



Australian Government
Refugee Review Tribunal

Country Advice

Zimbabwe

Zimbabwe – ZWE36759 – Movement for Democratic Change – Returnees – Spies – Traitors – Passports – Travel restrictions

21 June 2010

1. Deleted.
2. Deleted.
3. **Please provide a general update on the situation for Movement for Democratic Change (MDC) members, both rank and file members and prominent leaders, in respect to their possible treatment and risk of serious harm in Zimbabwe.**

The situation for MDC members is precarious, as is borne out by the following reports which indicate that violence is perpetrated against them with impunity by Zimbabwean police and other Law and Order personnel such as the army and pro-Mugabe youth militias. Those who are deemed to be associated with the MDC party either by family ties or by employment are also adversely treated.

The latest Country of Origin Information Report from the UK Home Office in December 2009 provides recent chronology of incidents from July 2009 to December 2009 where MDC members and those believed to be associated with them were adversely treated. It notes that there has been a decrease in violent incidents in some parts of the country; however, there was also a suspension of the production of the 'Monthly Political Violence Reports' by the Zimbabwe Human Rights NGO Forum (ZHRF), so that there has not been a comprehensive accounting of incidents:

POLITICALLY MOTIVATED VIOLENCE

Some areas of Zimbabwe are hit harder by violence

5.06 Reporting on 30 June 2009, the Solidarity Peace Trust noted that:

An uneasy calm prevails in some parts of the country, while in others tensions remain high in the wake of the horrific violence of 2008....

5.07 In contrast to the Solidarity Peace Trust report above, IRIN reported on 27 July 2009, that there were reports that people suspected of supporting the MDC, in areas once regarded as ZANU-PF strongholds, such as Mashonaland West, East and Central, Masvingo and Manicaland, risked being abused and or beaten.

5.08 SW Radio Africa reported on 30 October 2009 that "Thousands of MDC activists, in various districts of Mashonaland Central province ..." reported that they continued to live "... in a state of 'generalised fear.'"... Additionally, over 80 teachers fled the violence that erupted soon after the MDC disengaged from ZANU-PF." IRIN News reported on 27 October 2009 that the number of teachers fleeing violence in Mashonaland Central province might be as high as 100.

5.09 The last published monthly political violence report by the Zimbabwe Human Rights NGO Forum (ZHRF), covering June 2009, noted that levels of political violence increased slightly on the reported figures for June 2009, recording "... 125 as compared to 99 in May." However, the number of human rights "... violations recorded in May [2009] was significantly lower than those in April [2009] ... May recorded a total of 103 violations as compared to 204 in April. During the period 1 January to 30 June 2009 the ZHRF recorded a total of 1,096 human rights violations. This figure is much reduced compared with the same period in 2008, at the height of the election violence, when there were 8,558 recorded human rights violations. The 2009 figures are also markedly lower than the same period in 2007 when there were 5,307 recorded human rights violations.

However, it should be noted that on 14 October 2009 the ZHRF announced that it was suspending the production of the Monthly Political Violence Reports because it "... continued to receive new cases from 2008 that were previously unrecorded. The Forum has therefore resolved to suspend the production of the Monthly Political Violence Reports and resume such production once the statistics have been reconciled." Intimidation and prosecution of MDC legislators and activists

5.11 The BBC reported on 9 June 2009 that one senior member of the MDC, Sekai Holland, Minister for National Healing, Reconciliation and Integration in the unity government, claimed that malcontents within ZANU-PF were sending daily threats and warnings to members of the MDC and "... were drawing up assassination lists.... With the worst violence planned to coincide with elections due in 18 months." Ms Holland, who "... was badly beaten by ZANU-PF supporters two years ago... claimed that militiamen would be paid a wage of [US]\$100 (£62) a day ..." during the next election to intimidate and kill Zimbabweans. Her comments echo earlier claims by Prime Minister Morgan Tsvangirai who criticised the speed of political change and commented that "... although the MDC was in government, it had not succeeded in restoring the rule of law and warned his party that Zimbabweans remained hungry and afraid of political persecution."

5.12 Human Rights Watch's report *False Dawn*, dated 31 August 2009, also noted that:

"A particularly worrying development since the formation of the government of national unity has been the arrest of MDC parliamentarians, mostly on trumped-up charges. Human Rights Watch reported on 31 August 2009 that the actions of the police and the Attorney General's office "...points to a drive by ZANU-PF to overturn MDC's slender majority in Parliament. At the time of writing, at least 16 MDC legislators have been arrested by police on charges ranging from public violence to kidnapping and rape; seven of whom have already been tried and convicted in unfair trials in which the judges are known ZANU-PF loyalists." The report went on to note:

"Of the seven already convicted, four have since been suspended from Parliament under laws that provide that members of parliament (MPs) sentenced to six or more months of imprisonment shall immediately cease to exercise their parliamentary functions.

"Other MDC legislators also face charges that carry potential prison sentences in excess of six months and they too are at risk of losing their seats in Parliament. Finance Minister Tendai Biti faces a treason charge that potentially carries a death sentence. Deputy Youth Minister and MP for Nkulumane Thamsanqa Mahlangu faces a charge of stealing a mobile phone and is on bail awaiting trial. Senator Roy Bennett is charged with illegal possession of 'arms of war' and is on bail awaiting

trial. Blessing Chebundo, Kwekwe Central MP, faces a charge of rape and is on bail awaiting trial. Trevor Saruwaka, Mutasa South MP, faces a public violence charge and is on bail awaiting judgment. Five MPs face charges of abusing subsidized farming inputs. ... These prosecutions are not only politically motivated; they are also often presided over by politicized and partisan officials loyal to ZANU-PF, making a fair and impartial hearing near impossible. Not a single ZANU-PF legislator has been arrested or prosecuted for criminal offenses since the GPA was signed, although a number are directly implicated in last year's political violence and other serious abuses, which resulted in the killing of over 163 MDC supporters between March and June 2008."

5.13 The Institute for the Democratic Alternative for South Africa's group, States in Transition Observatory, noted in a report, Zimbabwe Government of National Unity Watch – 6 Month review (published at the end of September 2009), that at the end of September 2009 there were 15 vacant seats in the House of Assembly. The MDC claims that many of these vacancies were caused by ZANU-PF actions to reduce their slim majority.

Roy Bennett detained in custody

5.14 *The Times* reported on 15 October 2009 that the MDC Deputy Agriculture Minister (designate), Roy Bennett, was refused extended bail by a court in Mutare, and was ordered to be detained in custody until his trial on dubious charges of "possessing arms for sabotage and plotting terrorism" is heard in the High Court. Mr Bennett's detention has increased tensions between Prime Minister Tsvangirai and President Mugabe, whose stance towards the MDC and western countries is believed to have softened in recent weeks. However, some political analysts expressed concern that the renewed detention formed part of the continuing backlash by ZANU-PF hardliners to derail the power sharing government. *The Times* reported on 26 October 2009 that a large number of observers believe that President Mugabe has lost control over elements of the security forces, which include many of the hardliners.¹

In its August 2009 report Human Rights Watch detailed an attack against the 73 year-old mother of MDC's international relations coordinator and an assault against Tendai Biti's gardener.²

Amnesty International on 11 May 2010 appealed to Zimbabwean authorities with the following statement:

... we remain concerned about persistent abuse of the law against perceived opponents of the former ZANU-PF government," said Michelle Kagari Amnesty International's Deputy Director for Africa.

...

Despite the creation of the unity government in February 2009, police continue to arbitrarily arrest and detain human rights activists, journalists and political activists aligned to the former opposition parties now sharing power in the inclusive government.

¹ UK Border Agency 2009, 'Country of origin information report: Zimbabwe', UK Home Office website, 23 December (Section 5.06 – 5.14) Politically motivated violence. Some areas of Zimbabwe are hit harder by violence] - <http://rds.homeoffice.gov.uk/rds/pdfs09/zimbabwe-231209.doc> - Accessed 15 June 2010 - Attachment 4

² Human Rights Watch 2009, *False Dawn: The Zimbabwe Power-Sharing Government's Failure to Deliver Human Rights Improvements*, August, p.6
<http://www.hrw.org/sites/default/files/reports/zimbabwe0809webwcover.pdf> - Accessed 2 October 2009 – Attachment 5

In the last three months human rights activists attempting to facilitate public debate on past human rights violations have been specifically targeted and their activities barred by police.³

On 20 April 2010 Amnesty International attributed the current violence to the ‘culture of impunity that thrives especially within the Zimbabwe Republic Police Law and Order section’⁴ and stated that the ‘onus is on President Mugabe and ZANU-PF to ensure that key institutions under their control are reformed to end the culture of impunity that still threatens stability in the country’.⁵

In June 2010 the MDC accused ‘Zanu-PF [Zimbabwe African National Union-Patriotic Front] supporters of embarking on an orgy of violence against its members, in various parts of the country’⁶, and ‘apart from the armed soldiers, Zanu PF has also roped in traditional leaders, war veterans and its notorious youth militia to intimidate people with divergent views’.⁷

4. Please provide an update on the present situation in respect of Zimbabwean nationals who have lived and studied in Australia being regarded as spies in Zimbabwe upon their return to that country.

There was no information found to indicate that Zimbabwean nationals who have lived and studied in Australia were regarded as spies upon their return to Zimbabwe.

A Country Advice of 17 May 2010 refers to a DFAT report which indicates that Zimbabwean nationals returning from Australia were not adversely treated because they had studied in Australia.⁸ The Department of Foreign Affairs and Trade report of 23 October 2007 states that:

We are not aware of difficulties by Zimbabweans returning from study from overseas in countries critical of the Government of Zimbabwe (GOZ) such as Australia, the United States, Canada and the United Kingdom. We have seen no evidence that the simple fact of studying in those countries would attract punitive action by the GOZ. Officers of the Central Intelligence Organisation (CIO) have been working under cover for some time as Immigration Officers at Harare International Airport. If an individual student was active in organisations subject to harassment by the GOZ, such as the Movement for Change (MDC), trade unions or civil society organisations, it is possible that she might be identified on arrival at Harare Airport. If so, any punitive measures taken against her by the GOZ would be the result of such activism, not of simply having studied in Australia.⁹

Information on the situation for returnees from the UK is contained in the latest Operational Guidance Note of the UK Home Office of March 2009. An excerpt from the

³ Amnesty International 2010, ‘Zimbabwe authorities must stop harassing opponents of former government’, 11 May <http://www.amnesty.org/en/news-and-updates/zimbabwe-authorities-must-stop-harassing-opponents-former-government-2010-05-11> - Accessed 15 June 2010 – Attachment 6

⁴ Amnesty International 2010, ‘Zimbabwean police must end intimidation of activists’, 20 April - <http://www.amnesty.org/en/news-and-updates/zimbabwean-police-must-end-intimidation-activists-2010-04-20> - Accessed 15 June 2010 – Attachment 7

⁵ Amnesty International 2010, ‘Zimbabwe: Abuse of human rights under unity government’, 10 February <http://www.amnesty.org/en/for-media/press-releases/zimbabwe-abuse-human-rights-continues-under-unity-government-20100210-0> - Accessed 16 June 2010 – Attachment 8

⁶ Zimbabwe: MDC Party accuses ZANU-PF supporters of attacking members’ 2010, *BBC Monitoring Africa*, sourced from London-based Zimbabwe independent SW Radio Africa, 2 June – Attachment 9

⁷ Chimhete, C. 2010, ‘Army presence heightens tension- MDC’, *All Africa*, sourced from Zimbabwe Standard, 8 June – Attachment 10

⁸ RRT Country Advice Service 2010, *Country Advice ZWE36639*, 17 May (Question 3) – Attachment 11

⁹ Department of Foreign Affairs and Trade 2007, *DFAT Report ZWE32420 – Zimbabwe: RRT Information Request: ZWE32420*, 23 October – Attachment 12

summary of Case law RN (Returnees) Zimbabwe CG [2008] UKAIT 00083, cited in Section 5, outlines what would attract the attention of Zimbabwean airport authorities when they vet returning nationals:

In respect of those returning to the airport there is no evidence that the state authorities have abandoned any attempt to distinguish between those actively involved in support of the MDC or otherwise of adverse interest and those who simply have not demonstrated positive support for or loyalty to Zanu-PF. There is no reason to depart from the assessment made in HS [*Country Adviser's note: this is a reference to Case law HS*] of those who would be identified at the airport of being of sufficient interest to merit further interrogation and so to be at real risk of harm such as to infringe either Convention.

The Tribunal found in HS that the well resourced, professional and sophisticated intelligence service that is the CIO would distinguish, when dealing with those returning as deportees from the United Kingdom, between those deportees in whom there was some reason to have interest and those who were of no adverse interest simply on that account. This was an intelligence led process informed by record keeping in Zimbabwe and information from operatives sent to the United Kingdom to infiltrate MDC groups active there. The risk categories were clearly identified and there was evidence that those not falling into such were able, generally, to pass through the airport without real difficulty.¹⁰

In contrast, a Country Advice of 5 January 2010 which noted that returnees experience a sense of disappointment¹¹ also cited a case in a report of 31 October 2009, where a returnee was now 'lying low for fear of victimization' and another returnee who was murdered for having been a 'sell-out'.¹²

A Research Response of 10 November 2009 cites two BBC News reports which stated that there had been incidences when returned Zimbabwean asylum seekers from the UK were accused of being 'British spies' and 'traitors' in 2005 and 2006.¹³ Analytical summaries of these articles contained in the Response are attached:

A *BBC News* article dated 11 April 2006 refers to the UK Court of Appeal asking the Asylum and Immigration Tribunal (AIT) "to reconsider its decision" following a government appeal against an AIT ruling in October 2005 that "effectively halted all deportations of failed Zimbabwean asylum seekers." In the tribunal ruling, "the tribunal said that the government could not deport an asylum seeker known only as AA - because there was enough evidence to suggest he faced potential interrogation or worse on arrival in Harare." The tribunal had "said that AA had no valid reason to claim asylum when he arrived in the UK", but "none of this altered the fact that he could face a risk of real harm if sent back - because it was clear that Zimbabwean security services believed returning asylum seekers were British spies."¹⁴

An earlier *BBC News* article dated 6 October 2005 indicates that lawyers in a test case in London, who were "challenging the deportation of failed Zimbabwean

¹⁰ UK Home Office 2009, *Operational Guidance Note – Zimbabwe*, March (5. Returns) March – Attachment 14

¹¹ RRT Country Advice Service 2010, *Country Advice ZWE35970*, 5 January (Question 4) - Attachment 15

¹² 'Concern Raised as UK Threatens Deportations' 2009, *All Africa*, source: SW Radio Africa, 31 October – Attachment 16

¹³ RRT Country Advice Service 2009, *Research Response ZWE35590*, 10 November, (Question 2.p10) - Attachment 17

¹⁴ 'Q and A: Zimbabwe asylum ruling' 2006, *BBC News*, 11 April

http://news.bbc.co.uk/2/hi/uk_news/4901202.stm - Accessed 4 November 2009 – Attachment 18

asylum seekers by the UK Government”, had told a tribunal that Zimbabweans deported home were “regarded as traitors or spies by Robert Mugabe’s government”. Mark Henderson of the Refugee Legal Centre “said that the CIO had taken ‘particular interest’ in flights from the UK - and a ‘malevolent interest’ in returning asylum seekers. Some of these were regarded as ‘Blair’s spies’ or ‘agents of regime change’, he told the tribunal.” The article also indicates that Steven Kovats for the Home Office had “said an official delegation visited Zimbabwe in September to investigate the claims of abuse” and “[t]he Secretary of State concludes that on the totality of evidence of the field reports that failed asylum seekers as a class are not at real risk of treatment contrary to the European Convention on Human Rights, nor are they at real risk of persecution”¹⁵

A previous Country Advice of 24 May 2010 which addressed the issue of whether former asylum seekers from the United States were considered as ‘traitors’ upon their return to Zimbabwe found no evidence to support this claim.¹⁶

5. Please provide information on whether there were problems or delays or refusal in the granting of Zimbabwean passports to MDC members leading up to January and February 2003.

No information was found to confirm or deny that there were problems or delays with or refusal to grant Zimbabwean passports to MDC members leading up to January and February 2003; however, an article from *Agence France Presse* on 1 August 2002 implies the plausibility of this occurrence. The article quotes the Zimbabwean Minister of Home Affairs, Mr John Nkomo, who stated that the Zimbabwean authorities were considering punitive travel restrictions on people who were considered to have encouraged the application of European Union sanctions against Zimbabwe:

"We are actively considering a range of measures to take, which will include the withdrawal of passports and the introduction of exit and entry visas against our political opponents in the country who have campaigned for sanctions," Home Affairs Minister John Nkomo told the private *Financial Gazette* newspaper.

...

But the paper quoted Nkomo as saying the government would "deal with internal saboteurs..."¹⁷

Attachments

1. Deleted.
2. Deleted.
3. Deleted.
4. UK Border Agency 2009, 'Country of origin information report: Zimbabwe', UK Home Office website, 23 December <http://rds.homeoffice.gov.uk/rds/pdfs09/zimbabwe-231209.doc> - Accessed 15 June 2010.
5. Human Rights Watch 2009, *False Dawn: The Zimbabwe Power-Sharing Government's Failure to Deliver Human Rights Improvements*, August

¹⁵ Zimbabwe returnees regarded spies' 2005, *BBC News*, 6 October

http://news.bbc.co.uk/2/hi/uk_news/4315122.stm – Accessed 7 September 2009 – Attachment 19

¹⁶ RRT Country Advice Service 2010, *Country Advice ZWE36454*, (Question 11) 24 May – Attachment 20

¹⁷ 'Zimbabwe to restrict movement of domestic opponents: report [corrected 08/01/02], 2002 *Agence France Presse*, 1 August – Attachment 21

- <http://www.hrw.org/sites/default/files/reports/zimbabwe0809webwcover.pdf> - Accessed 2 October 2009.
6. Amnesty International 2010, 'Zimbabwe authorities must stop harassing opponents of former government', 11 May <http://www.amnesty.org/en/news-and-updates/zimbabwe-authorities-must-stop-harassing-opponents-former-government-2010-05-11> - Accessed 15 June 2010.
 7. Amnesty International 2010, 'Zimbabwean police must end intimidation of activists', 20 April - <http://www.amnesty.org/en/news-and-updates/zimbabwean-police-must-end-intimidation-activists-2010-04-20> - Accessed 16 June 2010.
 8. Amnesty International 2010, 'Zimbabwe: Abuse of human rights under unity government', 10 February <http://www.amnesty.org/en/for-media/press-releases/zimbabwe-abuse-human-rights-continues-under-unity-government-20100210-0> - Accessed 16 June 2010.
 9. 'Zimbabwe: MDC Party accuses ZANU-PF supporters of attacking members' 2010, *BBC Monitoring Africa*, sourced from London-based Zimbabwe independent SW Radio Africa 2 June. (FACTIVA)
 10. Chimhete, C. 2010, 'Army presence heightens tension- MDC', *All Africa*, sourced from Zimbabwe Standard, 8 June. (FACTIVA)
 11. RRT Country Advice Service 2010, *Country Advice ZWE36639*, 17 May.
 12. Department of Foreign Affairs and Trade 2007, *DFAT Report ZWE32420 – Zimbabwe: RRT Information Request: ZWE32420*, 23 October.
 13. UK Home Office 2009, Operational Guidance Note – Zimbabwe, March.
 14. RRT Country Advice Service 2010, *Country Advice ZWE35970*, 5 January.
 15. 'Concern Raised as UK Threatens Deportations' 2009, *All Africa*, source: SW Radio Africa, 31 October. (FACTIVA)
 16. RRT Country Advice Service 2009, *Research Response ZWE35590*, 10 November.
 17. Q and A: Zimbabwe asylum ruling' 2006, *BBC News*, 11 April http://news.bbc.co.uk/2/hi/uk_news/4901202.stm - Accessed 4 November 2009.
 18. Zimbabwe returnees regarded spies' 2005, *BBC News*, 6 October http://news.bbc.co.uk/2/hi/uk_news/4315122.stm – Accessed 7 September 2009.
 19. RRT Country Advice Service 2010, *Country Advice ZWE36454*, 24 May.
 20. Zimbabwe to restrict movement of domestic opponents: report [corrected 08/01/02], 2002 *Agence France Presse*, 1 August. (FACTIVA)