summary.....</b>	<b>1</b>
<b>II. Recommendations.....</b>	<b>5</b>
To the Unity Government of Zimbabwe .....	5
To the Southern African Development Community (SADC) and the African Union (AU) .....	5
To the Government of South Africa .....	6
To the European Union, the United States, and the United Nations.....	6
<b>III. Methodology.....</b>	<b>7</b>
<b>IV. Background.....</b>	<b>8</b>
<b>V. Zimbabwe’s Security Sector Legal Framework.....</b>	<b>12</b>
<b>VI. Security Sector Political Interference.....</b>	<b>17</b>
The Military .....	17
Zimbabwe Republic Police .....	23
Central Intelligence Organization .....	28
<b>VII. The Unity Government Response .....</b>	<b>30</b>
<b>VIII. A Roadmap to Credible, Free and Fair Elections .....</b>	<b>35</b>
<b>Acknowledgments.....</b>	<b>37</b>

## **List of Abbreviations**

<b>AIPPA</b>	Access to Information and Protection of Privacy Act
<b>AU</b>	African Union
<b>CIO</b>	Central Intelligence Organization
<b>COPAC</b>	Constitution Select Committee of Parliament
<b>GPA</b>	Global Political Agreement
<b>JOC</b>	Joint Operations Command
<b>JOMIC</b>	Joint Monitoring and Implementation Committee
<b>MDC</b>	Movement for Democratic Change
<b>MP</b>	Member of Parliament
<b>NSC</b>	National Security Council
<b>POSA</b>	Public Order and Security Act
<b>SADC</b>	Southern African Development Community
<b>UN</b>	United Nations
<b>ZANLA</b>	Zimbabwe African National Liberation Army
<b>ZANU PF</b>	Zimbabwe African Union – Patriotic Front
<b>ZAPU</b>	Zimbabwe African People’s Union
<b>ZEC</b>	Zimbabwe Electoral Commission
<b>ZHRC</b>	Zimbabwe Human Rights Commission
<b>ZLHR</b>	Zimbabwe Lawyers for Human Rights
<b>ZIPRA</b>	Zimbabwe People’s Revolutionary Army
<b>ZRP</b>	Zimbabwe Republic Police

# I. Summary

Reforming Zimbabwe's security sector is key to ensuring that the upcoming 2013 presidential and parliamentary elections are credible, free and fair. The elections could usher in a government that would introduce and implement far-reaching reforms in the security sector and in other sectors. The current "unity government" has, for various reasons, failed to advance such important reforms, many of which have a huge bearing on the human rights situation in the country, especially around elections.

The new constitution, signed into law by President Robert Mugabe on May 22, 2013 following a March 16 referendum and the approval by the Zimbabwe parliament, replaces the 1979 Lancaster House Constitution. The new constitution may prove beneficial to the electoral process as it prohibits any changes to the electoral law once elections have been called. Also, it restores citizenship and voting rights to those born in Zimbabwe to a parent or parents with citizenship of another Southern African Development Community (SADC) country but resident in Zimbabwe. While very important, the new constitution is only one of the reforms required for an environment conducive for credible elections.

More crucial for the elections – and the government that comes to power – will be the role played by Zimbabwe's state security forces, particularly the Defense Forces, the police, and the Central Intelligence Organization (CIO). The security forces have a long history of partisanship on behalf of President Robert Mugabe and the Zimbabwe African National Union–Patriotic Front (ZANU-PF), one of the parties in the current unity government, and the former ruling party. Since independence in 1980, the army, police and CIO have operated within a system that has allowed elements within their ranks to arrest, torture and kill perceived opponents with impunity.

As such, reforming the security sector is essential in ensuring that presidential and parliamentary elections due by October 29, 2013, are credible, free and fair. There are expectations that the elections would usher in a democratically elected government with interest in addressing the country's longstanding and serious human rights issues. But as things stand, the chances of having free, fair and credible elections are slim, particularly given the shortcomings of security sector reforms and reforms in other sectors.

This report is based on research conducted by Human Rights Watch in Zimbabwe's Harare, Bulawayo, the Midlands, Manicaland, Mashonaland East, Central and West provinces in November and December 2012, and in February 2013. The report illustrates how the partisanship of the security forces' leadership has translated into abuses by these forces against the MDC and civil society organizations across the country and in political interference. Human Rights Watch interviewed over 50 victims of abuses, legislators, journalists, members of the army and police, lawyers, and rights activists. We also reviewed Zimbabwe's Lancaster House constitution and new constitution, various laws and regulations, police reports, newspaper accounts and reports by local human rights organizations.

There is an urgent need, ahead of the elections, for Zimbabwe's security forces to be drastically reformed, to create a political environment conducive for holding non-violent and credible elections. Should the security forces fail to adopt a professional, independent and non-partisan role during elections, the new constitution and other recent reforms including the setting up of a new Zimbabwe Electoral Commission (ZEC) and the licensing of private daily papers, may be insufficient to deliver the elections needed to put Zimbabwe on a democratic and rights-respecting track.

Institutional reforms have not been introduced by the power-sharing unity government consisting of ZANU-PF, President Mugabe's party, and the two factions of his Movement for Democratic Change (MDC). Prime Minister Morgan Tsvangirai heads the larger of MDC's two factions. The unity government was established under the 2008 Global Political Agreement (GPA), which was underwritten by SADC and the African Union (AU). It was intended to make institutional and legal reforms to create a conducive environment for the holding of free and fair elections. However, the outcome of the GPA was a ZANU-PF dominated government with significantly more power than MDC's two factions. ZANU-PF has used its dominance to frustrate or block reform efforts.

Zimbabwe's security forces, notably the military, have, for several years, interfered in the nation's political and electoral affairs in ways that have adversely affected the ability of Zimbabwean citizens to vote freely. This was particularly evident during the 2008 elections where the army played a major role in supporting widespread and systematic abuses that led to the killing of up to 200 people, the beating and torture of 5,000 more, and the displacement of about 36,000 people. Since then the leadership of the military, police and

CIO, all appointed by President Mugabe, remain unchanged, as have their clear, public and vocal support for President Mugabe and ZANU-PF.

The partisanship of the security forces' leadership has translated into abuses by these forces against MDC members and supporters, and civil society organizations. Although the Lancaster House and the new constitutions, as well as various laws, requires neutrality and impartiality from the security forces, no effort has been made to enforce them. Beyond the open endorsement of ZANU-PF, the security forces have been deployed across the country where they have intimidated, beat and committed other abuses against Zimbabweans perceived to be supporting the MDC or critical of the ZANU-PF officials in government. No members of the security forces are known to have been disciplined or prosecuted for acting in a partisan manner or committing criminal offenses against the MDC and its supporters. Concerns about the role of the security forces extend not only to situation prior to election day and the voting itself, but to the critical post-election period.

Instructively, the CIO has no legislative framework guiding its institutional set up and operations. It is a department within the President's Office—the Department for State Security—with a minister responsible for it and a director-general running it, its operations are shrouded in secrecy. The CIO has operated more as the intelligence arm of the ZANU-PF and has been implicated in serious human rights abuses against ZANU-PF's political opponents.

The unity government, with support from SADC and the African Union, should urgently take steps to ensure the political neutrality of the security forces, namely by investigating and prosecuting alleged abuses by security force personnel, publicly directing the leadership of the security forces to carry out their responsibilities in a professional and impartial manner, and appropriately punishing or prosecuting those who fail to do so.

Urgent reforms are also needed to increase the likelihood of credible, free and fair elections. These include electoral reforms to ensure the independence and enhance professionalism of the Zimbabwe Electoral Commission, and an updated voters roll under ZEC's exclusive control. Civil society groups, including human rights organizations, should be able to freely conduct voter education across the country. State media should give equal access to all political parties without bias or favor, and laws infringing on the right to freedom of expression should be amended or revoked. Finally, there should prompt



deployment of long-term domestic, regional and international election observers with unfettered access to all parts of the country.

## II. Recommendations

### To the Unity Government of Zimbabwe

- Promptly investigate and prosecute, in accordance with national law and international standards, members of the security forces against whom there is evidence of criminal responsibility for serious abuses including arbitrary arrests, torture and other ill-treatment;
- Publicly direct commanders of the security forces to ensure all public statements and actions reflect a commitment to a strictly neutral political role in accordance with the constitution and international law;
- Promptly investigate and take appropriate disciplinary action against officers in the security forces, regardless of rank, who have violated laws and regulations prohibiting partisan conduct;
- Take necessary measures to ensure that appointments, training and conduct of members of the security forces, police, Registrar General's office, and staff of the Zimbabwe Electoral Commission secretariat conform to the requirements of strict political neutrality in the discharge of their duties.
- Empower the National Security Council to ensure effective parliamentary oversight through, among other things, disbanding the parallel and informal Joint Operations Command;
- Facilitate unfettered, long-term elections observation by both domestic and international observers;
- Institute urgent electoral reforms including cleaning up and updating the voters' rolls, ensuring that members of the security forces are able to vote freely with the secrecy of their vote guaranteed, instituting mechanisms to ensure that state media is impartial and non-partisan, and repealing or revising laws such as POSA and AIPPA that infringe basic freedoms; and
- Enact legislation to govern the operations of the Central Intelligence Organization and provide for civilian oversight of its work.

### To the Southern African Development Community (SADC) and the African Union (AU)

- Press the unity government of Zimbabwe to urgently take necessary measures to ensure that the security forces act in a politically neutral manner at all times,

- including during the election period, and to take appropriate action against the security forces leadership that fails to do so;
- Send a public message that partisanship by Zimbabwe's security forces during the elections could result in a refusal to endorse the election outcome, or other consequences; and
  - Deploy long-term observer missions in Zimbabwe in sufficient numbers well in advance of the elections to monitor the situation and make recommendations for credible, free and fair elections.

### **To the Government of South Africa**

- Press the unity government of Zimbabwe to urgently take necessary measures to ensure that the security forces act in a politically neutral manner at all times, including during the election period, and to take appropriate action against the security forces leadership that fails to do so;
- Call on SADC and the African Union to send a public message that partisanship by Zimbabwe's security forces during the elections could result in a refusal to endorse the election outcome or other consequences; and
- Support the deployment of long-term observer missions in Zimbabwe in sufficient numbers well in advance of the elections to monitor the situation and make recommendations for credible, free and fair elections.

### **To the European Union, the United States, and the United Nations**

- Support SADC initiatives to press Zimbabwe's political leaders to urgently reform the security forces and implement other electoral reforms ahead of elections;
- Immediately seek accreditation for long-term observation of Zimbabwe elections to promote credible, free and fair elections;
- For those approached by Zimbabwe for financial support for elections, insist on observing those elections to ensure they fully comply with international standards.

### **III. Methodology**

This report is based on research conducted by Human Rights Watch in Zimbabwe's Harare, Bulawayo, the Midlands, Manicaland, Mashonaland East, Central and West provinces in November and December 2012, and in February 2013. Human Rights Watch interviewed over 50 victims of abuses, legislators, journalists, members of the army and police, lawyers, and rights activists. We also reviewed Zimbabwe's Lancaster House constitution and the new constitution, various laws and regulations, police reports, newspaper accounts and reports by local human rights organizations.

Additionally, material from previous Human Rights Watch research missions to Zimbabwe contributed to the production of this report.

For security reasons, some details about individuals and locations of interviews have been withheld when such information could place a person at risk. All interviewees freely gave their consent to be interviewed and were informed that they could end or withdraw from the interview at any point if they so wished. No inducement has been offered or solicited by interviewees.

## IV. Background

The close, partisan relationship between the leadership of Zimbabwe's security forces and the former longtime ruling party, ZANU-PF, goes back to the pre-independence struggle against white minority rule. Beginning in the 1960s, ZANU-PF had a guerilla military wing, the Zimbabwe African National Liberation Army (ZANLA), while the Zimbabwe People's Revolutionary Army (ZIPRA) was the military wing of the Joshua Nkomo-led Zimbabwe African People's Union (ZAPU), the rival political party. At independence in 1980, the newly formed government led by Robert Mugabe (then as executive prime minister) integrated the two military wings – ZANLA and ZIPRA – together with the Rhodesian Forces to form the Zimbabwe National Army led by Gen. Solomon Mujuru, a ZANLA leader.<sup>1</sup>

The bulk of current leaders of Zimbabwe's security forces, including defense forces commander, Gen. Constantine Chiwenga, air force commander Air Marshall Perence Shiri, the police commissioner, Gen. Augustine Chihuri, and central intelligence organization director, Retired Maj. Gen. Happyton Bonyongwe, are former ZANLA combatants who fought in Zimbabwe's liberation struggle.<sup>2</sup> ZANU-PF and ZANLA leaders have often claimed that the armed liberation struggle, not the 1980 elections, led to Zimbabwe's independence, and that ZANU-PF's authority to govern is primarily derived from violent struggle. This attempt to delink Zimbabwe's independence from the 1980 elections undermines basic human rights including freedom of association, and the right to participate in national political processes, as these are viewed as secondary to the armed liberation struggle.

The first post-independence overt military involvement in Zimbabwe's political affairs was during the period from 1983 to 1987 when Mugabe and ZANU-PF deployed a section of the army, the Fifth Brigade (a special army unit trained by North Korean instructors and code named "Gukurahundi" – the rain that washes away the chaff), ostensibly to quell dissident disturbances in the Midlands and Matabeleland provinces. The disturbances were characterized by violence between ZIPRA and ZANLA soldiers as well as sporadic attacks on civilians by agents of apartheid South Africa. Instead, the brigade was used to destroy

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<sup>1</sup> Human Rights Watch interview with Zimbabwe security sector expert, Harare, November 22, 2012.

<sup>2</sup> Ibid.

ZAPU's political base in those provinces.<sup>3</sup> It appears ZANU-PF used the pretext of the dissident disturbances to unleash violence on the ZAPU supporters of ZAPU, to ensure the dominance of ZANU-PF, and render ZAPU irrelevant. The Fifth Brigade carried out systematic and widespread atrocities such as torture and extrajudicial executions of more than 3,000 people (ZAPU leader Joshua Nkomo put the figure at 20,000) in Matabeleland and Midlands provinces between 1982 and 1987.<sup>4</sup>

Although Mugabe set up a commission of inquiry, the Chihambakwe Commission, into the Gukurahundi atrocities, its damning findings were leaked but never officially made public and its recommendations on the security sector were never implemented. This marked the beginning of post-independence military involvement in political affairs on ZANU-PF's side and the resultant impunity.<sup>5</sup> In 1988 the ZANU-PF government issued Clemency Order Number 1, granting amnesty to all those involved in human rights violations committed between 1982 and 1987, benefiting mainly the army and the state security agency, the Central Intelligence Organization (CIO).<sup>6</sup>

Successive election periods in 1985, 1990, 2000, 2002, 2005 and 2008, were characterized by widespread political violence mainly perpetrated by ZANU-PF, its allies, and government agencies, including sections of the army and the CIO.<sup>7</sup> In 1993, Mugabe, who had become president, granted amnesty to two state agents convicted of attempted murder of an opposition candidate, Patrick Kombayi, who contested the 1990 elections. In 1995 Mugabe again issued amnesty for all politically motivated crimes and human rights abuses, including beatings, arson, kidnapping and torture. On October 6, 2000, following widespread political violence during parliamentary elections, Mugabe pardoned those

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<sup>3</sup> Lloyd Sachikonye, *60 Years of Institutionalized Violence in Zimbabwe*, Jacana, 2011. See also, The Catholic Commission for Justice and Peace and The Legal Resources Foundation, *Breaking the Silence, Building True Peace: A Report on the Disturbances in Matabeleland and the Midlands, 1980 to 1988* (Harare: The Catholic Commission for Justice and Peace and The Legal Resources Foundation, 1997).

<sup>4</sup> The Catholic Commission for Justice and Peace and The Legal Resources Foundation, *Breaking the Silence, Building True Peace: A Report on the Disturbances in Matabeleland and the Midlands, 1980 to 1988* (Harare: The Catholic Commission for Justice and Peace and The Legal Resources Foundation, 1997).

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> See Human Rights Watch, *All Over Again: Human Rights Abuses and Flawed Electoral Conditions in Zimbabwe's Coming General Elections*, vol.20, no.2(A), March 2008, <http://www.hrw.org/reports/2008/zimbabwe0308/>; and Amnesty International, "Terror tactics in the run-up to elections," June 2000, <http://www.amnesty.org/en/library/info/AFR46/014/2000/en> (accessed November 3, 2008).

responsible for politically motivated crimes committed during the January-July 2000 campaign period.<sup>8</sup>

In the lead up to the June 2008 presidential runoff elections, Human Rights Watch investigations found that the Joint Operations Command (JOC), comprising Mugabe and the heads of the security forces, was responsible for orchestrating widespread political violence throughout the country against the opposition Movement for Democratic Change (MDC). This violence resulted in the killings of hundreds of perceived MDC activists and supporters and the beating, torture and forced displacement of thousands more.<sup>9</sup> As with previous state-sponsored political violence, the authorities failed to hold accountable those responsible, entrenching impunity within the security forces.

In addition to the close political alliance between the leadership of ZANU-PF and the security forces, another driving force for political interference by the security forces has been the need to protect ill-gotten wealth and other vested economic interests. This has included control of revenue from Marange diamond fields where sections of the army directly own and run mining companies.<sup>10</sup> The leadership of the security forces has also supported Mugabe and ZANU-PF's continued dominance in government to protect them from prosecution for their role in rights abuses – as they have protected the security forces in past.

Human Rights Watch investigations indicate that it is largely the security sector leadership that is openly partisan towards ZANU-PF and benefitting from political patronage; the rank and file of the security forces remains independent and professional. To ensure that ZANU-PF partisanship is entrenched within the lower ranks of the security forces, the leadership of the security forces in May 2012 scrapped all recruitment requirements, opting instead for recruitment on the basis of subscription to vague national values which in practice are

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<sup>8</sup> See Human Rights Watch, *Our Hands Are Tied: Erosion of the Rule of Law in Zimbabwe*, ISBN: 1-56432-404-4, November 2008, <http://www.hrw.org/sites/default/files/reports/zimbabwe1108.pdf>.

<sup>9</sup> Human Rights Watch, *"Bullets for Each of You": State-sponsored violence since Zimbabwe's March 29 Elections*, ISBN: 1-56432-324-2, June 2008, <http://www.hrw.org/reports/2008/06/19/bullets-each-you>.

<sup>10</sup> See Human Rights Watch, *Diamonds in the Rough: Human Rights Abuses in the Marange Diamond Fields of Zimbabwe*, ISBN: 1-56432-505-9, June 2009, <http://www.hrw.org/sites/default/files/reports/zimbabwe0609web.pdf>; see also, Global Witness, *Financing a Parallel Government? The Involvement of the secret police and military in Zimbabwe's diamond, cotton and property sectors*, June 2012. Zimbabwe's unity government could generate significant amounts of revenue from Marange diamonds, perhaps as much as US\$200 million per month, if Marange and other mining centers were managed in a transparent and accountable manner. This revenue could fund a significant portion of the unity government's economic recovery program, which would benefit ordinary villagers like the residents of Marange.

largely subscription to ZANU-PF policies.<sup>11</sup> There has been widespread concern expressed in the media and by civil society activists that this was designed to facilitate direct recruitment of unqualified ZANU-PF youths into the security forces.<sup>12</sup> Human Rights Watch investigations also indicate that recruitment into the army, CIO, and prisons services clandestinely takes place through ZANU-PF aligned provincial governors across the country, all of whom are appointed by President Mugabe on the ZANU-PF platform.<sup>13</sup>

ZANU-PF has become riddled with factionalism and severely weakened by internal infighting over succession to Mugabe, who has led the party since 1977. Increasingly the party has relied on the security forces to confront political opposition, and intimidate and coerce voters into ensuring a ZANU-PF electoral victory. The security forces have over the years become crucial to ZANU-PF's survival.

Reforming the security forces is essential both for leveling the political playing field prior to the elections, but also for ensuring that following the elections the security forces will act in an impartial manner.

The timing of national elections is governed by Zimbabwe's 1979 Lancaster House constitution, which provides that parliament, unless dissolved earlier, shall last for five years, counting from the day the person elected as president enters into office.<sup>14</sup> Mugabe was sworn in on June 29, 2008, and the presidential and parliamentary term of office ends on June 29, 2013, with fresh elections constitutionally required to be held no more than four months after that date, that is, by October 29, 2013.<sup>15</sup> The new constitution states that the timing of the coming elections will be governed by the Lancaster House constitution.<sup>16</sup>

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<sup>11</sup> "Army changes recruitment policy," *The Herald*, May 14, 2012, [http://www.herald.co.zw/index.php?option=com\\_content&view=article&id=41391#.UOTvMMo8tUU](http://www.herald.co.zw/index.php?option=com_content&view=article&id=41391#.UOTvMMo8tUU) (accessed November 20, 2012). Previously entry academic qualifications required for a general duty soldier were at least five ordinary level passes, including English Language and Mathematics at Grade 'C' or better. ZNA Recruitment policy, [http://www.zna.gov.zw/index.php?option=com\\_content&view=article&id=56&Itemid=48](http://www.zna.gov.zw/index.php?option=com_content&view=article&id=56&Itemid=48).

<sup>12</sup> In announcing the change to recruitment policy, Maj. Gen. Martin Chedondo said: "Now that soldiers are being recruited from every village, we want to see a village that will go against national values. We will not tolerate sellouts who would want to share the national cake with foreigners who were once our enemies and attackers." "Army changes recruitment policy," *The Herald*, May 14, 2012, [http://www.herald.co.zw/index.php?option=com\\_content&view=article&id=41391#.UOTvMMo8tUU](http://www.herald.co.zw/index.php?option=com_content&view=article&id=41391#.UOTvMMo8tUU) (accessed November 20, 2012).

<sup>13</sup> Human Rights Watch interviews with three army officials familiar with the recruitment process, Harare, February 20, 2013.

<sup>14</sup> Former Constitution of Zimbabwe, (Lancaster House) 1979, art. 63(4).

<sup>15</sup> *Ibid.*, as amended by the Amendment Act, No. 19, 2009, art. 58.

<sup>16</sup> Schedule to the gazetted Draft Constitution, April 2013.



## V. Zimbabwe's Security Sector Legal Framework

Zimbabwe's Global Political Agreement (GPA), the Lancaster House Constitution of 1979, the new constitution, and a number of laws prescribe the conduct of security forces, explicitly prohibiting partisan conduct. The army and police have regulations and disciplinary measures, indicated below, on dealing with members of the security forces that violate regulations on partisan political conduct.

The parties to the GPA, ZANU-PF and the two MDC factions, agreed that state organs (including the security sector) and institutions should not belong to any political party and should be impartial and non-partisan in the discharge of their duties. Article 13 of the GPA seeks to ensure that all state organs and institutions perform their duties ethically and professionally in conformity with the principles and requirements of a multi-party democratic system in which all parties are treated equally. The article provides that:

- (a) There be inclusion in the training curriculum of members of the uniformed forces subjects on human rights, international humanitarian law and statute law so that there is greater understanding and full appreciation of their roles and duties in a multi-party democratic system;
- (b) All state organs and institutions strictly observe the principles of the rule of law and remain non-partisan and impartial;
- (c) Laws and regulations governing state organs and institutions are strictly adhered to and those violating them be penalized without fear of favor; and
- (d) Recruitment policies and practices be conducted in a manner that ensures that no political or other form of favoritism is practiced.<sup>17</sup>

The new constitution approved in the March 16 referendum and signed into law on May 22, provides that no member of the security services may, in the exercise of their functions, act in a partisan manner or further the interests of any political party or cause.<sup>18</sup> In March 2009, the unity government set up the National Security Council (NSC) comprising top government officials from all three political parties in government and all heads of

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<sup>17</sup> Global Political Agreement (GPA), signed September 15, 2008, art. 13.

<sup>18</sup> New Zimbabwe Constitution (approved in the March 16, 2013 referendum and signed into law on May 22), sec. 208.

Zimbabwe's security sector to provide civilian oversight on the security sector.<sup>19</sup> Key functions of the NSC, which is required to meet at least once each month, included reviewing national policies on security, defense and law and order as well as ensuring that all operations of the security forces comply with the constitution and other laws.<sup>20</sup>

The Zimbabwe Defense Forces regulations instituted in 1988 strictly prohibit partisan conduct or participation in party politics. Statutory Instrument 152 of 1988, Defense (Regular Force) (Officers) Regulations, section 90 provides:

Active participation in politics:

- (1) No officer shall commit any act which is prescribed by the section as being an act constituting active participation in politics –
  - (a) Canvassing any person in support of or otherwise actively assisting an organization or movement of a political character;
  - (b) Displaying or wearing rosettes, favors, symbols, posters, placards or like articles having a political significance;
  - (c) Attending a political meeting or assembly when wearing a uniform of the Defense Forces or any part thereof likely to identify him with the Defense Forces: provided that the provisions of this paragraph shall not apply to an officer who attends such a meeting or assembly in uniform in the course of his duties;
  - (d) Publishing views of a political character or causing them to be published in speeches, broadcasts, letters to the press, articles, leaflets, posters placards, books or otherwise.

Similarly for the Zimbabwe Republic Police (ZRP), article 48 of the schedule to the Police Act provides:

- (1) Actively participating in politics. (2) Without derogation from the generality of subparagraph (1), a Regular Force member shall be deemed to be actively participating in politics if he— (a) joins or associates himself with an organization or movement of a political character; or (b) canvasses any person in support of, or otherwise actively assists, an organization or movement of a political character; or (c) displays or wears rosettes, favors, clothing, symbols, posters, placards or like

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<sup>19</sup> National Security Council Act, 2009.

<sup>20</sup> National Security Council Act, 2009, art. 4.

articles having a political significance; or (d) attends a political meeting or assembly when wearing the uniform of the Police Force or any part of such uniform likely to identify him as a Regular Force member.<sup>21</sup>

Within Zimbabwe's security forces, it is the CIO alone, the intelligence service, that has no legislative framework guiding its institutional set up and operations. Although it is a department within the President's Office—the Department for State Security—with a minister responsible for it, and a director-general in charge of it, there is little information available on its functions. In practice, the CIO has operated more as a ZANU-PF intelligence agency and has been implicated in serious human rights abuses against ZANU-PF's political opponents and civil society activists including torture, beatings, harassment and enforced disappearances.<sup>22</sup>

The National Security Council (NSC) has not had any impact on Zimbabwe's security sector as the body has remained dysfunctional owing to infrequent meetings. Instead, the Joint Operations Command (JOC), comprising Mugabe and the heads of the security forces, but without representation from the MDC leaders, continues to meet to discuss and decide on national security issues from a ZANU-PF perspective.<sup>23</sup>

Existing national laws and regulations, if complied with, seem sufficient to ensure non-partisanship, independence and professionalism within the security forces. However, as indicated, and demonstrated elsewhere in this report, these laws and regulations are ignored with impunity at the highest level within the security forces. It is for these same reasons that the new constitution is unlikely to reform the security sector or create an environment conducive for the holding of credible, free and fair elections.

Without personnel changes within the partisan leadership of Zimbabwe's security forces, any new laws prescribing security sector changes are likely to be similarly ignored. Reforming the security forces will need to go beyond the legal framework to replacing the

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<sup>21</sup> Schedule to the Police Act, Chapter 11:10 Act 22 of 2001, art. 48.

<sup>22</sup> See for example, Zimbabwe Peace Project Monthly Monitor, October 2012 and the Research and Advocacy Unity (RAU) report, "Zimbabwe's Security Sector: Who Calls the Shots," Derek Matyszak, Harare (undated).

<sup>23</sup> Human Rights Watch interview with senior MDC official, Harare, February 14, 2013. See also, "Mugabe meets Service chiefs behind PM's back," *The Standard*, <http://www.thestandard.co.zw/2012/10/01/mugabe-meets-service-chiefs-behind-pms-back/> (accessed October 1, 2012).

current pro ZANU-PF leadership with independent people. As security expert Dr. Maxwell Shumba explained:

The kind of reform urgently needed for Zimbabwe's security sector is not a complex process as the bulk of the army and police are professional, independent and non-partisan; reform must target leadership of the army and the police which is highly partisan.<sup>24</sup>

Article 25 of the International Covenant on Civil and Political Rights, to which Zimbabwe is party, states that every citizen shall have the right and the opportunity, without discrimination because of political opinion or other unreasonable restrictions, "To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors."<sup>25</sup>

The United Nations Code of Conduct for Law Enforcement Officials provides that, "In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons."<sup>26</sup>

International standards relevant to the conduct of security forces are enshrined in the UN International Code of Conduct for Public Officials, which provides:

1. A public office, as defined by national law, is a position of trust, implying a duty to act in the public interest. Therefore, the ultimate loyalty of public officials shall be to the public interests of their country as expressed through the democratic institutions of government.
2. Public officials shall ensure that they perform their duties and functions efficiently, effectively and with integrity, in accordance with laws or administrative policies.

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<sup>24</sup> Human Rights Watch interview with security expert, Dr. Maxwell Shumba, London, April 24, 2013.

<sup>25</sup> International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976. Zimbabwe ratified the ICCPR in 1991.

<sup>26</sup> Code of Conduct for Law Enforcement Officials, G.A. res. 34/169, annex, 34 U.N. GAOR Supp. (No. 46) at 186, U.N. Doc. A/34/46 (1979), art. 2.

3. Public officials shall be attentive, fair and impartial in the performance of their functions and, in particular, in their relations with the public. They shall at no time afford any undue preferential treatment to any group or individual or improperly discriminate against any group or individual, or otherwise abuse the power and authority vested in them. ...

11. The political or other activity of public officials outside the scope of their office shall, in accordance with laws and administrative policies, not be such as to impair public confidence in the impartial performance of their functions and duties.<sup>27</sup>

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<sup>27</sup> UN International Code of Conduct for Public Officials, General Assembly, A/RES/51/59 January 28, 1997, <http://unpan1.un.org/intradoc/groups/public/documents/un/unpano10930.pdf> (accessed April 24, 2013).

## VI. Security Sector Political Interference

### The Military

Zimbabwe's military leadership played a decisive role in the violent presidential runoff campaign in 2008 on behalf of the ruling party, ZANU-PF. Since then, under the unity government, it has continued to publicly and consistently support President Mugabe and ZANU-PF while denigrating Prime Minister Morgan Tsvangirai and his MDC party.

Since the violent 2008 elections, the military leadership and some sections of the army have taken highly visible steps indicative of their alignment with Mugabe and ZANU-PF that adversely affect the political environment and militate against the holding of peaceful, fair and credible elections. The army's statements and actions appear to be calculated to cause fear in the electorate and coerce voters to support Mugabe and ZANU-PF during the coming elections.

The military leadership has openly declared, in various ways, its support for ZANU-PF in violation of laws and regulations strictly prohibiting partisan conduct. For instance, on May 4, 2013, Zimbabwe Defense Forces commander Gen. Constantine Chiwenga, dismissing the possibility of meeting MDC leader Tsvangirai to discuss reforms to the security sector, told the state-run weekly, *The Sunday Mail*:

We have no time to meet sellouts. Clearly Tsvangirai is a psychiatric patient who needs a competent psychiatrist... It's just not possible for me to entertain the MDC-T leader [Morgan Tsvangirai], we are different. Just like oil and water, we cannot mix. As the defence forces we will not respect or entertain people who do not value the ideals of the liberation struggle. Meeting such people will be a mockery to the thousands of people who sacrificed their lives fighting for the country's independence. Who the hell does Tsvangirai think he is? No one can make us turn our back on the ideals of the liberation struggle.<sup>28</sup>

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<sup>28</sup> "I have no time for sellouts: Chiwenga," *The Sunday Mail*, May 5, 2013.

On December 6, 2012, General Chiwenga, army commander Gen. Phillip Valerio Sibanda, Air Force commander Air Marshal Perence Shiri, police Commissioner Gen. Augustine Chihuri, and head of prisons retired Maj. Gen. Paradzai Zimondi attended the ZANU-PF party annual conference in Gweru. At that conference, President Mugabe addressed some 6,000 party supporters.<sup>29</sup> By association, the security sector commanders can be counted among the ranks of ZANU-PF supporters, and they have made no effort to conceal their support for the party.

Since the inception of the power-sharing government, it has been clear on whose side the senior military officials are. For instance, in December 2012, recently promoted Maj. Gen. Douglas Nyikayaramba led a group of ZANU-PF-aligned war veterans and traditional chiefs in Chikomba, Mashonaland East province, to a meeting with the villagers at Firimoni Business Centre near Wedza, where he said voting for the MDC is selling out and that the army is ready to defend Mugabe.<sup>30</sup>

On June 6, 2012, a senior military officer, Maj. Gen. Trust Mugoba, while addressing mourners at the funeral of an army officer, said that military ideology is best represented in ZANU-PF's mission and values.<sup>31</sup> "As the military, we do not only believe, but act in defense of these values and we will not respect any leader who does not respect the revolution," he said.

A month earlier, on May 9, 2012, another top-ranking army officer, Maj. Gen. Martin Chedondo, told state media that soldiers in the country are supporters of Mugabe's ZANU-PF party:

As soldiers, we will never be apologetic for supporting ZANU-PF because it is the only political party that has national interests at heart. We cannot be seen supporting a political party that is going against the ideals of a nation, which came by as a result of a liberation struggle, which saw many of the country's sons and daughters losing their lives. As soldiers we must

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<sup>29</sup> "Biti slams army chiefs for attending ZANU-PF conference," *New Zimbabwe*, <http://www.newzimbabwe.com/news-9740-Army%20chiefs%20at%20Zanu%20PF%20convention/news.aspx> (accessed December 19, 2012).

<sup>30</sup> Human Rights Watch interview with eyewitness, P.D, Harare, February 10, 2013.

<sup>31</sup> "Another military chief declares loyalty to ZANU-PF," SW Radio Africa, June 6, 2012, <http://www.swradioafrica.com/2012/06/06/another-military-chief-declares-loyalty-to-zanu-pf/> (accessed February 15, 2012).

support ideologies that we subscribe to, I for one will not be apologetic for supporting ZANU- PF because I was part of the liberation struggle.<sup>32</sup>

In June 2011, then-Brig. Gen. Douglas Nyikayaramba said of Prime Minister Tsvangirai:

Tsvangirai doesn't pose a political threat in any way in Zimbabwe, but is a major security threat. He takes instructions from foreigners who seek to effect illegal regime change in Zimbabwe. This is what has invited the security forces to be involved [in politics] because we want to ensure we protect our national security interests.<sup>33</sup>

A month earlier, Nyikayaramba had directly expressed support for ZANU-PF in an interview with a weekly independent paper when he said, “Truly speaking, I am in ZANU-PF and ZANU-PF is in me and you can’t change that.”<sup>34</sup> In October 2010 he had addressed traditional chiefs, soldiers and the police at the 3-3 Infantry Battalion in Mutare, telling them that no person without revolutionary credentials would rule Zimbabwe. He added, “I am where I am today because of the party. Some of us actively participated in the [liberation] struggle and we cannot stand up and say we do not belong to that party. [ZANU-PF]”<sup>35</sup>

In apparent approval of pro-ZANU-PF conduct by the military rather than calling for an investigation or disciplinary action, Mugabe in January 2012 promoted Nyikayaramba to the post of major general and army chief of staff or quartermaster.<sup>36</sup>

When the UN High Commissioner for Human Rights Navi Pillay visited Zimbabwe in May 2012, she expressed concern, in a press statement, about the military’s overtly political role:

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<sup>32</sup> “Top army official support ZANU-PF,” Radio Voice of The People, May 9, 2012, <http://www.radiovop.com/index.php/national-news/8912-top-army-officer-says-soldiers-support-zanu-pf.html> (accessed April 10, 2013).

<sup>33</sup> “Generals respond to Tsvangirai,” *The Herald*, June 23, 2011.

<sup>34</sup> “Army demands elections in 2011,” Faith Zaba, *The Zimbabwe Independent*, May 27, 2011.

<sup>35</sup> “Tsvangirai will not rule; army general,” Great Indaba, Wednesday 03 November 2010.

<sup>36</sup> “Zim’s face of violence promoted,” *Mail and Guardian* (South Africa), 6 January 2012, Ray Ndlovu <http://mg.co.za/article/2012-01-06-zims-face-of-violence-promoted> (accessed November 20, 2012).



I have heard much concern expressed about the role of the military, including a recent statement by one of the country's most senior army officers suggesting the army should throw its weight behind one political party – when for any country to be called a democracy, its army must observe strict political neutrality.<sup>37</sup>

Human Rights Watch investigations found that the Zimbabwe National Army has deployed soldiers across the country, under different guises including running the food distribution project (National Food Security Project), community projects (including helping with building schools) and an “army history research project.”<sup>38</sup> Under the so-called army history project, members of the army go into villages asking villagers about the war of liberation and battles fought in their areas, ostensibly for documentation. Human Rights Watch investigations however reveal that, in the communities, the soldiers have been implicated in directly campaigning for Mugabe and ZANU-PF, and of harassing and intimidating villagers. Among areas where such army deployment and subsequent harassment and intimidation of villagers occurred include Buhera, Nyanga, Chipinge and Mutare in Manicaland province, Gokwe, Zhombe, Mberengwa, Silobela in Midlands province, and Chivhu, Marondera and Uzumba in Mashonaland East province.<sup>39</sup>

A member of the Progressive Teachers Union of Zimbabwe, a nationwide teachers union, told Human Rights Watch:

Since February 2013 hundreds of soldiers and CIOs [security agents] have invaded most rural areas on the pretext that they are assessing the food security situation when in actual fact they are campaigning for ZANU-PF as reflected in reports from our membership.<sup>40</sup>

According to the local rights monitoring group Heal Zimbabwe Trust, a soldier from All Arms Battle Score, a small army base in Nyanga South, has since late March been going

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<sup>37</sup> UN High Commissioner for Human Rights, Ms Navi Pillay press statement, Harare, May 25, 2012.

<sup>38</sup> Human Rights Watch interview with three Progressive Teachers Union of Zimbabwe (PTUZ) representatives, Harare, February 20, 2013. See also, Zimbabwe Peace Project Monthly Monitor report, October 2012.

<sup>39</sup> Ibid.

<sup>40</sup> PTUZ Statement, April 23, 2013.

around with a gun threatening villagers that if they do not vote for ZANU-PF in the impending elections, there would be war in the country.<sup>41</sup>

On March 17, a day after a referendum on the new constitution, five armed soldiers in uniform approached an MDC supporter at Mataga Growth point, Mberengwa, in Midlands province, and demanded to know if he had voted “yes” in the referendum. The MDC supporter told Human Rights Watch:

When I said I had voted in favor of the draft constitution they then asked me why I was wearing an MDC t-shirt and before I could respond they began to punch and kick me all over my body. They said I must vote for ZANU-PF in the coming elections without fail or they would come back for me.<sup>42</sup>

In each of Zimbabwe’s 10 provinces, soldiers are highly visible, including those performing training exercises in public. For instance, hundreds of soldiers based at Third Brigade in Mutare perform their drills and jog through residential areas in the city, singing liberation war songs or songs with a political message aimed at undermining the MDC and Tsvangirai. Mutare residents said they have seen soldiers jogging through the community several times in February and March. One of them told Human Rights Watch:

Hundreds of uniformed soldiers regularly jog through the city early in the morning, around 6 a.m., singing songs denigrating the MDC and its leader Morgan Tsvangirai. One such song that I have heard them sing on a number of occasions has the words: *“Handizvikanganwe, Zvinondibhowa, Zvinondifizura; Kuseri kwa Morgan kune mabhunu,”* which in English is, “I will never forget it, it annoys me, it incenses me; behind Morgan [Tsvangirai] are *“mabhunu”* [a derogatory term for white people].”<sup>43</sup>

MDC Member of Parliament (MP) for Mbizo, Kwekwe in Midlands province, Settlement Chikwinya, told Human Rights Watch that seemingly “innocent” projects like the army’s Community Assistance Programme, which included construction of classroom blocks at

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<sup>41</sup> Heal Zimbabwe Trust Weekly Updates Newsletter, April 7, 2013.

<sup>42</sup> Human Rights Watch interview with victim, Harare, March 28, 2013.

<sup>43</sup> Human Rights Watch telephone interview with Mutare resident, April 6, 2013.

Mbizo High School, were highly politicized and have become overt campaign platforms for ZANU-PF. He said that on March 22, senior ZANU-PF official and minister of defense, Emmerson Mnangagwa, officially opened the classrooms construction project and urged the community to support Mugabe and to work closely with the army like “fish and water.”<sup>44</sup>

In November 2012, MDC MP Editor Matamisa raised concerns in parliament about the actions of soldiers being deployed in various localities: “When you look at the constituencies, especially in Gokwe – we have soldiers who... are intimidating people in these areas.”<sup>45</sup>

On November 29, dozens of uniformed soldiers armed with AK-47 assault rifles beat up MDC supporters and disrupted their political rally in Zhombe, Mashonaland West province.<sup>46</sup> On November 13, a senior army officer identified only as Major Badza attached to the National Food Security, at Chivi Growth Point in Masvingo province, allegedly threatened villagers with violence if they did not vote for ZANU-PF in the upcoming elections.<sup>47</sup>

A villager at Mataga Growth Point, Mberengwa, in Midlands province told Human Rights Watch that, “Uniformed soldiers patrol daily in the community harassing and randomly beating up villagers for no apparent reason – we live in fear of a repeat of the violence of 2008.”<sup>48</sup>

A ZANU-PF Central Committee member from Gokwe South in the Midlands province inadvertently confirmed that soldiers were deployed in provinces to provide political support for ZANU-PF. In an April 8, 2012 letter of complaint to Gen. Constantine Chiwenga, commander of Zimbabwe’s Defence Forces, the committee member complained about interference by senior army officers deployed in the province who were taking part in “substantial engagement in factional politics.”<sup>49</sup>

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<sup>44</sup> Human Rights Watch telephone interview with MP, S Chikwinya, March 28, 2013.

<sup>45</sup> Parliament of Zimbabwe, November 29, 2012. House of Assembly Proceedings, Hansard, [http://www.parlzim.gov.zw/attachments/article/30/29\\_November-2012\\_39-05.pdf](http://www.parlzim.gov.zw/attachments/article/30/29_November-2012_39-05.pdf) (accessed December 6, 2012).

<sup>46</sup> Human Rights Watch interview with MDC MP Roger Tazviona, February 16, 2013.

<sup>47</sup> Zimbabwe Peace Project, November 2012 Report.

<sup>48</sup> Human Rights Watch interview with villager, Harare, February 16, 2013.

<sup>49</sup> Victor L. Matemanda (ZANU-PF Central Committee Member) letter of complaint to Gen. C. Chiwenga, April 8, 2012.

In another example, a ZANU-PF Chitungwiza district disciplinary committee accused an army officer of supporting the MDC. In a December 2012 letter to the ZANU-PF Chitungwiza district chairperson, this army officer, Mabasa Mutunga, explained his action and reaffirmed his support for ZANU-PF:

While I take cognisance of the fact that as a soldier, I was employed to serve the government and the people and the government and the people are ZANU PF. I have never turned my back to bite the hand that feeds me, for any opposition party, more so the opposition in the form of the MDC which is the only enemy we are fighting at this juncture and era.<sup>50</sup>

## Zimbabwe Republic Police

As with the military leadership, the leadership of the Zimbabwe Republic Police (ZRP), led by Commissioner General Augustine Chihuri, has actively pursued a partisan political agenda on behalf of ZANU-PF. On May 1, 2013, in response to media reports that the security forces had met with Tsvangirai to discuss security sector reforms and the role of the security forces after the elections, Chihuri declared that the security forces would never meet with the prime minister and that anyone who reported on or raised the issue risked arrest. Chihuri went on to say:

Some of us have no business talking to individuals of no substance whose sole purpose and agenda is to create confusion within the rank and file of the defence and security forces. We are too busy to engage confused malcontents who do not know their identity and have a propensity to destroy what others, dead and alive, fought for. They must stop abusing the freedom and democracy that so many Zimbabweans died for. I advise journalists to stop being used in this regard.<sup>51</sup>

A few days later on May 7, police arrested the editor of the Zimbabwe Independent, Dumisani Muleya and chief reporter Owen Gagare after the newspaper published an article alleging that Tsvangirai had met with the heads of the security forces. They were

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<sup>50</sup> Copy of letter on file with Human Rights Watch written by Mabasa Mutunga and copied, strangely, to Zimbabwe National Army Investigating Officers.

<sup>51</sup> "Service chiefs speak on PM Tsvangirai," *The Herald*, May 1, 2013.

interrogated and detained for about eight hours, and later charged under Section 31 of the Criminal Law (Codification and Reform) Act, for publishing or communicating false statements prejudicial to the state. Police indicated that they would proceed with the case by way of summons.

Chihuri's public support of the then-ruling party was made clear in a January 2001 statement, contrary to the Police Act which prohibits police involvement in partisan politics, that he supported ZANU-PF and would resign if another party came to power.<sup>52</sup>

While the Police Act explicitly prohibits members of the police from actively participating in politics and from joining or associating with an organization or movement of a political character, it appears authorities have turned a blind eye to the involvement of police officers in ZANU-PF party politics, but have been quick to act if the political party involved is MDC. According to local human rights group, Zimbabwe Lawyers for Human Rights, in mid-May, the Zimbabwe Republic Police (ZRP) convicted three police officers, Courage Manyengavana, Marshal Zindoga and Lovemore Mupedzapasi, for breaching the Police Act after they reportedly attended an MDC-T (the Tsvangirai-led faction) political rally held at Mushumbi Business Centre in Mashonaland Central Province on April 27, 2013. The three police officers were all sentenced and served 14 days in detention at Chikurubi Support Unit Police Camp.<sup>53</sup>

Human Rights Watch investigations found that since February 2013, senior police officers went around the country addressing members of the force to mobilize support for ZANU-PF and to instruct all members of the force, their spouses and voting-age children to register to vote. One police sergeant told Human Rights Watch:

The provincial head of police addressed us and instructed all police officers to register to vote. He also gave a directive that we submit voter registration receipts to him, all provinces are doing the same, so that they [police leadership] compile a nominal police voters' roll. We have been told there shall be special voting for members of the police two weeks before the election date. We are all under instructions to vote for ZANU-PF. He also

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<sup>52</sup> "Chihuri trashes impartiality of police," *Daily News (Zimbabwe)*, January 16, 2001.

<sup>53</sup> Zimbabwe Lawyers for Human Rights Information Alert, May 21, 2013.

indicated that members of the police and the army will vote inside their camps or barrack while their commanders are looking at the vote to be sure it is for ZANU-PF.<sup>54</sup>

In an action reflective of the highly politicized nature of the police, on November 12, 2012, a police musical band refused to play the national anthem for Prime Minister Tsvangirai in the absence of President Mugabe at a national function to launch the Mid Term Plan implementation progress report in Harare.<sup>55</sup> After the event, MDC minister for economic planning and investment promotion, Tapiwa Mashakada, convened a press conference where he told the media that the “refusal by the police band to sing the national anthem was ill-advised and misinformed action by one of the security arms.”<sup>56</sup>

From November 14 to 20, Zimbabwe’s senior police officers met in Nyanga at a Senior Police Officers’ Conference in which Chihuri warned that those “[c]ommanders [of police] that are ready to surrender Zimbabwe to our erstwhile colonizers and their surrogates are not fit to be police officers.”<sup>57</sup> The conference resolved that national and provincial Joint Operations Command (JOC) meetings “continue to be a pillar of strength to the country, and as such should continue.”<sup>58</sup> In 2008, Human Rights Watch found that the JOC was responsible for orchestrating widespread violence throughout the country that led to the killings of hundreds of perceived MDC activists and supporters and the beating, torture and forced displacement of thousands more.<sup>59</sup>

Since December 2012, the ZANU-PF-controlled police have carried out a campaign of politically motivated abuses against civil society activists and organizations, including the harassment and eight-day detention of human rights lawyer Beatrice Mtetwa despite a High Court order for her release. The judge who issued the court order for her release was

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<sup>54</sup> Human Rights Watch interview with Police Sergeant, C.V, Harare, February 20, 2013.

<sup>55</sup> Interview with minister Tapiwa Mashakada, who organized the function, Harare, November 13, 2012.

<sup>56</sup> “Police band refuses to play national anthem,” Moses Chibaya, *Zim Eye*, November 12, 2012, <http://www.zimeye.org/?p=66292> (accessed February 15, 2013).

<sup>57</sup> 2012 Zimbabwe Republic Police Senior Officers’ Conference, Leopard Rock, Vumba, 14 to 20 November 2012, on file with Human Rights Watch.

<sup>58</sup> *Ibid.*

<sup>59</sup> Human Rights Watch, *“Bullets for Each of You”: State-sponsored violence since Zimbabwe’s March 29 Elections*, ISBN: 1-56432-324-2, June 2008, <http://www.hrw.org/reports/2008/06/19/bullets-each-you>.

later charged with misconduct by the Supreme Court's chief justice. At time of writing the judge's misconduct case was pending consideration by President Mugabe.

On March 8, 2013, in Harare, police charged Jestina Mukoko, director of the Zimbabwe Peace Project, with leading an unregistered organization under the Private Voluntary Organization (PVO) Act, and with smuggling radios and mobile phones into the country in violation of the Broadcasting Services Act and the Customs and Excise Act. The charges under the PVO Act violate the right to freedom of association, while the other charges appear to be a politically motivated attempt to curtail the group's human rights work.

On February 13 and 14, police in Harare and Bulawayo forcibly disrupted the annual Valentine's Day "love" protests by about 190 members of Women of Zimbabwe Arise (WOZA). The police arrested, detained and in some cases beat with batons protesters, including the WOZA national coordinator, Jenni Williams. The protesters were released without charge following the intervention of lawyers.

On February 11, in what appears to have been coordinated action, police raided the offices of the National Association of NGOs (NANGO) and Community Tolerance Reconciliation and Development (COTRAD) in Masvingo and the Zimbabwe Peace Project (ZPP) offices in Harare.

On March 8, the ZANU-PF-controlled Zimbabwe Electoral Commission (ZEC) announced that any civil society organization under police investigation would be barred from monitoring the constitutional referendum and elections. This directive would directly affect the main civil society organizations operating in the country, including ZPP, Zimbabwe Human Rights Association (ZimRights), Zimbabwe Election Support Network, and Crisis in Zimbabwe Coalition.

The recent police actions against civil society groups appear to have had the approval of the highest levels of the police. At the Senior Police Officers' Conference in November 2012, attended by country's top police officers, an official statement was approved noting "with

concern the negative influence and subversive activities” of nongovernmental and civil society organizations in the coming referendums.<sup>60</sup>

The statement resolved to “effectively utilize the intelligence units in monitoring the activities” of organizations; “maintain records of all [organizations] operating in their areas”; “[e]ngage the leaders of these organizations in respect to their activities”; and “[t]ake appropriate action against [organizations] that are found to be operating outside the provisions of the law.”<sup>61</sup>

A similar resolution was approved at the December 2012 ZANU-PF annual conference which was attended by all security chiefs. ZANU-PF resolved to “instruct the party to ensure that government enforces the de-registration of errant [organizations] deviating from their mandate.”

Soon after these statements were approved, the police began a sustained and systematic campaign of harassment and intimidation of civil society organizations. On December 13, police raided the offices of ZimRights and arrested four people, including one of the organization’s staff. A month later, on January 14, police arrested the ZimRights national director, Okay Machisa, ostensibly in his capacity as director of the organization, on charges relating to a voter registration campaign. Machisa spent over two weeks in detention before being released on bail.

On January 18, the ZANU-PF minister for youth and indigenization, Saviour Kasukuwere, formally approved regulations requiring all youth organizations to be registered with the Zimbabwe Youth Council or to be banned. Under these regulations, no youth organization may receive funding without authorization from the youth council and all members or affiliates of registered youth organizations are required to pay exorbitant annual levies to the youth council. These regulations may cripple the operations of youth organizations throughout the country.

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<sup>60</sup> 2012 Zimbabwe Republic Police Senior Officers’ Conference, Leopard Rock, Vumba, 14 to 20 November 2012, on file with Human Rights Watch.

<sup>61</sup> Ibid.



In Bulawayo in January, police arrested and briefly detained over 40 members of the National Youths for Democracy Trust after the group began a campaign to encourage citizens to register to vote.

The systematic police campaign against civil society organizations may be a deliberate ploy to disrupt the operations of civil society organizations and stop them from monitoring the human rights environment ahead of the elections.

## Central Intelligence Organization

Zimbabwe's Central Intelligence Organization (CIO), responsible for state security, is a department in the President's Office that is not regulated by any legislation. It lacks accountability and is answerable only to the president.

The CIO in practice appears to function as an agency of ZANU-PF. In April 2011, Mugabe disclosed the close alliance between ZANU-PF and the CIO while speaking at the funeral of the CIO's deputy director, Menard Muzariri, when he said: "Are all the members who are in ZANU-PF really party members? What do you do in the dark? Some run to our enemies and divulge our secrets. Muzariri and company [CIO] would tell us who was selling out."<sup>62</sup>

Civil society leaders and the media have reported on the CIO conducting surveillance and intelligence gathering on their work and on other people and groups within civil society and political parties, perceived as hostile to ZANU-PF.<sup>63</sup>

The CIO, together with sections of the police and army, have been implicated in the abductions, torture, beatings and harassment of perceived ZANU-PF opponents. For instance, Zimbabwe's Supreme Court established that CIO agents abducted and tortured Zimbabwe Peace Project Director Jestina Mukoko, a prominent human rights campaigner, in December 2008 in an attempt to induce a false confession.<sup>64</sup> Human Rights Watch has

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<sup>62</sup> "Mugabe confirms using CIO to spy on foes," Paidamoyo Muzulu, *The Independent*, April 14, 2011.

<sup>63</sup> Human Rights Watch interviews with three civil society leaders and two journalists subjected to CIO surveillance, February 20, 2013.

<sup>64</sup> *Jestina Mukoko vs The Attorney General*, Supreme Court of Zimbabwe, SC 11/12, November 2012.

in the past documented numerous incidents in which CIO agents have been implicated in abductions, beatings and torture of civil society activists and perceived MDC supporters.<sup>65</sup>

Local groups, including Zimbabwe Human Rights NGO Forum and Zimbabwe Peace Project, have since October 2012 documented an increase in the number of politically motivated human rights violations involving CIO agents. Often this involved torture that took place in police detention. In most cases, victims identified the perpetrators as CIO agents as they often introduced themselves as members of the CIO, and the fact that only state agents, or the police, have access to detainees in police custody, for purposes of interrogation.<sup>66</sup>

In some cases, CIO members have participated directly in ZANU-PF politics through occupying senior positions in the party. For instance, questions have been raised by MPs in parliament on why three CIO members maintain political party positions as ZANU-PF central committee members while still in full-time employment of the state.<sup>67</sup> Despite two formal requests in parliament by MDC MPs in 2011 and 2012, the minister responsible for state security, a ZANU-PF member, has not responded.<sup>68</sup>

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<sup>65</sup> Human Rights Watch, *Perpetual Fear – Impunity and Cycles of Violence in Zimbabwe*, March 2011, <http://www.hrw.org/reports/2011/03/08/perpetual-fear>.

<sup>66</sup> Zimbabwe Peace Project Monthly Monitor Reports October, November 2012.

<sup>67</sup> “Votes and proceedings of the House of Assembly,” Parliament of Zimbabwe, Fourth Session – Seventh Parliament, September 4, 2012. The named CIO agents are: Tabeth Kanengoni from Mashonaland Central, Jesca Chidza from Manicaland and Lazma Humber from Manicaland.

<sup>68</sup> Human Rights Watch interview with MDC MP Shepherd Mushonga, Harare, November 16, 2012.

## VII. The Unity Government Response

Zimbabwe's unity government has failed to agree on crucial reforms to the security sector, which are central to leveling the political playing field and to creating a conducive environment for the holding of credible, free and fair elections. The partners in the unity government have only nominally agreed to write in the new constitution a principle already enshrined in the GPA and in current laws, that security services should be non-partisan, professional and impartial in the conduct of their duties. Beyond that, however, there has been no agreement on practical steps and actions to ensure that security services are in fact non-partisan, politically neutral and professional.

On April 25, Prime Minister Tsvangirai as president of the MDC said in a press statement that security sector realignment has largely been a failure due to “a palpable deficit of political will.”<sup>69</sup>

In a resolution at the December 2009 ZANU-PF's 5<sup>th</sup> congress, the party expressed opposition to any negotiations on security sector reforms.<sup>70</sup> President Mugabe has repeatedly opposed security sector reform, including proposals made by the MDC. For instance, in July 2011, Mugabe told the ZANU-PF Central Committee that no security sector reform would be allowed in Zimbabwe, adding, “The so-called security sector reforms, all of them emanate from Western interests, are a proposition from an enemy who wishes to weaken us. We are not in the habit of taking advice from our enemies.”<sup>71</sup> In May 2011, Mugabe described security sector reform calls as “nonsense” adding that the security sector is “well-established” and so he will not allow it to be reformed.<sup>72</sup>

Mugabe and ZANU-PF have endorsed partisan conduct by military leaders on ZANU-PF's behalf and rejected criticisms and resisted calls for disciplinary action. In the roadmap to elections that the political parties agreed to, a major outstanding issue on which there was no agreement related to the handling of the security forces to ensure independence and

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<sup>69</sup> MDC President, Morgan Tsvangirai Press Statement on Electoral Reforms, April 25, 2013.

<sup>70</sup> 5<sup>th</sup> ZANU-PF National People's Congress Resolutions, December 9 – 13, 2009.

<sup>71</sup> “Leave my generals: President,” *The Herald*, July 6, 2011.

<sup>72</sup> “Zimbabwean president Mugabe rejects security sector reforms, retirement,” Ntungamili Nkomo, *Studio 7 Voice of America, Zimbabwe*, May 20, 2011, <http://www.voazimbabwe.com/content/zimbabwean-president-mugabe-rejects-security-sector-reform-122348744/1457749.html> (accessed April 20, 2013).

non-partisanship. ZANU-PF has rejected MDC calls for legislation to regulate the operations of the CIO and have denied that soldiers were being deployed across the country for partisan political purposes.

On May 9, 2013, ZANU-PF Spokesperson Rugare Gumbo, told Human Rights Watch:

The leaders of Zimbabwe's security forces that we have today did not just emerge out of the blue, they have a history, one of the liberation struggle to overthrow the Rhodesian colonial regime of Ian Smith. You cannot expect them to be non-partisan and neutral. It would be unfair to say the security forces should be impartial given our history of the liberation struggle. The perception is that the MDC is sponsored by the British through the Westminster Foundation to effect regime change in Zimbabwe so our security forces cannot be neutral in light of that. They simply cannot. You cannot expect the leaders of the security forces to fold their arms and be silent in the face of threats of regime change by puppets of western governments.<sup>73</sup>

On April 20, 2013, the minister of state security, Sydney Sekeramayi, of ZANU-PF, told a provincial party meeting in Marondera, Mashonaland East province, that government would never accept outside calls for security sector reform. He said:

Our security sector, comprising the Zimbabwe National Army, the Air Force of Zimbabwe, the Zimbabwe Republic Police, to some extent the Zimbabwe Prison Services and the intelligence services, are professional bodies whose performance is acknowledged even outside Zimbabwe. These are bodies which are headed by some of our most illustrious commanders during the liberation struggle. But, because these commanders are the ones who piloted the freedom of this country, those that we conquered don't want to see them...They don't want them to be in command position and we are saying that to all intents and purposes it's a lot of nonsense [and] we will not accept it. If there is anything that has to be done in terms of the quality of our defense and security forces, we are the ones to do it. Nobody should sit in London or elsewhere and tell us to do security sector

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<sup>73</sup> Human Rights Watch interview with ZANU-PF Spokesperson, Rugare Gumbo, Harare, May 9, 2013.

reform, security sector alignment and that type of rubbish. That will not be done.<sup>74</sup>

Earlier that month, in an interview with the state-owned but ZANU-PF aligned *Herald* newspaper, Defense Minister Emmerson Mnangagwa of ZANU-PF said:

Those who speak of security reforms are driven by the illegal regime change agenda to remove us [ZANU-PF] [from power] and install their puppets. They intend to remove the current crop of leadership within the army and replace them with that of their own choice who will pander to their whims.<sup>75</sup>

In October 2012, in an interview with the British Broadcasting Corporation (BBC), Justice Minister Patrick Chinamasa said the Zimbabwean military would not accept a victory by Prime Minister Tsvangirai and the MDC in the coming elections. He said:

He [Tsvangirai] cannot win. He has been campaigning and mobilizing against the interests of Zimbabweans on many issues, whether talking about land, seeking to reverse the gains of the liberation struggle. And this is where the military comes in. Young people participated in the liberation struggle to gain control over our resources. Many friends died and are buried in unmarked graves. Now if anyone is going to say: “When I come into power I'm going to reverse that,” they [the military] have every right to say: “Please - you are asking for trouble. You will be asking for trouble.”<sup>76</sup>

The following week, ZANU-PF spokesperson, Rugare Gumbo, supported and reiterated Chinamasa’s sentiments in an interview with ETV in South African.<sup>77</sup> ZANU-PF neither

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<sup>74</sup> “No to security sector reform as part of election conditions, says state security minister Sydney Sekeramayi,” *Zim Connect*, April 22, 2013, <http://zimconnect.net/media/no-to-security-sector-reforms-as-part-of-election-conditions-says-state-security-minister-sydney-sekeramayi/> (accessed April 24, 2013).

<sup>75</sup> “Security sector reforms not part of the GPA,” Farai Machivenyika, *The Herald*, April 5, 2013, [http://www.herald.co.zw/index.php?option=com\\_content&view=article&id=73033:security-sector-reforms-not-part-of-gpa&catid=37:top-stories&Itemid=130#.UXk6Wo4Ve8A](http://www.herald.co.zw/index.php?option=com_content&view=article&id=73033:security-sector-reforms-not-part-of-gpa&catid=37:top-stories&Itemid=130#.UXk6Wo4Ve8A) (accessed April 10, 2013).

<sup>76</sup> “Would ZANU- PF accept Tsvangirai as president?” BBC News Africa, October 11, 2012, <http://www.bbc.co.uk/news/world-africa-19912593> (accessed February 10, 2013).

<sup>77</sup> “Arrest Chinamasa, Gumbo: MDC-T,” Patrice Makova, *The Standard*, October 21, 2012, <http://www.thestandard.co.zw/2012/10/21/arrest-chinamasa-gumbo-mdc-t/> (accessed February 11, 2013).

condemned nor distanced itself from these statements. And Mugabe did not publicly censure Chinamasa or Gumbo over the statements.

MDC has pressed for security sector reforms without success. Prime Minister Tsvangirai on April 25, 2013 issued a press statement in which he noted:

The role of the security sector in this election must be clearly defined in line with international best practice. The security sector must be professional, impartial, and non-partisan and desist from overtly making partisan political statements and abusing State resources to further the narrow partisan interests.

In 2011, Tsvangirai had conceded that the MDC's failure to insist on security sector reforms from the outset of the Global Political Agreement and unity government talks was a mistake:

While Zimbabwe bore the classic hallmarks of a post-war conflict, the 15 September 2008 peace deal [GPA] was a purely political agreement. It left the status of a highly politicized security sector intact. That was a mistake.<sup>78</sup>

In October 2012, MDC MP Settlement Chikwinya expressed concerns in parliament about partisan and political statements by police Commissioner General Chihuri and army chief of staff Major General Nyikayaramba.<sup>79</sup> Chikwinya called on parliament to condemn the statements and ensure that such statements by the army and police are investigated. Parliament adopted the motion unanimously and Defense Minister Mnangagwa promised to give a response on behalf of the military but he never did so.<sup>80</sup>

The magnitude of disagreement between ZANU-PF and the MDC factions over security sector reform is reflected in the roadmap to Zimbabwe elections brokered by the Southern African Development Community (SADC). The roadmap outlines the path to credible, free

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<sup>78</sup> "Morgan Tsvangirai At the Deep End," Morgan Tsvangirai and T. William Bango, Penguin Books, 2011, p 538.

<sup>79</sup> Motion Statement on file with HRW. HRW interview with MDC MP Settlement Chikwinya, Harare, 26 November 2012.

<sup>80</sup> Human Rights Watch interview with MDC MP Settlement Chikwinya, Harare, November 26, 2012.

and fair elections in Zimbabwe that comply with SADC Principles and Guidelines Governing Democratic Elections. The guidelines provide that SADC member states shall adhere to the following principles in the conduct of democratic elections: full participation of the citizens in the political process; freedom of association; political tolerance; equal opportunity for all political parties to access the state media; equal opportunity to exercise the right to vote and be voted for; independence of the Judiciary and impartiality of the electoral institutions; and provision of voter education.<sup>81</sup> It has also highlighted areas of disagreement and the positions taken by ZANU-PF and by the MDC parties. ZANU-PF and the MDC factions set out the areas of disagreement on reforms within the roadmap, with ZANU-PF's resistance to security sector reforms as one of the key issues.<sup>82</sup> The roadmap noted ZANU-PF's outright rejection of the following recommendations that the MDC made regarding security sector reform:

Leaders of government instruct security forces to issue a public statement that they will unequivocally uphold the Constitution and respect the Rule of Law in the lead up to and following any election; End military and police abuse of the rule of law and end all state sponsored violence; and, Re-deployment to barracks of all military personnel deployed across the country.<sup>83</sup>

ZANU-PF said these are not election matters and denied that soldiers are deployed across the country or that they are involved in political violence.<sup>84</sup>

ZANU-PF has also dismissed calls by the MDC for a legislative framework to govern the operations of the CIO to bring them under parliamentary oversight for transparency and accountability.<sup>85</sup>

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<sup>81</sup> SADC Principles and Guidelines Governing Democratic Elections

<sup>82</sup> Zimbabwe Elections Roadmap with Timelines, July 6, 2011.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

<sup>85</sup> Ibid.

## VIII. A Roadmap to Credible, Free and Fair Elections

Reforms to level the political playing field have security sector reform at their core, which should be complemented by additional, urgent electoral reforms. For Zimbabwe to create a human rights respecting environment conducive for the holding of credible, free and fair elections that comply with SADC Principles and Guidelines on the Conduct of Democratic Elections, the issues below should be addressed in its elections roadmap.<sup>86</sup>

Crucial outstanding electoral reforms include reforms to a Zimbabwe Electoral Commission (ZEC) whose secretariat staff has been dominated by state intelligence and military officials. While ZEC has new commissioners, the secretariat staff is largely the same pro ZANU-PF team that worked for previous commissions. Several senior ZEC staff are either serving or retired members of the security forces drawn from the CIO, the army, and the police.<sup>87</sup> ZANU-PF continues to resist calls by civil society and the MDC factions for an independent audit of ZEC staff followed by a fresh recruitment of professional, independent, and non-partisan personnel. This is an outstanding issue in talks brokered by South Africa as part of SADC mediation, but ZANU-PF has rejected any changes to ZEC personnel.

The power-sharing government has made little progress in updating the outdated voters' roll that has a significant number of "ghost" voters coupled with a highly partisan voter registration process under which ZANU-PF supporters easily registered to vote while those perceived to be MDC supporters found it difficult to do so. The voters roll, which should have been put under the exclusive control of ZEC, remains under the control of the registrar general, Tobaiwa Mudede, who within the Home Affairs Ministry is responsible for the registration of births, deaths, citizenship, and voters. Mudede has been responsible for the voters' roll in previous elections, despite having publicly aligning himself with ZANU-PF.<sup>88</sup> Related to that, the MDC and civil society groups have often been prevented from

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<sup>86</sup> Human Rights Watch has addressed these issues in earlier reports, namely *Race Against Time: The Need for Legal and Institutional Reforms Ahead of Zimbabwe's Elections*, ISBN: 1-56432-974-7, January 2013, <http://www.hrw.org/reports/2013/01/10/race-against-time>; and *False Dawn: The Zimbabwe Power-Sharing Government's Failure to Deliver Human Rights Improvements*, August 2009, <http://www.hrw.org/reports/2009/08/31/false-dawn>.

<sup>87</sup> Human Rights Watch, *Race Against Time: The Need for Legal and Institutional Reforms Ahead of Zimbabwe's Elections*, ISBN: 1-56432-974-7, January 2013, <http://www.hrw.org/reports/2013/01/10/race-against-time>. For instance, the current ZEC Chief Elections Officer, Lovemore Sekeramayi, is a former member of the President's Office.

<sup>88</sup> When local elections monitoring group, Zimbabwe Election Support Network (ZESN) noted a number of irregularities on the voters' roll in October 2012, Registrar General Mudede's response was, "the voters' roll is perfect," SW Radio Africa, <http://www.swradioafrica.com/2012/03/08/registrar-general-tobaiwa-mudede-exposed/> (accessed April 24, 2013).



conducting voter education programs – the recent civil society crackdown was centered on alleged violations of voter education regulations. Police arrested 19 MDC supporters in Harare on April 25, 2013 who were encouraging residents to register to vote, and charge them with impersonating government officials.<sup>89</sup>

Another crucial outstanding issue relates to ZANU-PF's insistence that international election observers will not be accredited, except only those deemed to be friendly to Zimbabwe. In February 2013, Vice President Joyce Mujuru (ZANU-PF), said Zimbabwe will only allow Southern African observers to monitor the 2013 elections.<sup>90</sup> Without robust domestic, regional and international observers many electoral problems will go unnoticed, and therefore, ensuring that Zimbabwe's elections are fully and effectively monitored by both domestic and international observers is a key part of the elections roadmap.

A number of legislative reforms that the power-sharing government should urgently undertake to pave way from credible, free and fair elections include the repeal or amendment, as appropriate, of laws inhibiting basic freedoms including the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA), so that human rights monitors, civil society organizations, and independent media are able to operate freely and effectively.

Finally, crucial media reforms should be implemented to ensure that the highly partisan state-controlled print and electronic media become genuinely public, to guarantee equal and fair coverage to all political parties. All publicly funded media should be non-partisan and objective in covering all political players and the public.

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<sup>89</sup> Human Rights Watch telephone interview with senior MDC official, April 27, 2013.

<sup>90</sup> "Western Observers not welcome – VP," *The Sunday Mail*, February 24, 2013.

## Acknowledgments

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# THE ELEPHANT IN THE ROOM

## Reforming Zimbabwe's Security Sector Ahead of Elections

Zimbabwe's unity government, consisting of the former ruling Zimbabwe African National Union (ZANU-PF) and the two Movement for Democratic Change (MDC) factions, has failed to reform the state security forces despite their continued interference in the nation's political and electoral affairs ahead of the 2013 general elections. The heads of the military, police and Central Intelligence Organization have, in many situations, publicly and vocally demonstrated their support for President Mugabe and ZANU-PF.

*The Elephant in the Room: Reforming Zimbabwe's Security Sector Ahead of Elections* describes how the partisanship of the security forces' leadership has translated into abuses by the army and police against the MDC and civil society organizations across the country. Beyond the open endorsement of ZANU-PF, the security forces have been deployed throughout Zimbabwe, intimidating and beating supporters and perceived supporters of the MDC and civil society activists.

Although the current and proposed constitution and various laws require neutrality and impartiality from the security forces, no effort has been made to enforce them. No members of the security forces are known to have been disciplined or prosecuted for acting in a partisan manner or committing criminal offenses against the MDC and its supporters. The role of the security forces is likely to have an effect on the ability of Zimbabweans to freely vote during the elections.

Human Rights Watch calls on the unity government, with support from the Southern African Development Community, to urgently take steps to ensure the political neutrality of the security forces, by investigating and prosecuting alleged abuses by security force personnel, publicly directing the leadership of the security forces to carry out their responsibilities in a professional and impartial manner, and appropriately punish or prosecute those who fail to do so.



*Zimbabwean national army soldiers on parade during the Defence Forces Day celebrations at the National Sports Stadium in Harare, August 14, 2012.*

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