INDEX TO DOCUMENTATION OF COUNTRY CONDITIONS REGARDING PERSECUTION OF LGBTQ INDIVIDUALS IN ZIMBABWE

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<th>GOVERNMENTAL SOURCES</th>
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<td>• “61 Interpretation in Part III of Chapter V”</td>
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|     | (1) In this Part—  
|     | […]  
|     | ‘unlawful sexual conduct’ means . . . sodomy;”  
|     | • “73 Sodomy” |
|     | (1) Any male person who, with the consent of another male person, knowingly performs  
|     | with that other person anal sexual intercourse, or any act involving physical contact other  
|     | than anal sexual intercourse that would be regarded by a reasonable person to be an indecent  
|     | act, shall be guilty of sodomy and liable to a fine up to or exceeding level fourteen or  
|     | imprisonment for a period not exceeding one year or both.” (p. 50) |

**“16 Sentence for certain offences where offender is infected with HIV**

Where a person is convicted of—

(a) …sodomy…and it is proved that, at the time of the offence, the convicted person was infected with HIV, whether or not he was aware of his infection, he shall be sentenced to imprisonment for a period not exceeding twenty years.” (p. 8)


- “Human rights observers reported that the criminality and social stigma of same-sex activity left homosexual men in particular vulnerable to blackmail, dismissal from employment or education, eviction from housing, and/or violence or harassment from families, neighbours, or the police. LGBTI individuals were particularly vulnerable to assault in cases where they were in the presence of a crowd, which would depend on the strength of numbers to initiate an attack following a tip-off. In cases where such mob attacks took place in the neighbourhoods of LGBTI individuals, they would usually be followed by property owners issuing eviction notices to the victims. [Association of LGBTI People in Zimbabwe or] GALZ recorded 170 violations (of all kinds) between 2012-17, but the stigma attached to LGBTI issues means this is likely to underestimate substantially the true number.” (p. 39)

- “In one high-profile case in September 2018, a deputy headmaster at an elite private school resigned from his position after receiving death threats and protests from parents angered at his public declaration of his sexual orientation. In February 2018, a Masvingo magistrate convicted two prison inmates of sodomy and gave them each additional six-year prison terms to their existing sentences after they were caught having consensual sex in a cell.” (p. 39)

- “While lesbian relationships are not criminalised, they remain socially unacceptable. The 2018 GALZ report on human rights violations reported that intolerance of lesbian relationships was increasingly manifesting in the form of ‘corrective’ rape and other forms of violence, although no accurate figures were available. In September 2018, a 21-year-old suspected lesbian was charged with aggravated indecent assault in Harare after allegedly drugging and sexually abusing her friend on several occasions. The defendant argued that the alleged assault was consensual, and that the complainant made a complaint only after rumours of the relationship reached her family.” (p. 39)

- “. . . the main issues affecting transgender individuals relate to difficulties in changing identity documents to reflect their preferred gender identity; limited access to inclusive health services and affordable medications, particularly hormones; discrimination in housing and employment; and societal violence and harassment. In December 2018, TREAT’s founder Rikki Nathanson (a transgender individual) fled Zimbabwe and sought asylum in the United States following a series of incidents. Police in Bulawayo had arrested Nathanson in January 2014 for using the women’s toilet facilities in a hotel, reportedly stripping her naked in front of five police officers and keeping her in jail for three days. Nathanson subsequently filed a lawsuit against the Minister for Home Affairs, the Commissioner of the ZRP and several other local officials, although the judge who heard the case in mid-2017 had not
issued a ruling as of the publication date. Nathanson claimed to have been threatened and warned to drop the case by unidentified persons who broke into her house, and said that she had been tipped off that authorities were likely to arrest her imminently.” (p. 40)

- “DFAT further assesses that gay men, lesbians, and transgender individuals face a high risk of societal discrimination due to long-standing traditional views about sexuality and gender that limit their full participation in the community and workforce. Such risks may include intimidation, threatened or actual violence from both families and the general public, blackmail, extortion, or discrimination in employment or education. The risk is likely to be higher for those residing in more conservative and/or rural areas.” (p. 40)


- “Senior figures in the government, particularly former president Robert Mugabe, used anti-LGBTI rhetoric in public addresses. The authorities are also reported to commonly harass LGBTI persons on the grounds of loitering, indecency and public order offences. Additionally, there are reports of arbitrary detention and ill-treatment, as well as police extortion and intimidation. Some members of Gays and Lesbians of Zimbabwe, the lead LGBTI advocacy and support group, face harassment and discrimination.” (p. 8)

- “Personal circumstances which may place some persons at risk include, but are not limited to, LGBTI rights activists and other persons who openly campaign for LGBTI rights in Zimbabwe as well as a positive HIV/AIDS diagnosis. Although not decisive on its own, being ‘openly’ gay may increase risk. Such people face the risk of arbitrary arrests by the police, and harassment by state agents and may be at increased risk of persecution.” (p. 8)

- “LGBTI persons generally do not openly express their sexuality or gender identity in their workplaces, or within their families. Zimbabwe is deeply religious and traditional, and sexuality generally (homo- or hetero-sexual) is inhibited and unlikely to be publicly expressed. LGBTI persons experience a climate of intimidation, stigma and discrimination which may exclude them from society, public services and job opportunities. Numerous LGBTI persons have lost their jobs, been expelled from education or been evicted once their sexual orientation has been revealed.” (p. 8)

- “The UN Human Rights Council gathered stakeholder submissions for the November 2016 Universal Periodic Review, which included: ‘Joint submission [JS] 5 [The Sexual Rights Centre, Ottawa, Canada, GALZ – An Association of LGBTI People in Zimbabwe, Harare, Zimbabwe, COC Nederland, Amsterdam, Netherlands which in a joint submission to The UN Human Rights Council for their forthcoming November 2016 Universal Periodic Review stated that: ‘Lesbian, gay, bisexual, transgender and intersex persons have reported being threatened, ridiculed, and driven out of health institutions upon disclosing that they have engaged in same-sex relations. This stigmatization prevented sex workers and lesbian, gay, bisexual, transgender and intersex persons from fully disclosing their specific health needs.’” (p. 28)
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<td>• “Human rights issues included …criminalization of lesbian, gay, bisexual, transgender, and intersex (LGBTI) status or conduct.” (p. 1)</td>
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<td>• “The constitution does not prohibit discrimination based on sexual orientation and gender identity. According to the criminal code, ‘any act involving physical contact between men that would be regarded by a reasonable person to be an indecent act’ carries a penalty if convicted of up to one year in prison or a fine up to $5,000...Members of Gays and Lesbians of Zimbabwe (GALZ), the primary organization dedicated to advancing the rights of lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons, experienced harassment and discrimination. LGBTI persons were vulnerable to blackmail because of the criminality and stigma of same-sex activity. LGBTI advocacy organizations reported blackmail and being ‘outed’ as two of the most common forms of repression of LGBTI persons. It was common for blackmailers to threaten to reveal one’s sexual identity to police, the church, or family if the victim refuses to render payment.” (p. 39-40)</td>
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<td>“The constitution does not prohibit discrimination based on sexual orientation and gender identity. According to the criminal code, ‘any act involving physical contact between men that would be regarded by a reasonable person to be an indecent act’ carries a penalty if convicted of up to one year in prison or a fine up to $5,000. President Mugabe and ZANU-PF leaders publicly criticized the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community, rejecting the promotion of LGBTI rights as contrary to the country’s values, norms, traditions, and beliefs. The police reportedly detained and held persons suspected of being gay for up to 48 hours before releasing them. LGBTI advocacy groups also reported police used extortion and threats to intimidate persons based on their sexual orientation. Members of Gays and Lesbians of Zimbabwe, the primary organization dedicated to advancing the rights of LGBTI persons, experienced harassment and discrimination. Religious leaders in this traditionally conservative and Christian society encouraged discrimination against LGBTI persons. Also, LGBTI persons reported widespread societal discrimination based on sexual orientation. In response to social pressure, some families subjected their LGBTI members to ‘corrective’ rape and forced marriages to encourage heterosexual conduct. Women in particular were subjected to rape by male family members. Victims rarely reported such crimes to police. LGBTI persons often left school at an early age due to discrimination. Higher education institutions reportedly threatened to expel students based on their sexual orientation. Members of the LGBTI community also had higher rates of unemployment and homelessness. Many persons who identified themselves as LGBTI did not seek medical care for sexually transmitted diseases or other health problems due to fear that health-care providers would shun them or report them to authorities.” (p. 42-43)</td>
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<td><strong>Bureau of Democracy, Human Rights and Labor, U.S. Dep’t of State, Zimbabwe 2016 Human Rights Report,</strong> available at: <a href="https://www.state.gov/wp-content/uploads/2019/01/Zimbabwe-1.pdf">https://www.state.gov/wp-content/uploads/2019/01/Zimbabwe-1.pdf</a>.&lt;br&gt;“President Mugabe and ZANU-PF leaders publicly criticized the LGBTI community, rejecting the promotion of LGBTI rights as contrary to the country’s values, norms, traditions, and beliefs. The police reportedly detained and held persons suspected of being gay for up to 48 hours before releasing them. LGBTI advocacy groups also reported police used extortion and threats to intimidate persons based on their sexual orientation. Members of Gays and Lesbians of Zimbabwe, the primary organization dedicated to advancing the rights of LGBTI persons, experienced harassment and discrimination. Religious leaders in this traditionally conservative and Christian society encouraged discrimination against LGBTI persons. For example, Walter Magaya, leader of the Healing and Deliverance Ministries, continued to host shows on television and radio during which he ‘healed’ members of the LGBTI community. LGBTI persons reported widespread societal discrimination based on sexual orientation. In response to social pressure, some families subjected their LGBTI members to ‘corrective’ rape and forced marriages to encourage heterosexual conduct. Women in particular were subjected to rape by male family members. Victims rarely reported such crimes to police. LGBTI persons often left school at an early age due to discrimination. Higher education institutions reportedly threatened to expel students based on their sexual orientation. Members of the LGBTI community also had higher rates of unemployment and homelessness. Many persons who identified themselves as LGBTI did not seek medical care for sexually transmitted diseases or other health problems due to fear that health-care providers would shun them or report them to authorities.” (p. 44-45)</td>
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| 8.  | **Bureau of Democracy, Human Rights and Labor, U.S. Dep’t of State, Zimbabwe 2015 Human Rights Report,** available at: [https://www.justice.gov/sites/default/files/pages/attachments/2016/04/22/dos-hrr_2015_zimbabwe.pdf](https://www.justice.gov/sites/default/files/pages/attachments/2016/04/22/dos-hrr_2015_zimbabwe.pdf).<br>• “There were many other human rights problems…discrimination against persons with disabilities, racial and ethnic minorities, lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons, and persons with HIV/AIDS were problems.” (p. 1-2)<br>• “The president and ZANU-PF leaders publicly criticized the LGBTI community. On September 28, the president stated, ‘we are not gays’ during his remarks at the UN General Assembly and rejected the promotion of LGBTI rights, which he said were contrary to the country’s values, norms, traditions, and beliefs. Members of Gays and Lesbians of Zimbabwe (GALZ), the primary organization dedicated to advancing the rights of LGBTI persons, experienced harassment and discrimination. In December 2014 a group of intruders forced their way into the private year-end event of GALZ, attacking, robbing, and leaving 35 attendees injured.” (p. 42)<br>• “Religious leaders in this traditionally conservative and Christian society encouraged discrimination against LGBTI persons. In March, Walter Magaya, leader of the Healing and Deliverance Ministries, stated that gays and lesbians were ‘spiritually afflicted and just like all evil spirits, they need deliverance.’
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<td>INTER-GOVERNMENTAL SOURCES</td>
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<td>10. (Excerpt) United Nations General Assembly Human Rights Council, <em>Report of the Special Rapporteur on torture and other inhuman or degrading treatment or punishment, Juan E. Méndez, Addendum, A/HRC/22/53/Add. 4</em> (March 12, 2013), available at <a href="http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add4_EFS.pdf">http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add4_EFS.pdf</a>. “The Special Rapporteur regrets that the Government of Zimbabwe has not responded to this communication dated 17 August 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged arrest, detention, ill-treatment, and beating of 44 members of Gays and Lesbian Zimbabwe (GALZ) by the police. The Special Rapporteur expresses serious concerns over the physical and mental integrity of the individuals in question. In this context, the Special Rapporteur stresses that each Government has the obligation to protect the right to physical and mental integrity of all persons, which is set forth inter alia in the UDHR and the ICCPR. The Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 ‘condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.’ The Special Rapporteur also reminds the Government of Principle 5, which provides that ‘(w)henever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.” (p. 92)</td>
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### NON-GOVERNMENTAL SOURCES

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<td>• “In July 2018, a Zimbabwean football referee was allegedly blackmailed on the basis of his sexual orientation and outed to his family and community. Having suffered rejection and fearing victimization for his sexual orientation at home, he decided to apply for asylum in the UK. According to Sky Sports, he was granted an initial five-year asylum reprieve by the Home Office and will have the opportunity to apply for settlement in 2023.” (p. 391-392)</td>
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<td>• “Zimbabwean society holds widespread discriminatory and violent attitude towards sexual and gender minorities in the country: for example, in late-2018 a teacher who came out during a school assembly tackling homophobic bullying was forced to resign after a huge outcry from parents. In early-2019, it was reported that a period of political unrest had sparked off in Zimbabwe and that the human rights situation deteriorated considerably.” (p. 392)</td>
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<td>• “Being a member of the LGBTIQ community has never been easy in Zimbabwe, a country where the law does little to protect those who are persecuted. . . This is frequently reflected in the media, where journalists report that ‘it is risky, if not deadly, to be gay and lesbian in Zimbabwe – a country where such relations are beyond taboo’” (p. 393)</td>
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<td>• “This scenario is but one of many, in December 2018, two transwomen were gang raped to a point of anal fracture and near death. This heinous crime was reported to Gumisayi Bonzo from Transsmart Trust Zimbabwe. Upon reporting to health care providers, many questions were asked and it took them long to get treatment because of the stigma associated with the patient’s gender identity. This is the usual treatment for many LGBTIQ persons seeking health care services in Zimbabwe.” (p. 394)</td>
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<td>“Section 73 of the Criminal Law (Codification and Reform) Act, 2004 punishes consensual same-sex conduct between men with up to one year in prison or a fine or both. This restrictive legislation contributes to stigma and discrimination against lesbian, gay, bisexual, and transgender (LGBT) people. In September, a teacher at a Harare school who came out as gay resigned after he received death threats from members of the public over his sexual orientation.” (p. 673)</td>
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<td>• “Assault has been the most prevalent category of violations of LGBTI persons, recorded over the period under review. About 20% of all the cases documented in the five reports have some form of assault. It is worrying that many of the cases have gone unreported and the perpetrators have not been brought to account for their actions.” (p. 19)</td>
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|   | • “A notable number of assault incidents also took place in the neighborhoods of the LGBTI persons, wherein following a tip off, mobs would gather out side the houses of the LGBTI
persons and attack, more often than not resulting in eviction orders from the landlords. Another trend observed, involves police officers taking the law into their own hands and verbally and physically attacking LGBTI persons. Such occurrences were recorded as happening at police stations while the complainants were in custody and in public spaces.” (p. 19)

- “Threats recorded over the period have emanated mainly from close family members and law enforcement authorities, serving mainly to sustain blackmail or extortion or trying to force a conversion to a hetero normative identity. The most striking kinds of threats were found in cases of LGBTI person threatening another mainly with outing. These cases were generally associated with a motive for blackmail or extortion.” (p. 20)

- “Harassment by members of the police has also taken place over the phone, with some LGBTI persons receiving phone calls harassing them. In one of the reported cases, GALZ called back on a number used to harass one of its members, and it was answered at Dzivarasekwa police station.

Over the period under review, some harassment cases have also included members of the military as well as youth militia, believed to be acting on behalf of the state. In several reported cases, the Zimbabwe Republic Police have detained LGBTI persons and interrogated them on the operations of GALZ. This is despite the fact that GALZ is not a secret underground organisation, and is legally registered with highly visible presence.” (p. 28)

- “The 2014 Violations report noted a disturbing trend where families of newly outed LGBTI persons dealt with their discovery by reporting their ‘deviant’ family member to the police. More often than not, the reports resulted in arrests and detentions.” (p. 35)

“On 16 January 2014 a transgender activist was arrested in Bulawayo after entering a female toilet. At the police station she was forced to strip and examined by medical doctors to verify her gender. After spending two nights in a holding cell, she was charged with criminal nuisance.” (p. 1)

“While in Harare, it was highlighted that there is an increase of correctional rape or sexual abuse cases. Men within society are raping lesbian women to ‘correct’ that which they view is wrong. These cases and many more in which members are being violated, discriminated and verbally abused because of their choice in dressing and because of their body language are the tips of the iceberg. LBT women are compounded by societal expectations.” (p. 1)

“Authorities continue to violate rights of LGBT people. A Zimbabwe Human Rights Commission report published in July showed continued hostility and systemic discrimination by police and politicians against LGBT people, driving many underground. Police did not conduct serious investigations or arrest any suspects in the December 2014 attack at a Christmas party organized by the activist group Gays and Lesbians of Zimbabwe (GALZ), during which 12 armed men invaded the private party and seriously injured 35 people with chains, sjamboks, and long sticks.” (p. 658)

“Public attitudes reflect this widespread intolerance: Nine in 10 Zimbabweans (89%) say they would ‘somewhat dislike’ (6%) or ‘strongly dislike’ (83%) having LGBT persons as neighbours.” (p. 7)

“... However, aside from arrests and/or detention based explicitly off of Section 73, many LGBTI individuals also experience arbitrary detention by authorities at a disproportionate rate simply due to their identity as sexual minorities... Furthermore, at police stations and detention facilities, LGBTI individuals are intimidated and physically assaulted by police officers. LGBTI individuals in Zimbabwe are often detained for hours at a time, without access to judicial recourse. LGBTI individuals are frequently beaten, mocked, and forced to pay bribes in order to escape custody.” (p. 3-4)

“In Zimbabwe, there have been a number of reports citing incidents of violence against LGBTI persons. In many cases, the violence in question is perpetrated directly by state actors. Just in the last few years, there have been multiple reported instances where LGBTI individuals in Zimbabwe have been physically assaulted by police officers while in police...
custody. Furthermore, there have been a number of instances where the state has also directly committed acts of violence towards individuals who were not detained for criminal matters. The state also allows violence to occur against LGBTI individuals with impunity. Since Zimbabwe’s last UPR cycle, a number of violent incidents have occurred against LGBTI individuals either in social settings, such as neighborhood bars, or after having their sexual orientation revealed to family members or neighbors—and in none of these reported cases have perpetrators been brought to justice.” (p. 7)

- "Yet extortion with impunity against LGBTI individuals in Zimbabwe has been documented on both a state-based and privatized level. Extortion has taken the form of demands for money, personal belongings, or other valuables in order to keep the blackmailer silent. LGBTI individuals often succumb to such extortions due to a fear of being discriminated against, being disowned by their family, or being faced with the possibility of criminal charges due to Section 73 or other relevant laws which discriminate against LGBTI people. . . when members of the community do not give in to the extortionist’s demands and are subsequently outing, many of these LGBTI individuals then must face a plethora of physical and mental hardships, which sometimes even include spiritual cleansing and/or eviction or disownment. In some cases, outed individuals have even been subjected to illegal ‘corrective measures’ such as forced marriages or forced rape, also perpetrated without consequences from the state.” (p. 8)

- "LGBTI persons in Zimbabwe have reported expulsions due to their sexual orientation or gender identity at both secondary and tertiary education levels; even without expulsion, many LGBTI individuals withdraw from school at an early age due to the effects of discrimination.” (p. 10)

- "Zimbabwe’s Censorship and Entertainments Control Act prohibits the dissemination of ‘undesirable’ publications, which is defined as ‘indecent or obscene or is offensive or harmful to public morals or is likely to be contrary to public health.’ These laws have routinely been used to harass Zimbabwe’s LGBTI population.” (p. 11)


- “Transgender individuals lack access to both basic and trans-specific healthcare services, are unable to have their gender identity legally recognized, and are subject to arbitrary arrests and detention, cruel, inhumane or degrading treatment, and torture. Trans women can be charged with sodomy despite their gender identity.” (p. 2)

- “Transgender individuals are unable to change key identification documents to reflect their gender identity, which creates substantive, daily barriers in transgendered persons’ ability to travel, have bank accounts, seek employment, and otherwise live with dignity. Further, transgender individuals’ gender identity is not recognized in court proceedings or law enforcement, which can result in dehumanizing and unfair treatment under the law, leaving transgender women likely to be prosecuted under the ‘sodomy’ law.” (p. 3)

- “LGBTI individuals, and in particular, transgender women and men, highlighted how arbitrary detention and torture at the hands of law enforcement officials were frequent and
harmful. In one case, a transgender woman, who had been arbitrarily detained for three days for having used a female bathroom, was stripped in front of four police officers, verbally mocked and degraded, and paraded around for the amusement of the police officers on duty. A number of LGBTI individuals have reported cases of police abuse, including being doused in cold water, verbally abused, and threatened with arms.

‘At the police station, they tortured me a bit because one of them knocked on my head with a gun. Although the torture wasn’t physical but the fact that they kept showing me weapons and threatening me, that was emotional torture and it affected me mentally.’

Lesbian/bisexual focus group participant

‘During the two nights and three days that I was detained, I was paraded for each police officer to have a look and ridicule. The verbal, mental, cruelty, and indignity was just as intense as if I had been physically violated and abused. I think that if I were to have resisted I would have been beaten up.’

Transgender focus group participant

‘For the police, masculinity becomes something they want to correct out of you. For me, after I was beaten up and detained, I had hemorrhages in both of my eyes and was driven to a secluded police house, where this person was clearly trying to make advances. The lucky thing is that a friend had made a report from another police station, so these people got a call that I was being looked for; that’s when the threat dissolved...but this person clearly wanted to prove a point.’

Transgender focus group participant

LGBTI individuals also reported a number of violations of the right to privacy at the hands of law enforcement officials, as the quotations below illustrate:

‘Two years ago, the police entered our home without permission, they searched our house without permission, they seized our phones without permission ... they took my sisters who were visiting and had committed no crime and they spent the day locked up.’

Lesbian/bisexual focus group participant

‘I feel once a person is known to be associated with whichever organization then the right to privacy is gone automatically because they can access your phone any time, they can hack your phone, they monitor your messages, they can hack your email, your Facebook. This has happened to many people in our community and there isn’t really much you can do about it, they just feel they have that power button to our lives in terms of security and privacy on social media.’ (p. 5)

• “Transgender individuals are disproportionately affected by inadequate access to healthcare services. There is a lack of access to gender affirming services including access to hormones, medical equipment such as binders, and to medical procedures such as surgery. Many transgender individuals resort to seeking these procedures or services through informal and unsafe means, putting them at high risk of medical complications. ‘Access feels non-existent, because I think we’ve been pushed to a point where, especially for a lot of young trans men and women, everybody just dreams of leaving and finding a place where they can have access to those service. Medical officials have no knowledge of trans issues. It seems too far from reality. A lot of people are then also tempted to start a lot of procedures underground—you just go across the border and try to get hormones just without
any medical sort of assistance as to how you’re supposed to go through whatever process it also puts people at risk health-wise.’

Transgender focus group participant

‘For trans-women, we have no access to estrogen so a lot of the trans women here are on the female contraceptive pill; but it’s not controlled, monitored, or administered by a qualified physician. The effects on their organs are not known; whether HIV+ trans-women should combine this with ARVs is unclear. Access to medical services is one of our major issues. I went on hormones only because I travel and I was fortunate in that respect. But it’s very expensive, and it’s not covered by medical aid.’

Transgender focus group participant” (p. 7-8)


“Transgender people are also unlawfully targeted by the harsh provisions in the Criminal Law (Codification and Reform) Act 23 of 2004:

- **Section 61** defines sexual intercourse as being between a male and female. Sodomy is included in the definition of “unlawful sexual conduct”.
- **Section 73** criminalises sodomy.
- **Section 77** refers to ‘public indecency’.
- **Section 77(1)(a)** states that: ‘Any person who indecently exposes himself or herself or engages in any other indecent conduct which causes offence to any other person in or near a public place, or in or near a private place within the view of such other person shall be guilty of public indecency.’
- **Section 77(2)** states that ‘No person shall be convicted of public indecency unless the words or conduct in question are sufficiently serious to warrant punishment’. The court will consider various factors – including the nature of the conduct, the age and gender of the person who witnessed the conduct, and the degree of offence caused to the person who witnessed the conduct.
- **Section 78** makes it an offence to transmit a sexually transmitted disease and makes a person liable to a fine or imprisonment for a period not exceeding five years or both.” (p. 50-51)


“Criminalisation of sodomy under The Criminal Codification and Reform Act leads to greater vulnerability for Men who have sex with Men sex workers, as they are often subjected to extortion, blackmail and threats on the basis of their presumed sexual orientation or engagement in the criminal act of ‘sodomy’.” (p. 12)

“The new Constitution, which replaced the Lancaster House Constitution crafted in 1979, contains a general equality and non-discrimination clause…Sexual orientation and gender identity, however, were intentionally omitted from the final draft of the anti-discrimination provision. According to Dr. Alex Magaisa, an expert adviser to the Parliamentary Select Committee that was responsible for drafting the Constitution, similar phrases such as ‘natural difference,’ ‘circumstances of birth’ and ‘any other status’ were likewise removed at the insistence of the anti-gay rights lobby, which felt that any such phrases were ‘back-door’ attempts to bring ‘gay rights’ into the new Constitution. As such, the new Constitution does not affirmatively protect the right to non-discrimination based on real or perceived sexual orientation or gender identity in Zimbabwe. Furthermore, the Constitution expressly states that ‘Persons of the same sex are prohibited from marrying each other.’” (p. 53)

“However, in practice, state services are often not made available to members of the LGBT community. Furthermore, consistent with the general public’s perception of homosexuality and transgenderism, many healthcare providers in Zimbabwe are homophobic or transphobic and fail to understand sexual orientation and the needs and concerns of LGBT individuals.” (p. 55)

“With respect to housing, while there is no explicit legislation that directly promotes, or alternatively infringes upon, the rights of LGBT individuals when it comes to access to housing, it is likely that LGBT individuals open about their sexual orientation or gender identity would be at risk of being discriminated against due to the prevailing prejudices within Zimbabwean society.” (p. 57)

“. . . the Sexual Offences Act, directly discriminates against LGBT individuals that are living with HIV or AIDS. For example, Section 16 of the Sexual Offences Act provides that ‘[w]here a person is convicted of…sodomy …and it is proved that, at the time of the offence, the convicted person was infected with HIV, whether or not he was aware of his infection, he shall be sentenced to imprisonment for a period not exceeding twenty years.’” (p. 57)

“The new Constitution specifically provides for freedom of expression, freedom of assembly and freedom to demonstrate and petition. However, government authorities continue to utilize repressive legislation to restrict these freedoms, particularly as they relate to members of the LGBT community or anyone speaking out against non-discrimination based on real or perceived sexual orientation or gender identity. Specifically, government leaders have used the Public Order and Security Act (‘POSA’), the Criminal Law Act, the Private Voluntary Organization (‘PVO’) Act and the Access to Information and Protection of Privacy Act to search private offices and dwellings without a warrant, ban lawful public meetings and gatherings, revoke operating licenses and deregister organizations.” (p. 57)

“In contrast to the South Africa case study, which highlights the significant strides taken by that country in recent years, through constitutional amendments and enacting and enforcing anti-discriminatory legislation, to protect the rights of LGBT individuals, the case studies of Malawi, Namibia, Zambia and Zimbabwe demonstrate the tremendous challenges that LGBT individuals continue to face throughout southern Africa with respect to discriminatory legislation and behavior, including violence, targeted towards persons based on their sexual orientation or gender identity.” (p. 67)

- “As an organisation that advocates for the rights of Lesbian, Gay, Bisexual and Transgender (LGBT) persons in Zimbabwe, we challenge the criminalisation of same sex sexual activities by the government of Zimbabwe and we see this as a breach of Article 6 of the ICCPR. Such criminalisation has led to brutal killings of LGBT persons, increased targeted hate crimes and poor service delivery and increase of HIV and other health illnesses within such a marginalized community.” (p. 1)

- “LGBT persons in Zimbabwe face barriers to access to hassle-free and competent health services, leading to increased HIV infections, AIDS related deaths, depression and psycho social illnesses, all leading to a reduced life expectancy.” (p. 2)


- “Estrangement from family and stigmatisation from healthcare providers reinforce widespread discrimination against key populations. There is global variance in acceptance of homosexuality, with widespread rejection in Africa, including Zimbabwe, and in poorer and/or highly religious countries.” (p. 686)

- “The research highlights that for sexual and gender minorities and sex workers living with life-limiting illness, the care and support provided by healthcare providers, family and community members was negatively affected by discriminatory beliefs and practices, closely reflecting stigma research results in India. Poorly informed health professionals influenced by misconceptions and limited experience with key populations were identified as drivers of fear and prejudice in an environment that discouraged early presentation, diagnosis and treatment. This potentially increases the risk of transmission of infectious diseases, morbidity and mortality.” (p. 690)


- “There were numerous stories about stigma in the study participants’ immediate social environments. Some men told of negative reactions of various kinds at home. For example, when Jim’s father heard about his son’s sexual orientation, he could not at all accept it. He linked it to evil spirits and forced his son to visit traditional healers in an effort to cure him of them. However, nothing changed, and Jim was disowned and chased away from the family home. Through this action, the father isolated his son from the social context of the family. Around the same point in time, Jim lost some of his friends, who, he explained, did not want to be associated with a homosexual.
Study participants also described incidents in which they were stigmatised by members of their wider local communities. David, for example, was beaten up by a neighbourhood person who shouted that he was an embarrassment to the community because of his sexuality. When David reported this at the local police station, no officer was willing to take up the case. In this case, labelling (homosexual), stereotyping (embarrassment to the community), discrimination (violence and not taking the case) contributed to physical injury, status loss and lack of protection.” (p. 5)

- “The most serious consequence of stigma was that it pushed men away from necessary care in the first place. Being in a stigmatising environment had both social and psychological effects on men who have sex with men. It bred uncertainty and sometimes this had the consequence that necessary healthcare was not obtained at all.” (p. 8)
- “Some men did not seek care even when there was a strong need to do so. At times, this was linked to fatal outcomes.

Some of our members do not go to clinics for fear of being stigmatised. This year one of our members died. He had anal ulcers and we referred him to a certain facility then they referred him to another healthcare facility. Unfortunately, I think that day there were no homosexual-friendly trained staff and the receptionist called her friends, even the cleaners, to come and see this boy. He went home without getting any medication and he stopped going to the clinic to get his ARV medication and the ulcer spread and became cancerous, he died. (Lillian, LGBTI activist)” (p. 8)

- “The national government also has an important role to play. Although Zimbabwean law still criminalises same-sex acts, section 76 of the Constitution guarantees every citizen the right to health, including basic care, timely and appropriate healthcare, and access to health-related information. As we have shown, stigma works to contravene these basic principles.” (p. 9)

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<th>Hunt J., Bristowe K., Chidyamatare S. et al., BMJ Global Health, “They will be afraid to touch you”: LGBTI people and sex workers’ experiences of accessing healthcare in Zimbabwe—an in-depth qualitative study (Mar. 3, 2017), available at: <a href="https://gh.bmj.com/content/bmjgh/2/2/e000168.full.pdf">https://gh.bmj.com/content/bmjgh/2/2/e000168.full.pdf</a></th>
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- “What are the new findings?
  - Participants described barriers to accessing even basic healthcare due to discrimination perpetrated by healthcare professionals.
  - Equal access to care was dependent on conforming to ‘sexual norms’.
  - Healthcare professionals’ personal attitudes affected care delivery, and key populations were perceived to have brought illnesses on themselves through sexual behaviour.” (p. 1)

- “Discrimination towards key populations discourages early diagnosis, limits access to healthcare/treatment and increases risk of transmission of infectious diseases. Key populations experience unnecessary suffering from untreated conditions, exclusion from healthcare and extreme psychological distress. Education is needed to reduce stigma and enhance sensitive clinical interviewing skills.” (p. 1)
**SUMMARY**

- “Three distinct main themes emerged from the data: (1) illnesses have been caused by ‘bad behaviour’ and deserve blame. . . (2) equal access to healthcare is conditional on conforming to sexual norms: to receive the same access to health and palliative care services as the general population, key populations believed they must pretend, deny or lie about their sexual identity/behaviour and (3) . . . the lack of understanding of, and disrespect for, key populations by health workers resulted in experiences of poor support and provision of care during chronic illness, significantly increasing morbidity and mortality.” (p. 3-4)

**MEDIA SOURCES**


- “Most gays and lesbians in Zimbabwe have to hide their sexual identity. Discrimination, exclusion and violent attacks against them cause permanent fear and loneliness. Many suffer from poor mental health. A local civil-society organisation provides help, but ultimately policy must change.” (p. 1)

- “Most LGBTI persons give in to pressure from parents and the extended family and agree to heterosexual marriages. They are forced to live a life of deceit and lies, which is emotionally draining and leads to extreme psychological distress.

Zimbabwe is one of the least accepting countries in the world for gay, lesbian and transgender people. A 2006 revision to the country’s criminal code expanded the penalty for sodomy to include acts that ‘would be regarded by a reasonable person as an indecent act’. This could include two men holding hands or hugging, and it can be punished by an extended prison term.” (p. 1)

- “Homosexual persons are likely to experience violence and marginalisation due to their sexual orientation. Aggression towards them ranges from verbal abuse and bullying to social discrimination, physical violence and psychological torture.

According to a 2018 survey by the non-governmental organisation GALZ (Gays and Lesbians of Zimbabwe), 50% of gay men in Zimbabwe had been physically assaulted, and 64% had been disowned by their families. Twenty-seven percent of lesbians also reported disownment. Often, they are accused of exposing their parents to ‘blame and shame’.

Some families in rural areas assume that their gay son or lesbian daughter is possessed by Satan or demons. Traditional leaders evict them from their villages. A young man from western Zimbabwe, who prefers to stay anonymous, recounts that people in his village believed that ‘even with a handshake, I would transfer homosexuality’. The elders decided that he was unfit to stay in the community.

But even when moving to cities, LGBTI persons are not safe from discrimination. For instance, they often lose their jobs when their sexual orientation is discovered.

Another frequent problem is bad treatment by health-care workers. Hospital staff are ‘afraid to touch me,’ recounts a gay man regarding his experience with accessing health care in Zimbabwe. ‘Some will even start preaching the Bible.’ Consequently, LGBTI persons often shy away from seeking support from even essential physical health services.” (p. 2)
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<td>• “Due to living with this stigma, people from the LGBTI community have an increased risk of mental and psychological problems. These problems range from anxiety disorders and depression to substance abuse and risky sexual behaviour. Consequently, there are higher incidences of suicide attempts and suicide related deaths amongst men who have sex with men.” (p. 2)</td>
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“The school’s chairman claimed that a Zimbabwean newspaper was planning to out him. However, as homosexuality is illegal in the country, some parents threatened legal action. Others sent death threats. In a resignation letter quoted by the BBC, the teacher wrote: ‘I have come to realize that my current position as deputy headmaster is untenable.’**Helping gay and bisexual children**  
Also, he added that he would not subject himself to a ‘sham trial’. The teacher then revealed he suffered ‘threats of physical danger to myself and my pets.’” (p. 1-2) |
“Zimbabwe’s LGBTI rights group, GALZ, has released a troubling report that analyses trends emerging from the violations of LGBTI people’s rights in the country between 2012 to 2017. . . The report showed that of these recorded categories, the most common violations [of LGBTI people’s rights] were assault (19%), threats (15%), blackmail (15%) and being outed (11%). The study also found that the country’s government was ‘a key actor in influencing change in terms of how issues of sexual orientation and gender identity are addressed both at state level and among the ordinary Zimbabweans.’” (p. 1-2) |
| 32. | David Hudson, Gay Star News, “New Zimbabwe President says he won’t legalize gay sex; President Mugabe’s successor, Emmerson Mnangagwa says it is not his duty to do anything for LGBTI rights” (Jan. 25, 2018), available at: [https://www.gaystarnews.com/article/mnangagwa-zimbabwe-president/](https://www.gaystarnews.com/article/mnangagwa-zimbabwe-president/).  
• “The new President of Zimbabwe, Emmerson Mnangagwa, has dashed the hopes of local LGBTI advocates. He has stated that he has little intention of making life easier for LGBTI people in the country.” (p. 1)  
• “Male same-sex sexual activity has been illegal in Zimbabwe since 1891. Robert Mugabe was notorious for his staunchly homophobic views. He called gay people ‘filthy’ and said the country would ‘never, never, never’ decriminalize homosexual relations.” (p. 2) |
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“Same-sex marriage is banned in Zimbabwe, and that doesn't appear to be changing any time soon under Mnangagwa's leadership.  
‘Those people who want it are the people who should canvass for it, but it's not my duty to campaign for this,’ he said.  
‘In our constitution it is banned -- and it is my duty to obey my constitution.’” (p. 2) |
| 34. | **Jamie Wareham, Gay Star News, “Emmerson Mnangagwa is the anti-gay 'crocodile' that is now Zimbabwe's leader; The recently sacked VP Emmerson Mnangagwa is set to take the presidency in Zimbabwe” (Nov. 21, 2017), available at: [https://www.gaystarnews.com/article/zimbabwe-emmerson-mnangagwa-anti-gay-record/](https://www.gaystarnews.com/article/zimbabwe-emmerson-mnangagwa-anti-gay-record/).**  
“What is his record on gay rights?  
In Zimbabwe, male gay sex is illegal.  
Defined as ‘sodomy’ the country’s law bans: ‘unlawful and intentional sexual relations per anum between two human males.’  
It is also impossible for people to legally change their gender.  
As recently as 2016 Mnangagwa led the way in rejecting gay rights calls from the UN.  
In an interview with The Herald Mnangagwa said Zimbabwe had shot down the recommendations:  
‘With regards to areas that we felt we would not accept, it is issues of gays and homosexuality, which is unlawful in our country.  
‘We rejected all those. There are a few countries from Europe which recommended that we reconsider our position with regard to adults of the same sex marrying each other. That we have rejected.’  
A Rainbow International Fund spokesperson tells Gay Star News:  
‘We do not expect any immediate change to this position if Mnangagwa replaces Mugabe as President.’  
‘But we hope that he will modify his views and show real leadership and uphold human rights for LGBT Zimbabweans in the future.’  
**Mugabe’s ‘Legacy’**  
Mnangagwa takes the presidency after being part of the corrupt Mugabe regime.  
During that time, Mugabe is well known for vocally spreading hateful messages about LGBTI people.  
In 2013, he promised hell for gay and lesbians if he was re-elected. In the same speech, he said gay people should also ‘rot in jail.’  
Not to mention, he also previously threatened to cut gay people’s heads off, as well as saying ‘filthy gays destroy nations.’” (p. 2-3) |
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<td>“Gendi's parents eventually grew to accept her, but that was not the case with society at large. Pictures of her dressed in a wig and high heels began circulating, and people in her neighborhood responded with violence.</td>
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<td>‘People started gathering around discussing what they are going to do to me. I was hiding for days, but people knew that I was still around,’ Gendi said. ‘So they went and told my friend, “We don't want to see him in this neighborhood, and the next day that we are going to see him, we are going to put wire on fire for three days and that's what we are going to use to beat him up until the gay could get out of him.”’</td>
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<td>Before being injured, Gendi was rescued and taken out of the neighborhood by local LGBT activists who kept her safe in hiding for months.” (p. 1-2)</td>
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<td>“LGBTI individuals in Zimbabwe are also experiencing violations of their economic, social, and cultural rights. Many LGBTI individuals have found themselves treated poorly when visiting public health institutions, therefore making it difficult for them to seek out and receive healthcare. Numerous LGBTI individuals have reported having their employment discontinued after supervisors and colleagues discovered their sexual orientation. The LGBTI population in Zimbabwe has reported high rates of eviction and homelessness on account of landlords or families discovering their sexual orientation. LGBTI persons in Zimbabwe have reported expulsions due to their sexual orientation or gender identity at both secondary and tertiary education levels; even without expulsion, many LGBTI individuals withdraw from school at an early age due to the effects of discrimination.” (p. 3)</td>
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Dated: [DATE]  
[CITY, STATE]  
Respectfully submitted,  
[FIRM]  
Pro Bono Counsel for Respondent_________

By: __________________________  
[NAME]  
[FIRM]  
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1
CRIMINAL LAW (CODIFICATION AND REFORM) ACT [CHAPTER 9:23]  
Act 23/2004

ARRANGEMENT OF SECTIONS

CHAPTER I
PRELIMINARY

Section
1. Short title and date of commencement.
2. Interpretation.
3. Roman-Dutch criminal law no longer to apply.
4. Application of Code to other enactments.
5. Territoriality of crimes.

CHAPTER II
ELEMENTS OF CRIMINAL LIABILITY

PART I
CRIMINAL CAPACITY

6. Children under seven years of age not criminally liable.
7. Criminal capacity of children between seven and fourteen years of age.
8. No presumption of criminal incapacity for persons over the age of fourteen years.

PART II
CRIMINAL CONDUCT

9. Liability for criminal conduct.
10. Criminal conduct may consist of acts or omissions.
11. Causation.

PART III
STATES OF MIND

12. Meaning of subjective state of mind.
13. Intention.
60  **Unlawful termination of pregnancy**

(1) Any person who—

(a) intentionally terminates a pregnancy; or

(b) terminates a pregnancy by conduct which he or she realises involves a real risk or possibility of terminating the pregnancy;

shall be guilty of unlawful termination of pregnancy and liable to a fine not exceeding level ten or imprisonment for a period not exceeding five years or both.

(2) It shall be a defence to a charge of unlawful termination of pregnancy for the accused to prove that—

(a) the termination of the pregnancy occurred in the course of a “Caesarean section”, that is, while delivering a foetus through the incised abdomen and womb of the mother in accordance with medically recognised procedures; or

(b) the pregnancy in question was terminated in accordance with the Termination of Pregnancy Act [Chapter 15:10].

PART III

SEXUAL CRIMES AND CRIMES AGAINST MORALITY

*Division A: Preliminary*

61  **Interpretation in Part III of Chapter V**

(1) In this Part—

“anal sexual intercourse” means penetration of the anus by the penis;

“brothel” means any place which is occupied or used for the purposes of prostitution or for persons to visit for the purpose of having extra-marital sexual intercourse for money or reward;

“extra-marital sexual intercourse” means sexual intercourse otherwise than between spouses;

“HIV” means the human immuno-deficiency virus;

“keep”, in relation to a brothel, has the meaning set out in subsection (2);

“mentally incompetent person” means a person who is mentally disordered or intellectually handicapped, as defined in section 2 of the Mental Health Act [Chapter 15:12] (No. 15 of 1996);

“owner”, in relation to any place, includes a person who lets or sublets or permits the occupation of the place, whether in his or her own right or on behalf of another person;

“place” includes any premises, enclosure, vehicle or boat or any part thereof;

“prostitute” means a male or female person who for money or reward—

(a) allows other persons to have anal or extra-marital sexual intercourse or engage in other sexual conduct with him or her; or

(b) solicits other persons to have anal or extra-marital sexual intercourse or engage in other sexual conduct with him or her;
and the word “prostitution” shall be construed accordingly;

“public place” means any road, building, open space or other place of any description to which the public or any section of the public have access, whether on payment or otherwise and whether or not the right of admission thereto is reserved;

“sexual intercourse” means vaginal sexual intercourse between a male person and a female person involving the total penetration or penetration to the slightest degree of the vagina by the penis;

“sexually-transmitted disease” includes any disease commonly transmitted by sexual intercourse or anal sexual intercourse;

“unlawful sexual conduct” means any act the commission of which constitutes the crime of rape, aggravated indecent assault, indecent assault, sexual intercourse or performing an indecent act with a young person or sodomy;

“young person” means a boy or girl under the age of sixteen years.

(2) The following persons shall be deemed for the purposes of this Part to keep a brothel—

(a) any person who manages the brothel or assists in its management;
(b) the owner of the brothel, if he or she uses the place as a brothel or knowingly allows it to be so used;
(c) any person who knowingly receives the whole or any part of any money taken in the brothel;
(d) any person who resides in the brothel, unless he or she proves that he or she was ignorant of the character of the place;
(e) any person found in the brothel who wilfully refuses to disclose the name and identity of the keeper or owner thereof.

62 Presumption regarding marriage

Whenever in any prosecution under this Part the question is in issue whether any sexual intercourse between two persons was extra-marital, the persons shall be deemed not to have been spouses at the time of such intercourse, unless the contrary is proved.

63 Amendment of presumption that boys under 14 incapable of sexual intercourse

(1) The irrebuttable presumption or rule of law that a boy under the age of fourteen years is incapable of sexual intercourse shall not apply in Zimbabwe in relation to boys who have reached the age of twelve years.

(2) A boy over the age of twelve years but below the age of fourteen years shall be presumed incapable of performing sexual intercourse unless the contrary is shown on a balance of probabilities.

(3) Subsections (1) and (2) shall not affect any presumption or rule of law relating generally to the criminal capacity of children under the age of fourteen years.
64 Competent charges in cases of unlawful sexual conduct involving young or mentally incompetent persons

(1) A person accused of engaging in sexual intercourse, anal sexual intercourse or other sexual conduct with a young person of or under the age of twelve years shall be charged with rape, aggravated indecent assault or indecent assault, as the case may be, and not with sexual intercourse or performing an indecent act with a young person, or sodomy.

(2) A person accused of engaging in sexual intercourse, anal sexual intercourse or other sexual conduct with a young person above the age of twelve years but of or below the age of fourteen years shall be charged with rape, aggravated indecent assault or indecent assault, as the case may be, and not with sexual intercourse or performing an indecent act with a young person or sodomy, unless there is evidence that the young person—

(a) was capable of giving consent to the sexual intercourse, anal sexual intercourse or other sexual conduct; and

(b) gave his or her consent thereto.

(3) A person who engages in sexual intercourse, anal sexual intercourse or other sexual conduct with a mentally incompetent adult person shall be charged with rape, aggravated indecent assault or indecent assault, as the case may be, unless there is evidence that the mentally incompetent person—

(a) was capable of giving consent to the sexual intercourse, anal sexual intercourse or other sexual conduct, and

(b) gave his or her consent thereto.

(4) If, in the case of a male person who engages in anal sexual intercourse or other sexual conduct with a young male person of or below the age of fourteen years, or with a mentally incompetent adult male person, there is evidence that the young or mentally incompetent person—

(a) was capable of giving consent to the anal sexual intercourse or other sexual conduct, and

(b) gave his consent thereto;

the first-mentioned male person alone shall be charged with sodomy.

Division B: Sexual crimes

65 Rape

(1) If a male person knowingly has sexual intercourse or anal sexual intercourse with a female person and, at the time of the intercourse—

(a) the female person has not consented to it; and

(b) he knows that she has not consented to it or realises that there is a real risk or possibility that she may not have consented to it;

he shall be guilty of rape and liable to imprisonment for life or any shorter period.

(2) For the purpose of determining the sentence to be imposed upon a person convicted of rape, a court shall have regard to the following factors, in addition to any other relevant factors and circumstances—
(a) the age of the person raped;
(b) the degree of force or violence used in the rape;
(c) the extent of physical and psychological injury inflicted upon the person raped;
(d) the number of persons who took part in the rape;
(e) the age of the person who committed the rape;
(f) whether or not any weapon was used in the commission of the rape;
(g) whether the person committing the rape was related to the person raped in any of the
degrees mentioned in subsection (2) of section seventy-five;
(h) whether the person committing the rape was the parent or guardian of, or in a position
of authority over, the person raped;
(i) whether the person committing the rape was infected with a sexually transmitted
disease at the time of the rape.

66 Aggravated indecent assault

(1) Any person who—
(a) being a male person—
   (i) commits upon a female person any act, other than sexual intercourse or anal
   sexual intercourse, involving the penetration of any part of the female person’s
   body or of his own body; or
   (ii) commits upon a male person anal sexual intercourse or any other act involving
   the penetration of any part of the other male person’s body or of his own body;
(b) being a female person—
   (i) has sexual intercourse with or commits upon a male person any other act
   involving the penetration of any part of the male person’s body or of her own
   body; or
   (ii) commits upon a female person any act involving the penetration of any part of
   the other female person’s body or of her own body;

with indecent intent and knowing that the other person has not consented to it or realising that
there is a real risk or possibility that the other person may not have consented to it, shall be
guilty of aggravated indecent assault and liable to the same penalty as is provided for rape.

(2) For the purpose of determining the sentence to be imposed upon a person convicted of
aggravated indecent assault, a court shall have regard to the same factors as are mentioned in
connection with determining the sentence to be imposed upon a person convicted of rape in
subsection (2) of section sixty-five, in addition to any other relevant factors and circumstances.

67 Indecent assault

(1) A person who—
(a) being a male person—
   (i) commits upon a female person any act involving physical contact that would be
   regarded by a reasonable person to be an indecent act, other than sexual
   intercourse or anal sexual intercourse or other act involving the penetration of
   any part of the female person’s body or of his own body; or
(ii) commits upon a male person any act involving physical contact that would be regarded by a reasonable person to be an indecent act, other than anal sexual intercourse or other act involving the penetration of any part of the male person’s body or of his own body; or

(b) being a female person—

(i) commits upon a male person any act involving physical contact that would be regarded by a reasonable person to be an indecent act, other than sexual intercourse or any other act involving the penetration of any part of the male person’s body or of her own body; or

(ii) commits upon a female person any act involving physical contact that would be regarded by a reasonable person to be an indecent act, other than any act involving the penetration of any part of the other female person’s body or of her own body;

with indecent intent and knowing that the other person has not consented to it or realising that there is a real risk or possibility that the other person may not have consented to it, shall be guilty of indecent assault and liable to a fine not exceeding level seven or imprisonment for a period not exceeding two years or both.

(2) For the purpose of determining the sentence to be imposed upon a person convicted of indecent assault, a court shall have regard to the same factors as are mentioned in connection with determining the sentence to be imposed upon a person convicted of rape in subsection (2) of section sixty-five, in addition to any other relevant factors and circumstances.

(3) For the avoidance of doubt it is declared that where a person would be liable for contravening subsection (1) but for the fact that—

(a) physical contact was absent, the competent charge shall be criminal insult or, if the person intended but failed to engage in physical contact, attempted indecent assault;

(b) indecent intent was absent, the competent charge shall be criminal insult.

68 Unavailable defences to rape, aggravated indecent assault and indecent assault

It shall not be a defence to a charge of rape, aggravated indecent assault or indecent assault—

(a) that the female person was the spouse of the accused person at the time of any sexual intercourse or other act that forms the subject of the charge:

Provided that no prosecution shall be instituted against any husband for raping or indecently assaulting his wife in contravention of section sixty-six or sixty-seven unless the Attorney-General has authorised such a prosecution; or

(b) subject to sections six, seven and sixty-three, that the accused person was a male person below the age of fourteen years at the time of the sexual intercourse or other act that forms the subject of the charge.

69 Cases where consent absent or vitiated

(1) Without limiting Part XII of Chapter XIV, a person shall be deemed not to have consented to sexual intercourse or any other act that forms the subject of a charge of rape, aggravated indecent assault or indecent assault, where the person charged with the crime—
(a) uses violence or threats of violence or intimidation or unlawful pressure to induce the other person to submit; or

(b) by means of a fraudulent misrepresentation induces the other person to believe that something other than sexual intercourse or an indecent act, as the case may be, is taking place; or

(c) induces the other person to have sexual intercourse or to submit to the performance of the indecent act, as the case may be, by impersonating that other person’s spouse, or lover; or

(d) has sexual intercourse or performs an indecent act upon the other person while that other person is asleep, and that other person has not consented to the sexual intercourse or the performance of the act before falling asleep; or

(e) has sexual intercourse or performs an indecent act upon the other person while that other person is hypnotised or intoxicated from the consumption of drugs or alcohol so as to be incapable of giving consent to the sexual intercourse or the performance of the act, and that other person has not consented to the sexual intercourse or the performance of the act before becoming so hypnotised or intoxicated.

(2) The burden of proving that a person referred to in paragraph (d) or (e) of subsection (1) gave consent to sexual intercourse or the performance of an indecent act before falling asleep or becoming hypnotised or intoxicated, as the case may be, shall lie with the person charged.

70 Sexual intercourse or performing indecent acts with young persons

(1) Subject to subsection (2), any person who—

(a) has extra-marital sexual intercourse with a young person; or

(b) commits upon a young person any act involving physical contact that would be regarded by a reasonable person to be an indecent act; or

(c) solicits or entices a young person to have extra-marital sexual intercourse with him or her or to commit any act with him or her involving physical contact that would be regarded by a reasonable person to be an indecent act;

shall be guilty of sexual intercourse or performing an indecent act with a young person, as the case may be, and liable to a fine not exceeding level twelve or imprisonment for a period not exceeding ten years or both.

(2) It shall be no defence to a charge of sexual intercourse or performing an indecent act with a young person to prove that he or she consented to such sexual intercourse or indecent act.

(3) It shall be a defence to a charge under subsection (1) for the accused person to satisfy the court that he or she had reasonable cause to believe that the young person concerned was of or over the age of sixteen years at the time of the alleged crime:

Provided that the apparent physical maturity of the young person concerned shall not, on its own, constitute reasonable cause for the purposes of this subsection.

(4) For the avoidance of doubt—

(a) the competent charge against a person who—

(i) has sexual intercourse with a female person below the age of twelve years, shall be rape; or
(ii) commits upon a female or male person below the age of twelve years any act referred to in subsection (1) of section sixty-six, shall be aggravated indecent assault;

(iii) commits upon a female or male person below the age of twelve years any act involving physical contact (other than an act referred to in subsection (1) of section sixty-six) that would be regarded by a reasonable person to be an indecent act, shall be indecent assault;

(iv) without the consent of a female person of or above the age of twelve years but below the age of sixteen years, has sexual intercourse with that female person, shall be rape; or

(v) without the consent of a female or male person of or above the age of twelve years but below the age of sixteen years, commits upon that female or male person any act referred to in subsection (1) of section sixty-six, shall be aggravated indecent assault;

(vi) without the consent of a female or male person of or above the age of twelve years but below the age of sixteen years, commits upon that female or male person any act involving physical contact (other than an act referred to in subsection (1) of section sixty-six) that would be regarded by a reasonable person to be an indecent act, shall be indecent assault;

and not sexual intercourse or performing an indecent act with a young person;

(b) a young person shall be deemed not to have consented to sexual intercourse, or to any act involving physical contact that would be regarded by a reasonable person to be an indecent act, in any of the circumstances referred to in section sixty-nine, in which event the person accused of having sexual intercourse or performing an indecent act with the young person shall be charged with rape, aggravated indecent assault or indecent assault, as the case may be.

71 Sexual crimes committed against young or mentally incompetent persons outside Zimbabwe

(1) Any person who is a citizen of Zimbabwe or ordinarily resident therein and who does anything outside Zimbabwe to, with or against a young or mentally incompetent adult person which, if it were done in Zimbabwe, would constitute—

(a) the crime of rape, aggravated indecent assault, indecent assault, sexual intercourse or performing an indecent act with a young person or sodomy; or

(b) an attempt, conspiracy or incitement to commit a crime referred to in paragraph (a);

shall be guilty of the appropriate crime referred to in paragraph (a) or (b) and liable to be sentenced accordingly.

(2) Any person who, in Zimbabwe, conspires with or incites another person to do anything outside Zimbabwe to, with or against a young or mentally incompetent adult person which, if it were done in Zimbabwe, would constitute the crime of rape, aggravated indecent assault, indecent assault, sexual intercourse or performing an indecent act with a young person or sodomy, shall be guilty of conspiracy or incitement, as the case may be, to commit the appropriate crime and liable to be sentenced accordingly.
(3) Subsections (1) and (2) shall apply whether or not the act which the person is alleged to have committed or which was the subject of his or her alleged conspiracy or incitement, as the case may be, was a crime in the place where it was committed.

72 Prevention of conspiracy or incitement abroad to commit sexual crimes against young or mentally incompetent persons in Zimbabwe

(1) Any person who, outside Zimbabwe, conspires with or incites another person to commit the crime of rape, aggravated indecent assault, indecent assault, sexual intercourse or performing an indecent act or sodomy in Zimbabwe with or against a young or mentally incompetent adult person shall be guilty of conspiracy or incitement, as the case may be, to commit the appropriate crime and liable to be sentenced accordingly.

(2) Subsection (1) shall apply whether or not conspiracy or incitement to commit the crime concerned is a crime in the place where the alleged conspiracy or incitement took place.

73 Sodomy

(1) Any male person who, with the consent of another male person, knowingly performs with that other person anal sexual intercourse, or any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act, shall be guilty of sodomy and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding one year or both.

(2) Subject to subsection (3), both parties to the performance of an act referred to in subsection (1) may be charged with and convicted of sodomy.

(3) For the avoidance of doubt it is declared that the competent charge against a male person who performs anal sexual intercourse with or commits an indecent act upon a young male person—

(a) who is below the age of twelve years, shall be aggravated indecent assault or indecent assault, as the case may be; or

(b) who is of or above the age of twelve years but below the age of sixteen years and without the consent of such young male person, shall be aggravated indecent assault or indecent assault, as the case may be; or

(c) who is of or above the age of twelve years but below the age of sixteen years and with the consent of such young male person, shall be performing an indecent act with a young person.

74 Bestiality

Any person who knowingly commits any sexual act with an animal or bird shall be guilty of bestiality and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding one year or both.

75 Sexual intercourse within a prohibited degree of relationship

(1) In this section—

“first cousin”, in relation to any person, means the child or any descendant of the child of the uncle or aunt of such person;

“second cousin”, in relation to any person, means the child or any descendant of the child of the great-uncle or great-aunt of such person.
(2) Where sexual intercourse takes place between—

(a) a parent and his or her natural child, whether born in or out of wedlock, or adopted child, whether the child is under the age of eighteen years or not; or

(b) a step-parent and his or her step-child, whether the step-child’s parent and step-parent are married under the Marriage Act [Chapter 5:11] or the Customary Marriages Act [Chapter 5:07], or are parties to an unregistered customary law marriage, and whether or not the child was over the age of eighteen years at the time of the marriage; or

(c) a brother and sister, whether of whole or half blood; or

(d) an uncle and his niece; or

(e) a grand-uncle and his grand-niece; or

(f) an aunt and her nephew; or

(g) a grand-aunt and her grand-nephew; or

(h) a grandparent and his or her grandchild; or

(i) subject to subsection (3), any person and his or her first or second cousin; or

(j) any person and an ascendant or descendant of his or her spouse or former spouse, whether the person and his or her spouse or former spouse are or were married under the Marriage Act [Chapter 5:11] or the Customary Marriages Act [Chapter 5:07], or are or were parties to an unregistered customary law marriage; or

(k) any person and his or her ascendant or descendant in any degree; or

(l) any person and a descendant of a brother or sister, whether of whole or half blood;

and either or both of the parties know or realise that there is a real risk or possibility that they are related to each other in any of the foregoing degrees of relationship, either or both parties to the intercourse, as the case may be, shall be guilty of sexual intercourse within a prohibited degree of relationship and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding five years or both.

(3) It shall be a defence to a charge of sexual intercourse within a prohibited degree of relationship as between first or second cousins for the accused to prove—

(a) in the case of a person who is not a member of a community governed by customary law, that the cultural or religious customs or traditions of the community to which he or she belongs do not prohibit marriage between first or second cousins; or

(b) in the case of a person who is a member of a community governed by customary law, that the cultural or religious customs or traditions of the particular community to which he or she belongs do not prohibit marriage between first or second cousins.

(4) In determining for the purposes of subsection (3) whether or not a person is a member of a community—

(a) whose cultural or religious customs or traditions do not prohibit marriage between first or second cousins, a court shall have regard to the evidence of any person who, in its opinion, is suitably qualified by reason of his or her knowledge to give evidence as to the cultural or religious customs or traditions of the community concerned; or

(b) governed by customary law, regard shall be had to all the circumstances of the person’s life, including—
(i) whether or not the natural parents of the person were married under the Customary Marriages Act [Chapter 5:07] or were parties to an unregistered customary law marriage;

(ii) whether or not the person lives among other members of such a community and is regarded by such other members as belonging to that community, notwithstanding that the person’s natural parents were not married to each other, or were married exclusively under the Marriage Act [Chapter 5:11];

(iii) where the person does not live among members of such a community, whether he or she has ties to such a community by reason of his or her natural parents belonging to such a community.

(5) For the avoidance of doubt it is declared that—

(a) the competent charge against—

(i) a male person who has sexual intercourse with a female person without her consent who is related to him in any degree of relationship specified in subsection (2), shall be rape and not sexual intercourse within a prohibited degree of relationship;

(ii) a female person who has sexual intercourse with a male person without his consent who is related to her in any degree of relationship specified in subsection (2), shall be aggravated indecent assault and not sexual intercourse within a prohibited degree of relationship;

(b) paragraph (i) of subsection (2) shall not apply to persons who—

(i) on the fixed date are married to each other under the Marriage Act [Chapter 5:11] or the Customary Marriages Act [Chapter 5:07] or are parties to an unregistered customary law marriage; or

(ii) on or after the fixed date are married to each other under any foreign law.

76 Complicity in sexual crimes

For the avoidance of doubt it is declared that any person who—

(a) being the owner or occupier of any premises, knowingly permits another person on the premises to commit rape, aggravated indecent assault, indecent assault, sexual intercourse or performing an indecent act with a young person, sodomy, bestiality or sexual intercourse within a prohibited degree of relationship; or

(b) detains a person with the intention that a crime referred to in paragraph (a) should be committed by another person against the person so detained;

may be charged with being an accomplice or accessory to the commission of the crime concerned, or with kidnapping or unlawful detention, or both.

Division C: Indecent or sexual conduct harmful to public morals or public health

77 Public indecency

(1) Any person who—
(a) indecently exposes himself or herself or engages in any other indecent conduct which causes offence to any other person in or near a public place, or in or near a private place within the view of such other person; or
(b) knowing or realising that there is a real risk or possibility that he or she will be heard, utters or makes use of indecent or obscene language in or near a public place, or in or near a private place within the hearing of another person; or
(c) sings any indecent or obscene song in or near a public place, or in or near a private place within the hearing of another person, knowing or realising that there is a real risk or possibility that he or she will be heard; or
(d) writes or draws any indecent or obscene word, figure or representation in or near a public place, or in or near a private place in the view of another person, knowing or realising that there is a real risk or possibility that such writing or drawing will be seen;

shall be guilty of public indecency and liable to a fine not exceeding level nine or imprisonment for a period not exceeding six months or both.

(2) No person shall be convicted of public indecency unless the words or conduct in question are sufficiently serious to warrant punishment, for which purpose a court shall take into account the following factors in addition to any others that are relevant in the particular case—
(a) the nature of the words or conduct;
(b) the extent to which the words were repeated or the conduct was persisted in, as the case may be;
(c) the age and gender of the person who heard the words or witnessed the conduct;
(d) any previous relationship between the parties;
(e) the degree of offence caused to the person who heard the words or witnessed the conduct.

78 Deliberate infection of another with a sexually-transmitted disease

(1) In this section—
“sexually-transmitted disease” includes syphilis, gonorrhea, herpes, and all other forms of sexually-transmitted diseases except, for the purposes of this section, HIV.

(2) Any person who—
(a) knowing that he or she is suffering from a sexually-transmitted disease; or
(b) realising that there is a real risk or possibility that he or she is suffering from a sexually-transmitted disease;

intentionally infects any other person with the disease, or does anything or causes or permits anything to be done with the intention or realising that there is a real risk or possibility of infecting any other person with the disease, shall be guilty of deliberately infecting that other person with a sexually-transmitted disease and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding five years or both.

(3) If it is proved in a prosecution for spreading a sexually-transmitted disease that the person charged was suffering from a sexually-transmitted disease at the time of the crime, it
shall be presumed, unless the contrary is proved, that he or she knew or realised that there was a real risk or possibility that he or she was suffering from it.

(4) It shall be a defence to a charge under subsection (1) for the accused to prove that the other person concerned—

(a) knew that the accused was suffering from a sexually-transmitted disease; and
(b) consented to the act in question, appreciating the nature of the sexually-transmitted disease and the possibility of becoming infected with it.

Division D: Transmitting HIV deliberately or in the course of committing sexual crimes

79 Deliberate transmission of HIV

(1) Any person who—

(a) knowing that he or she is infected with HIV; or
(b) realising that there is a real risk or possibility that he or she is infected with HIV; intentionally does anything or permits the doing of anything which he or she knows will infect, or does anything which he or she realises involves a real risk or possibility of infecting another person with HIV, shall be guilty of deliberate transmission of HIV, whether or not he or she is married to that other person, and shall be liable to imprisonment for a period not exceeding twenty years.

(2) It shall be a defence to a charge under subsection (1) for the accused to prove that the other person concerned—

(a) knew that the accused was infected with HIV; and
(b) consented to the act in question, appreciating the nature of HIV and the possibility of becoming infected with it.

80 Sentence for certain crimes where accused is infected with HIV

(1) Where a person is convicted of—

(a) rape; or
(b) aggravated indecent assault; or
(c) sexual intercourse or performing an indecent act with a young person, involving any penetration of any part of his or her or another person’s body that incurs a risk of transmission of HIV;

and it is proved that, at the time of the commission of the crime, the convicted person was infected with HIV, whether or not he or she was aware of his or her infection, he or she shall be sentenced to imprisonment for a period of not less than ten years.

(2) For the purposes of this section—

(a) the presence in a person’s body of HIV antibodies or antigens, detected through an appropriate test, shall be prima facie proof that the person concerned is infected with HIV;
(b) if it is proved that a person was infected with HIV within thirty days after committing a crime referred to in those sections, it shall be presumed, unless the contrary is shown, that he or she was infected with HIV when he or she committed the crime.
Division E: Crimes relating to prostitution or the facilitation of sexual crimes

81 Soliciting

(1) In this section—

“publicly solicits” means—

(a) solicits in a public place or any place to which the public or any section of the public have access; or

(b) solicits by publication of the solicitation in any printed or electronic medium for reception by the public.

(2) Any person who publicly solicits another person for the purposes of prostitution shall be guilty of soliciting and liable to a fine not exceeding level five or imprisonment for a period not exceeding six months or both.

82 Living off or facilitating prostitution

Any person who—

(a) keeps a brothel; or

(b) demands from a prostitute any payment or reward in consideration of the person—

(i) keeping, managing or assisting in the keeping of a brothel in which the prostitute is, or has been, living for immoral purposes; or

(ii) having solicited other persons for immoral purposes on behalf of the prostitute; or

(iii) having effected the prostitute’s entry into a brothel for the purpose of prostitution; or

(iv) having brought or assisted in bringing the prostitute into Zimbabwe for immoral purposes; or

(c) demands from a prostitute any payment or reward in consideration for any present or past immoral connection with the prostitute;

shall be guilty of living off or facilitating prostitution and liable to a fine not exceeding level seven or imprisonment for a period not exceeding two years or both.

83 Procuring

Any person who procures any other person—

(a) for the purposes of engaging in unlawful sexual conduct with another person or with persons generally, whether inside or outside Zimbabwe; or

(b) to become a prostitute, whether inside or outside Zimbabwe; or

(c) to leave Zimbabwe with the intent that the other person may become a prostitute; or

(d) to leave his or her usual place of residence, not being a brothel, with the intent that he or she may become an inmate of or frequent a brothel elsewhere;

shall be guilty of procuring and liable to a fine up to or exceeding level fourteen or—
(i) in a case where the person procured is a young person, imprisonment for a period not exceeding ten years, or both such fine and imprisonment;

(ii) in any other case, imprisonment for a period not exceeding two years, or both such fine and imprisonment.

84 Coercing or inducing persons for purpose of engaging in sexual conduct

Any person who, to enable himself or herself or anyone else to engage in unlawful sexual conduct with another person—

(a) threatens or intimidates that other person; or

(b) applies or administers any intoxicating drug, liquor, matter or thing to that other person; or

(c) causes that other person to take any intoxicating drug, liquor, matter or thing;

shall be guilty of coercing or inducing a person for the purpose of engaging in sexual conduct and liable to a fine not exceeding level ten or imprisonment for a period not exceeding five years or both:

Provided that nothing in this section precludes a person from being charged with or convicted of rape, attempted rape, being an accomplice to rape, or other unlawful sexual conduct if the facts support such a charge or conviction.

85 Detaining persons for purpose of engaging in unlawful sexual conduct

Any person who detains another person against his or her will in a brothel or any other premises whatsoever with the intention that the person detained should engage in unlawful sexual conduct with himself or herself or another person or with persons generally shall be guilty of detaining a person for the purpose of engaging in unlawful sexual conduct and liable to a fine not exceeding level six or imprisonment for a period not exceeding one year or both:

Provided that nothing in this section precludes a person from being charged with or convicted of kidnapping or unlawful detention if the facts support such a charge or conviction.

86 Permitting young person to resort to place for purpose of engaging in unlawful sexual conduct

(1) If the owner of a place knowingly induces or allows a young person to enter or be in the place for the purpose of engaging in unlawful sexual conduct with another person or with other persons generally, the owner shall be guilty of permitting a young person to resort to a place for the purpose of engaging in unlawful sexual conduct and—

(a) if the young person is under the age of twelve years, liable to a fine not exceeding level eleven or imprisonment for a period not exceeding ten years or both;

(b) if the young person is over the age of twelve years, liable to a fine not exceeding level ten or imprisonment for a period not exceeding seven years or both.

(2) It shall be a defence to a charge under subsection (1) for the accused to prove that he or she had reasonable cause to believe that the young person was of or over the age of sixteen years:

Provided that the apparent physical maturity of the young person concerned shall not, on its own, constitute reasonable cause for the purposes of this subsection.

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87 Allowing child to become a prostitute

Any parent or guardian who causes or allows his or her child under the age of eighteen years to associate with prostitutes or to be employed by any prostitute as a prostitute or to reside in a brothel shall be guilty of allowing a child to become a prostitute and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding ten years or both.

PART IV
CRIMES INVOLVING BODILY INJURY

88 Interpretation in Part IV of Chapter V

In this Part—

“assault” means—

(a) any act by a person involving the application of force, directly or indirectly, to the body of another person, whereby bodily harm is caused to that other person; or

(b) any act by a person that causes, directly or indirectly, the injection into or application to the body of another person of any substance without that person’s consent; or

(c) any act by a person that causes any substance to be consumed by another person without that person’s consent;

“bodily harm” means any harm causing pain or discomfort to the body, or any impairment of the body or its functions, whether temporary or permanent.

89 Assault

(1) Any person who—

(a) commits an assault upon another person intending to cause that other person bodily harm or realising that there is a real risk or possibility that bodily harm may result; or

(b) threatens, whether by words or gestures, to assault another person, intending to inspire, or realising that there is a real risk or possibility of inspiring, in the mind of the person threatened a reasonable fear or belief that force will immediately be used against him or her;

shall be guilty of assault and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding ten years or both.

(2) It shall be no defence to a charge of assault that, at the time the fear or belief referred to in paragraph (b) of subsection (1) is inspired, the person inspiring such fear or belief lacks the ability to effect his or her purpose.

(3) In determining an appropriate sentence to be imposed upon a person convicted of assault, and without derogating from the court’s power to have regard to any other relevant considerations, a court shall have regard to the following—

(a) the age and physical condition of the person assaulted;

(b) the degree of force or violence used in the assault;

(c) whether or not any weapon was used to commit the assault;
TAB
2
CHAPTER 9:21
SEXUAL OFFENCES ACT
Act 8/2001

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ACT

To amend the criminal law in regard to sexual offences; to make further provision for the suppression of brothels and prostitution; to discourage the spread of the human immuno-deficiency virus; to repeal the Criminal Law Amendment Act [Chapter 9:05]; to amend section 51 of the Magistrates Court Act [Chapter 7:10], sections 211 and 247 of the Criminal Procedure and Evidence Act [Chapter 9:07] and section 2 of the Termination of Pregnancy Act [Chapter 15:10]; and to provide for matters connected with or incidental to the foregoing.

ENACTED by the President and the Parliament of Zimbabwe.
1 Short title

This Act may be cited as the Sexual Offences Act [Chapter 9:21].

2 Interpretation

(1) In this Act—

“brothel” means any place which is occupied or used for purposes of prostitution or for persons to visit for the purpose of having extra-marital sexual intercourse for money or reward;

“extra-marital sexual intercourse” means sexual intercourse otherwise than between husband and wife;

“HIV” means the human immuno-deficiency virus;

“keeper”, in relation to a brothel, has the meaning set out in subsection (2);

“owner”, in relation to any place, includes a person who lets or sublets or permits the occupation of the place, whether in his own right or on behalf of another person;

“place” includes any premises, enclosure, vehicle or boat or any part thereof;

“prostitute” means a person who for money or reward—

(a) habitually allows other persons to have extra-marital sexual intercourse with him or her; or

(b) solicits other persons to have extra-marital sexual intercourse with him or her;

“young person” means a boy or girl under the age of sixteen years.

(2) The following persons shall be deemed for the purposes of this Act to be keepers of a brothel—

(a) any person who manages the brothel or assists in its management;

(b) the owner of the brothel, if he uses the place as a brothel or knowingly allows it to be so used;

(c) any person who knowingly receives the whole or any part of any money taken in the brothel;

(d) any person who resides in the brothel, unless he proves that he was ignorant of the character of the place;

(e) any person found in the brothel who wilfully refuses to disclose the name and identity of the keeper or owner thereof.
PART II
EXTRA-MARITAL SEXUAL INTERCOURSE WITH YOUNG PERSONS AND INTELLECTUALLY HANDICAPPED PERSONS

3 Extra-marital sexual intercourse or immoral or indecent act committed with young person

(1) Subject to subsection (2), any person who—
   (a) has extra-marital sexual intercourse with a young person; or
   (b) commits an immoral or indecent act with or upon a young person; or
   (c) solicits or entices a young person to have extra-marital sexual intercourse with him or to commit an immoral or indecent act;

shall be guilty of an offence and liable, subject to section sixteen, to a fine not exceeding fifty thousand dollars or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(2) It shall be a defence to a charge under subsection (1) for the accused person to satisfy the court that—
   (a) he was under the age of sixteen years at the time of the alleged offence; or
   (b) he had reasonable cause to believe that the young person concerned was of or over the age of sixteen years at the time of the alleged offence.

4 Extra-marital sexual intercourse or immoral or indecent act committed with intellectually handicapped person

(1) In this section—
   “intellectually handicapped person” means a person who is mentally disordered or intellectually handicapped, as defined in section 2 of the Mental Health Act [Chapter 15:12].

(2) Subject to subsection (3), any person who—
   (a) has extra-marital sexual intercourse with an intellectually handicapped person; or
   (b) commits an immoral or indecent act with an intellectually handicapped person; or
   (c) solicits or entices an intellectually handicapped person to have extra-marital sexual intercourse with him or to commit an immoral or indecent act;

shall be guilty of an offence and liable, subject to section sixteen, to a fine not exceeding fifty thousand dollars or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(3) It shall be a defence to a charge under subsection (2) for the accused person to satisfy the court that he did not know that the person to or with whom he committed the act alleged in the charge was intellectually handicapped.
5 Prevention of sexual exploitation of young persons and intellectually handicapped persons outside Zimbabwe

(1) Any person who is a citizen of Zimbabwe or ordinarily resident therein and who does anything outside Zimbabwe to, with or against a young person or intellectually handicapped person which, if it were done in Zimbabwe, would constitute—

(a) rape, incest, sodomy or indecent assault; or

(b) a contravention of section three or four; or

(c) an attempt, conspiracy or incitement to commit an offence referred to in paragraph (a) or (b);

shall be guilty of the appropriate offence referred to in paragraph (a), (b) or (c) and liable to be sentenced accordingly.

(2) Any person who, in Zimbabwe, conspires with or incites another person to do anything outside Zimbabwe to, with or against a young person or intellectually handicapped person which, if it were done in Zimbabwe, would constitute—

(a) rape, incest, sodomy or indecent assault; or

(b) a contravention of section three;

shall be guilty of conspiracy or incitement, as the case may be, to commit the appropriate offence referred to in paragraph (a) or (b) and shall be liable to be sentenced accordingly.

(3) Subsections (1) and (2) shall apply whether or not the act which the person is alleged to have committed or which was the subject of his alleged conspiracy or incitement, as the case may be, was an offence in the place where it was committed.

6 Prevention of conspiracy or incitement abroad to exploit young persons or intellectually handicapped persons in Zimbabwe

(1) Any person who, outside Zimbabwe, conspires with or incites another person to commit any of the following offences in Zimbabwe to, with or against a young person or intellectually handicapped person—

(a) rape, incest, sodomy or indecent assault; or

(b) a contravention of section three or four;

shall be guilty of conspiracy or incitement, as the case may be, to commit the appropriate offence referred to in paragraph (a) or (b) and shall be liable to be sentenced accordingly.

(2) Subsection (1) shall apply whether or not conspiracy or incitement to commit the offence concerned was an offence in the place where the alleged conspiracy or incitement took place.

7 Permitting young person to resort to place for purpose of extra-marital sexual intercourse

(1) If the owner of a place knowingly induces or allows a young person to enter or be in a place for the purpose of extra-marital sexual intercourse with another person or with other persons generally, the owner shall be guilty of an offence and—
(a) if the young person is under the age of twelve years, liable to a fine not exceeding thirty-five thousand dollars or to imprisonment for a period not exceeding seven years or to both such fine and such imprisonment;

(b) if the young person is over the age of twelve years, liable to a fine not exceeding twenty-five thousand dollars or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(2) It shall be a defence to a charge under subsection (1) for the accused person to prove that he had reasonable cause to believe that the young person was of or over the age of sixteen years.

PART III

NON-CONSENSUAL SEXUAL ACTS

8 Punishment for rape or certain non-consensual acts

(1) Any person who, whether or not married to the other person, without the consent of that person—

(a) with the male organ, penetrates any part of the other person’s body; or

(b) with any object other than the male organ, penetrates the other person’s genitalia or anus; or

(c) engages in fellatio or cunnilingus with the other person;

shall be guilty of an offence and liable, subject to section sixteen, to the penalties provided by law for rape.

(2) Penetration to any degree shall be sufficient for the purpose of paragraphs (a) and (b) of subsection (1).

PART IV

SUPPRESSION OF PROSTITUTION

9 Brothels and pimping

(1) Any person who—

(a) is the keeper of a brothel; or

(b) knowingly lives wholly or in part on the earnings of prostitution; or

(c) solicits or importunes other persons for immoral purposes; or

(d) demands from a prostitute money in consideration of his—

(i) keeping, managing or assisting in the keeping of a brothel in which the prostitute is, or has been, living for immoral purposes; or

(ii) having solicited or importuned other persons for immoral purposes with the prostitute; or

(iii) having effected the prostitute’s entry into a brothel for the purpose of prostitution; or
(iv) having brought or assisted in bringing the prostitute into Zimbabwe for immoral purposes; or

(v) present or past immoral connection with him;

shall be guilty of an offence and liable to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) If, in a prosecution for an offence under paragraph (b) of subsection (1), it is proved that a person consorted or lived with or was habitually in the company of a prostitute, and has no visible means of subsistence, that person shall be deemed, unless the contrary is proved, to have been knowingly living on the earnings of prostitution.

10 Detention of persons for sexual purposes

Any person who detains any other person against his or her will with the intention of contravening section three, four or eight shall be guilty of an offence and liable to a fine not exceeding fifty thousand dollars or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

11 Procuring

Any person who procures any other person—

(a) to have sexual intercourse in contravention of section three, four or eight, whether inside or outside Zimbabwe; or

(b) to become a prostitute, whether inside or outside Zimbabwe; or

(c) to leave Zimbabwe with the intent that the other person may become a prostitute; or

(d) to leave his or her usual place of residence, not being a brothel, with the intent that he or she may become an inmate of or frequent a brothel elsewhere;

shall be guilty of an offence and liable to a fine not exceeding fifty thousand dollars or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

12 Coercing or inducing a person to have extra-marital sexual intercourse

Any person who, to enable himself or anyone else to have extra-marital sexual intercourse with another person—

(a) threatens or intimidates that other person; or

(b) applies or administers any intoxicating drug, liquor, matter or thing to that other person; or

(c) causes that other person to take any intoxicating drug, liquor, matter or thing;

shall be guilty of an offence and liable to a fine not exceeding fifty thousand dollars or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

13 Use of place as brothel renders lease void

(1) If any leased premises are kept or used as a brothel by or with the consent or acquiescence of the lessee, the lease shall become void with effect from the date on which the leased premises were first so used:

Provided that, if the lessor proves that he was unaware that the premises were so used, he shall be entitled to recover the rent up to the date upon which he became aware of that fact.
(2) The reference in subsection (1) to a lease includes a sublease, and “lessee” and “lessor” shall be construed accordingly.

14 Summary ejectment when place is kept or used as brothel

A magistrate shall have jurisdiction, on the application of the owner or lessor of any place within the magistrate’s province which is being kept or used as a brothel, to order summary ejectment of any person who is so keeping or using the place.

PART V
PREVENTION OF SPREAD OF HIV

15 Deliberate transmission of HIV

(1) Any person who, having actual knowledge that he is infected with HIV, intentionally does anything or permits the doing of anything which he knows or ought reasonably to know—

(a) will infect another person with HIV; or
(b) is likely to lead to another person becoming infected with HIV;

shall be guilty of an offence, whether or not he is married to that other person, and shall be liable to imprisonment for a period not exceeding twenty years.

(2) It shall be a defence to a charge of contravening subsection (1) for the person charged to prove that the other person concerned—

(a) knew that the person charged was infected with HIV; and
(b) consented to the act in question, appreciating the nature of HIV and the possibility of his becoming infected with it.

16 Sentence for certain offences where offender is infected with HIV

Where a person is convicted of—

(a) rape or sodomy; or
(b) having sexual intercourse with a young person in contravention of section three; or
(c) having sexual intercourse with an intellectually handicapped person in contravention of section four; or
(d) contravening subsection (1) of section eight by committing an act referred to in paragraph (a) or (c) of that subsection;

and it is proved that, at the time of the offence, the convicted person was infected with HIV, whether or not he was aware of his infection, he shall be sentenced to imprisonment for a period not exceeding twenty years.

17 Testing of sexual offenders for HIV infection

(1) In this section—

“designated person” means a member of a class of persons designated for the purposes of this section by the Minister responsible for health;

“sexual offence” means—

(a) rape, sodomy, incest or indecent assault; or
(b) a contravention of section three or four; or
(c) a contravention of subsection (1) of section eight by the commission of an act referred to in paragraph (a) or (c) of that subsection; or
(d) a contravention of section fifteen; or
(e) an attempt to commit an offence specified in paragraph (a), (b), (c) or (d);

“sexual offender” means a person who has been convicted of a sexual offence.

(2) Without derogation from any other law, where a person is charged with committing a sexual offence, the court may direct that an appropriate sample or samples be taken from the sexual offender, at such place and subject to such conditions as the court may direct, for the purpose of ascertaining whether or not he is infected with HIV.

(3) The sample or samples taken from a sexual offender in terms of subsection (2) shall be stored at an appropriate place until the finalisation of the trial.

(4) The court shall, where the sexual offender is convicted, order that the sample or samples be tested for HIV and, where he is acquitted, order that the sample or samples be destroyed.

(5) Where a court has given a direction under subsection (2), any medical practitioner or designated person shall, if so requested in writing by a police officer above the rank of constable, take an appropriate sample or samples from the sexual offender concerned, and may use such force as is reasonably necessary in order to take the sample or samples:

Provided that the medical practitioner or designated person may decline to take an appropriate sample in terms of this subsection if he considers that such taking would be prejudicial to the health or proper care or treatment of the sexual offender.

(6) An appropriate sample or samples taken in terms of subsection (5)—

(a) shall consist of blood, urine or other tissue or substance as may be determined by the medical practitioner or designated person concerned, in such quantity as is reasonably necessary for the purpose of determining whether or not the sexual offender is infected with HIV; and

(b) in the case of a blood or tissue sample, shall be taken from a part of the sexual offender’s body selected by the medical practitioner or designated person concerned in accordance with accepted medical practice.

(7) Without prejudice to any other defence or limitation that may be available in terms of any law, no claim shall lie and no set-off shall operate against—

(a) the State; or

(b) any Minister; or

(c) any medical practitioner or designated person;

in respect of any detention, injury or loss caused by or in connection with the taking of an appropriate sample in terms of subsection (5), unless the taking was unreasonable or done in bad faith or the person who took the sample was culpably ignorant or negligent.

(8) Any person who, without reasonable excuse, hinders or obstructs the taking of an appropriate sample in terms of subsection (5) shall be guilty of an offence and liable to a fine
not exceeding ten thousand dollars or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

18 Presumptions regarding HIV infection

(1) For the purposes of sections fifteen and sixteen, the presence in a person’s body of HIV antibodies or antigens, detected through an appropriate test or series of tests, shall be prima facie proof that the person concerned is infected with HIV.

(2) For the purposes of sections fifteen and sixteen, if it is proved that a person was infected with HIV within thirty days after committing an offence referred to in those sections, it shall be presumed, unless the contrary is shown, that he was infected with HIV when he committed the offence.

19 Jurisdiction of regional magistrates

A court of a regional magistrate shall have jurisdiction to impose the penalty prescribed in section fifteen or sixteen on a person convicted of contravening that section.

PART VI

GENERAL

20 Act not to limit offences under other laws

Nothing in this Act shall be taken as limiting any offence at common law or under any other enactment.

21 Presumption regarding marriage

Whenever in any prosecution under this Act the question is in issue whether any sexual intercourse between two persons was extra-marital, the persons shall be deemed not to have been married at the time of such intercourse, unless the contrary is proved.

22 Amendment of presumption that boy under 14 incapable of sexual intercourse

(1) The irrebuttable presumption or rule of law that a boy under the age of fourteen years is incapable of sexual intercourse shall not apply in Zimbabwe in relation to boys who have reached the age of twelve years.

(2) Subsection (1) shall not affect any presumption or rule of law relating generally to the criminal capacity of children under the age of fourteen years.

23 Consent by young person no defence in certain circumstances

(1) For the purposes of this section a “sexual act” means—

(a) anal intercourse;

(b) engaging in fellatio;

(c) engaging in cunnilingus.

(2) A young person under the age of twelve years shall be deemed incapable of consenting to sexual intercourse or a sexual act.
(3) Where a person is charged with raping a young person who is his child, step-child or adopted child, it shall be no defence to prove that the young person consented to having sexual intercourse or a sexual act with him.

24 Repeal of Cap. 9:05

The Criminal Law Amendment Act [Chapter 9:05] is repealed.

25 Amendment of section 51 of Cap. 7:10

Section 51 of the Magistrates Court Act [Chapter 7:10] is amended—

(a) in subsection (2) by the deletion from paragraph (a) of “rape,”;

(b) by the insertion after subsection (3) of the following subsections—

“(4) Notwithstanding section fifty, the jurisdiction of a regional magistrate in respect of punishment for a sexual offence, whether on summary trial or remittal by the Attorney-General, shall be—

(a) imprisonment for a period not exceeding twenty years;

(b) a fine not exceeding twenty thousand dollars.

(5) For the purposes of subsection (4)—

“sexual offence” means—

(a) rape or sodomy; or

(b) a contravention of section 3, 4, 5, 6, 8 or 15 of the Sexual Offences Act [Chapter 9:21]; or

(c) an attempt to commit an offence referred to in paragraph (a) or (b).”.

26 Amendment of sections 211 and 247 of Cap. 9:07

The Criminal Procedure and Evidence Act [Chapter 9:07] is amended—

(a) in section 211—

(i) by the repeal of subsection (1) and the substitution of—

“(1) Any person charged with rape may be found guilty of—

(a) assault with intent to commit rape; or

(b) indecent assault; or

(c) assault with intent to commit grievous bodily harm; or

(d) assault; or

(e) contravening section 3, 4, 8 or 15 of the Sexual Offences Act [Chapter 9:21];

if such are the facts proved.”;

(ii) in subsection (2) by the deletion of “unlawful carnal knowledge” and the substitution of “extra-marital sexual intercourse”;

(iii) by the repeal of subsection (3) and the substitution of—
“(3) Any person charged with indecent assault may be found guilty of assault or of contravening section 3, 4 or 8 of the Sexual Offences Act [Chapter 9:21] if such are the facts proved.”;

(iv) by the repeal of subsection (5) and the substitution of—

“(5) Any person charged with sodomy or assault with intent to commit sodomy may be found guilty of—

(a) indecent assault; or
(b) assault; or
(c) committing an unnatural offence; or
(d) contravening section 3, 4, 8 or 15 of the Sexual Offences Act [Chapter 9:21];

if such are the facts proved.”;

(b) in section 247 in subsection (2) by the deletion from paragraph (e) of “Criminal Law Amendment Act [Chapter 9:05]” and the substitution of “Sexual Offences Act [Chapter 9:21]”.

27 Amendment of section 2 of Cap. 15:10

Section 2 of the Termination of Pregnancy Act [Chapter 15:10] is amended in subsection (1) by the repeal of the definition of “unlawful intercourse” and the substitution of—

““unlawful intercourse” means rape, other than rape within a marriage, incest or sexual intercourse in contravention of section 4 of the Sexual Offences Act [Chapter 9:21].”.
TAB
3
3. REFUGEE CONVENTION CLAIMS

RACE/NATIONALITY

3.1 Article 56 of the Constitution prohibits discrimination based on nationality, race, colour, tribe, place of birth, ethnic or social origin, custom, or culture. Article 63 guarantees the right of citizens to use the language of their choice and participate in the cultural life of their choice. Section 42 of the Criminal Law (Codification and Reform) Act (2004) criminalises causing offence to persons of a particular race, tribe, place of origin, colour, creed, or religion, and provides for punishment of a fine, up to one year’s imprisonment, or both. Human rights observers report that race and ethnicity remain significant factors of life in Zimbabwe, which may affect an individual’s ability to access opportunities available to other Zimbabweans.

Ndebele

3.2 The Ndebele, who migrated to what is now Zimbabwe from South Africa in the mid-18th century, are Zimbabwe’s largest ethnic and linguistic minority. They are based predominantly in the south-western Matabeleland and Midlands provinces, and are the majority population in Bulawayo. There are also Ndebele populations in other southern African countries. The Ndebele do not differ physically from Shona-speaking Zimbabweans, but are distinguishable by their linguistic differences and identifiable names.

3.3 Ndebele participate in all areas of Zimbabwean society, including government, business, civil society, and politics, although not proportionally. Many Ndebele have played prominent roles in public life, including as Vice Presidents, Ministers, and key opposition figures. In the lead-up to the 30 July 2018 elections, human rights observers reported that neither the ruling nor the opposition parties publicly disparaged any race or ethnicity. Ndebele and Shona generally co-exist harmoniously in daily life, and intermarriages are relatively common. DFAT is not aware of any recent cases in which Ndebele have been harassed or physically attacked on the basis of their ethnicity.

3.4 Ndebele representatives report, however, that Ndebele are generally unable to obtain positions of power and roles within state bodies, particularly the security services. Shona speakers from Mashonaland occupy most senior politically appointed posts in the south-western provinces and in Bulawayo, and have reportedly consistently demonstrated bias in selecting service providers from Mashonaland for development projects within Matabeleland. There has been a comparative lack of government spending in the south-west, which has high rates of poverty. The lack of any formal acknowledgment or accountability for the Gukurahundi remains a major source of resentment for most Ndebele, although there has now been some government action on this front (see Enforced or Involuntary Disappearances).

3.5 DFAT assesses that Ndebele face a moderate level of official discrimination in that systemic marginalisation makes them far less likely than Shona to be able to achieve senior positions in state institutions, despite the lack of any official policy of discrimination. Societal discrimination is unlikely to include violence and is less likely to occur in areas in which Ndebele are the majority population.
White Zimbabweans

3.6 The term ‘white Zimbabwean’ is used to refer to Zimbabweans of European ethnic origin. The white Zimbabwean population is predominantly of British descent, with smaller groups of people from Afrikaner, Jewish, Greek and Portuguese backgrounds. The white population of then-Rhodesia was recorded as almost 300,000 in 1975, but declined significantly following independence. The 2012 census recorded 28,732 white Zimbabweans, although this number may be an underestimation given some white Zimbabweans are believed to have classified themselves as ‘African’. The majority of white Zimbabweans reside in Harare or Bulawayo, and most work in the private sector. Many white Zimbabweans have played an active role in politics, including serving in Ministerial roles during the GNU. Mnangagwa appointed former Olympic swimming gold medallist Kirsty Coventry Minister for Youth, Sport, Arts and Recreation in September 2018 (Coventry did not compete in the July 2018 elections and is not a parliamentarian). DFAT is unaware of whether any white Zimbabweans are currently serving in the state security services, and believes it unlikely to be the case.

3.7 Under Mugabe, state media and senior government officials (particularly Mugabe himself) routinely blamed Zimbabwe’s economic and political problems on western countries and (by extension) the white minority. Human rights observers report that this practice has considerably reduced in scale under Mnangagwa, although the government did organise a poorly attended demonstration against western sanctions in Harare in October 2019. In-country sources report that ZANU-PF officials and traditional chiefs in some regional areas continue to push the old line, however. There have reportedly been cases in which local officials in rural areas have summoned white farmers to appear before them and subjected them to low-level harassment, although this has not generally involved violence.

3.8 In March 2018, the government amended the Indigenisation and Empowerment Act (2008), which required foreign-owned companies to offer at least 51 per cent of their shares to indigenous (black) Zimbabweans. Under the changes, the application of the law was limited to designated diamond and platinum extraction businesses only. DFAT understands that prior to the amendment, authorities had enforced the Act inconsistently, and that it had not tended to impact significantly upon white small business owners.

3.9 The Land Reform Policy (see Recent history) had a substantial impact on the white community, particularly on commercial farmers. At the beginning of 2000, state media published details of every white-owned farm in the country, declaring them state property. The government took control of over 4,000 farms nationwide from 2000-15, the majority of which were white-owned. In most cases, the confiscation of farms was preceded by government-backed ‘invasions’ by ZANU-PF youth brigades and informal militia groups, including self-declared war veterans (see Informal Militias). Farm invasions were often violent, involving physical attacks, property theft, and other forms of harassment against landowners and labourers (both white and black). In a small number of cases, the invasions resulted in the killings of farmers and farm workers.

3.10 Farmers evicted from their properties – where most of their life earnings were invested – were not compensated, resulting in scores of former farmers and farm workers being left destitute. Authorities swiftly transferred the titles of most seized farms to politically connected individuals, who included senior ZANU-PF officials (see also Corruption) and judges (see Judiciary). Estimates of the number of remaining white commercial farmers nationwide range from 300-500. The majority of these are dairy farmers, a sector largely spared from the land acquisition program due to the government considering dairy a strategically important economic sector.

3.11 Mnangagwa has openly acknowledged the failure of Mugabe-era land policies and has made a number of changes around land ownership since assuming power, departing from the unyielding and racially
tinged stance that characterised the government’s approach under Mugabe. Mnangagwa has publicly said that landholding will no longer be based on ethnicity but on one’s ability to produce, meaning white farmers can apply for 99-year land leases on an equal footing with black farmers, rather than the five-year leases available under Mugabe. The government has given permission to around 245,000 black farmers who acquired farms under the land reform program to sublet or lease their farms, opening up opportunities for white and black farmers to form joint venture partnerships. In December 2017, the government permitted a white commercial farmer in Manicaland to return to his farm after police carrying AK-47 rifles and using teargas had forced him to leave it in June 2017. The government also intervened to stop the eviction of a commercial farmer in Manicaland Province in July 2018, after the ZANU-PF provincial minister had reportedly ordered the farmer off the land so that she could give the farm to her son. Observers report that although widespread land invasions have ceased, sporadic cases continue to occur, particularly in Manicaland. Such takeovers are reportedly often led by either district/provincial administrators, or customary leaders. DFAT is aware of cases where government officials have intervened to prevent the land being taken over.

3.12 Article 295 of the 2013 Constitution states that any person whose agricultural land was acquired by the State and whose property rights were guaranteed or protected by the government is entitled to compensation for the land and any improvements in accordance with that agreement. Articles 296 and 297 set out the role and functions of the Zimbabwe Land Commission (ZLC), established in 2015, which provides a mechanism for dispossessed farmers to claim compensation for confiscated lands. According to the CFU, the ZLC has, to date, functioned primarily as an arbiter in zoning disputes, rather than as a compensation mechanism. To DFAT’s knowledge, besides the aforementioned December 2017 Manicaland instance, there have been no other cases in which authorities have returned seized farms to their owners. The CFU has reported that none of its members has yet received a 99-year lease, citing in part a cumbersome application process set by the Ministry of Lands and Resettlement.

3.13 The Mnangagwa administration has undertaken to compensate the owners of seized farms in line with Article 72 of the 2013 Constitution, which states that compensation for acquired land should be paid only for improvements effected upon it, rather than for the land itself. Compensation of this kind was paid for the first time in October 2019, although DFAT understands the sum involved was minimal. Hard-line elements within ZANU-PF have criticised moves to compensate white farmers at all, arguing that land is the birthright of black Zimbabweans. Given Zimbabwe’s considerable economic challenges, it is unclear how the government will be able to afford to fund the compensation exercise.

3.14 DFAT assesses that white Zimbabweans face a moderate level of official discrimination in that long-standing government practice and rhetoric continues to limit their access to state-sector employment opportunities open to other Zimbabweans. Despite recent improvements in the overall environment, there continues to be considerable legal uncertainty in relation to the commercial farm sector. It remains unclear when or if white farmers who were the owners of seized properties will be able to access compensation, or how substantial such compensation will actually be.

RELIGION

3.15 Article 60 of the Constitution guarantees freedom of conscience, including the freedom to practise, propagate, and give expression to religion in public or in private and whether alone or with others. No person may be compelled to take an oath contrary to their religion or belief or in a manner contrary to their religion or belief, and religious communities are free to establish institutions where religious instruction may be given. Religious groups operating schools or medical facilities must register these institutions with the
appropriate ministry. Religious groups themselves are not required to register, but most do in order to maintain a tax-exempt status.

3.16 Religion, and religious institutions, play an important role in the life of most Zimbabweans. Most official state and school gatherings and functions include nondenominational Christian prayers. According to a 2015 official survey, 86 per cent of the population was Christian, 11 per cent reported no religious affiliation, less than two per cent adhered solely to traditional beliefs, and less than one per cent was Muslim. There are also very small numbers of people who identify as Jewish, Hindu, Buddhist, or Baha’i. Of the total population, 37 per cent was Apostolic, 21 per cent Pentecostal, 16 per cent other Protestant, seven per cent Roman Catholic, and five per cent other Christian. While there are no reliable statistics regarding the percentage of the Christian population that is syncretic, many Christians also associate themselves with traditional practices, and religious leaders have reported a continued increase in syncretism. DFAT is not aware of any instances of significant sectarian or communal discord between members of the various religious groups on the basis of their religion.

3.17 During the Mugabe era, authorities frequently used security-based laws to target religious gatherings or prayer rallies perceived to be politically motivated. Security services also reportedly monitored or harassed church congregations and religiously affiliated NGOs and their members, including through surveillance and denial of police permission to hold public events. For example:

- In June 2017, police arrested a church leader for participating in a prayer meeting with university students following their protest against a rise in student fees. Police charged the church leader with subversion and with participating in a gathering with intent to promote public violence and disorderly conduct, although courts subsequently cleared him of all charges.

- In July 2017, police questioned a Bishop over the launch of a ‘Christian vote’ campaign aimed at mobilising Christians to participate in the 2018 general election.

- In October 2017, police in Matabeleland South barricaded the road to a memorial service that included prayers to commemorate the *Gukurahundi* victims (see Recent history). Christian aid organisations and local NGOs focused on memorialising victims of the *Gukurahundi* reported that security officials monitored their activities with increasing frequency in the lead-up to the 30 July 2018 elections, particularly in areas considered opposition strongholds.

3.18 DFAT understands that, while the prevalence of politically motivated surveillance and harassment of religious groups has reduced since Mugabe’s departure, some cases have occurred under the Mnangagwa administration.

3.19 Religious institutions have occasionally engaged in the political sphere to promote and encourage peace and national unity without suffering reprisal. The Zimbabwean Council of Churches was highly active in promoting reconciliation after the 30 July 2018 election, and met with the leaders of the national security services in April 2019. The ecumenical Heads of Christian Denominations issued a statement in May 2019 that called for genuine dialogue among stakeholders, respect for human rights, and the lifting of international sanctions. Both prior to and following the 30 July 2018 elections, multiple church organisations released letters appealing for tolerance, national unity, peace, reconciliation, healing, and stability, while calling on the government to uphold the Constitution and protect citizens’ rights.

3.20 DFAT assesses that most cases in which authorities have targeted religious groups for monitoring or harassment have been motivated by political considerations. Discrimination based solely on religion is rare. While high-profile religious leaders who engage in political discourse deemed as critical of the ruling party or its leadership may face official sanction; this is unlikely to be the case for ordinary members of religious congregations.
POLITICAL OPINION (ACTUAL OR IMPUTED)

3.21 The 2013 Constitution guarantees citizens the rights to: freedom of assembly and association (Article 58); freedom to demonstrate and to present petitions peacefully (Article 59); freedom of conscience; including the right to practise, propagate, and give expression to their thought, opinion, religion, or belief (Article 60); freedom of expression, including freedom of the media (Article 61); and political rights, including the rights to form, join, and participate in the activities of a political party or organisation, to campaign freely and peacefully, to participate in peaceful political activity, to participate in peaceful activities to influence, challenge, or support the policies of the government or any other cause, and to make political choices freely in free, fair, and regular elections for public office (Article 67).

3.22 Legislative restrictions have considerably constrained these constitutional freedoms in practice. Authorities have regularly used vaguely worded provisions within the Public Order and Security Act (POSA) and other security-based laws, such as the Criminal Law and Criminal Procedure and Evidence Act (CLCRA), to curtail political rights, particularly the freedoms of assembly and expression. POSA allows police to prohibit or disperse a gathering based on security concerns (while requiring police to file a court affidavit detailing the reasons behind the denial), and states that if a person was killed as a result of the use of reasonably justifiable force in dispersing the gathering, the killing should be deemed lawful. It also requires organisers to notify police of their intention to hold a public gathering (defined as 15 or more individuals) seven days in advance, penalising failure to do so with penalties of up to USD10,000 or six months’ imprisonment or both. Partisan policing, particularly of demonstrations, and targeted prosecutions has worsened the impact of the repressive provisions within these laws.

3.23 In accordance with its commitment to align legislation with the 2013 Constitution, the Mnangagwa government has replaced POSA with the Maintenance of Peace and Order Act (MOPA). MOPA was signed into law on 15 November 2019 following significant public consultation, including input from civil society organisations and the international community. The Parliamentary Legal Committee (PLC) reviewed and rejected an earlier version of the draft bill in May 2019, citing the unconstitutionality of various sections, but withdrew its objections after parliament issued a notice of amendments.

3.24 In-country sources report that, overall, MOPA represents a subtle improvement on POSA in terms of strengthening political freedoms. MOPA includes a preamble intended to aid in interpreting when MOPA may be used to limit constitutionally enshrined freedoms of association, assembly, and demonstration. It also places additional requirements on authorities. For example, MOPA limits the grounds on which a demonstration may be refused; prevents authorities from temporarily prohibiting any and all demonstrations; requires the ‘regulatory authority’ to respond to certain types of notices within a fixed timeframe; and ensures that only the President, rather than the Defence Minister, may order deployment of the military. Nevertheless, the real test of whether MOPA will increase political freedoms in practice will lie in its implementation.

3.25 Public confidence in the broader political reform agenda has been set back considerably by the two recent cases in which security forces have used lethal forces against demonstrators, resulting in mass casualties. In addition to the 1 August 2018 post-election violence, security forces reportedly killed at least 17 demonstrators in mid-January 2019 during nationwide protests (‘the fuel protests’) against the government’s announcement of a forthcoming 150 per cent fuel price increase. Fourteen of those killed were shot dead reportedly by security forces using live ammunition. Two died from injuries sustained following severe beatings, while in another case an army truck ran over and killed a 54-year old woman in unclear circumstances. Most of the 14 men and three women killed were from the Harare area. The Zimbabwe Association of Doctors for Human Rights reportedly provided emergency medical services to 81 people with gunshot injuries in various locations nationwide in the period between 14-21 January 2019.
Authorities significantly restricted the freedom of citizens to assemble and demonstrate throughout 2019. Although the MDC was able to hold nationwide rallies to mark the one-year anniversary of the 1 August 2018 post-election violence, authorities have blocked most attempts to hold demonstrations in relation to the deteriorating economy. After initially accepting an application from the MDC to hold street demonstrations in Harare on 16 August 2019, the ZRP then issued a prohibition notice, claiming to have evidence that the protests would turn violent (it was subsequently revealed that the ‘evidence’ was the discovery of a cache of stones and other projectiles being hoarded by street children). Hundreds of police armed with automatic weapons, batons, and water cannon reportedly set up checkpoints on major roads and blocked access to MDC headquarters in Harare, while police used loudhailers to warn residents against participating in the demonstrations. After the High Court rejected an application by the MDC to overturn the ZRP’s prohibition notice, riot police used tear gas and batons to disperse a small number of protesters who had gathered in defiance of the ban, with at least one person reported to have sustained injuries requiring hospitalisation. Authorities subsequently prohibited demonstrations planned for 19 and 20 August 2019 in Bulawayo and Gweru respectively.

There are no official restrictions on individuals criticising the government, or on the discussion of matters of general public interest. In practice, authorities have been sensitive to criticism of the government in general, and particularly in cases when it has been perceived to be directed towards Mnangagwa personally. Despite a Supreme Court challenge, authorities have continued to charge persons accused of insulting the president and his office under section 33(2)(b) of the CLCRA (undermining authority of or insulting a president). In October 2018, the ZRP cited the law when arresting a man who had given testimony at a commission of inquiry hearing in Bulawayo in which he accused Mnangagwa of complicity in the Gukurahundi (see Recent history). In September 2018, police cited a different section of the CLCRA (section 41(b), relating to disorderly conduct) while arresting a Harare man who had reportedly said that Mnangagwa was incapable of running the country. DFAT is not aware of the outcome of either of these cases. There have also been a number of recent cases in which perceived critics of the government have been temporarily abducted and mistreated by unknown assailants, widely believed to be state security authorities (see Enforced or Involuntary Disappearances).

DFAT assesses that the ability of Zimbabweans to criticise the government and express dissent publicly, either collectively or individually, is limited in practice. Authorities are likely to use broad interpretations of national security legislation to prevent political demonstrations from occurring where possible. Zimbabweans attempting to demonstrate without authorisation – and, to some extent, even with authorisation – face a high risk of violence from state authorities. Individuals who are perceived as being personally critical of Mnangagwa face a risk of both legal sanction and possible violence from state authorities.

Movement for Democratic Change (MDC)

The MDC is Zimbabwe’s primary opposition party. It was founded in 1999 following a civil society convention in Harare aimed at coalescing groups and individuals opposed to the changes proposed in a 2000 constitutional referendum that would have further strengthened the powers of the presidency (see Recent history). The MDC’s inaugural leader was former trade unionist Morgan Tsvangirai, and the party retains strong civil society and labour movement connections. The party’s policies are generally characterised as centre-left in nature. The MDC’s electoral heartland is the major cities, particularly Harare and Bulawayo, and the south-western provinces. The MDC’s current membership is 1.5 million nationwide. MDC members join at the Branch level (for ordinary members) and are expected to attend party meetings and events for at least one year before elevation to the Ward level (for activists).
3.30 The MDC’s establishment presented Zimbabweans the first genuine alternative in years to Mugabe and ZANU-PF rule, with its appeal to voters heightened by the country’s economic decline and growing authoritarianism. Despite consistent and credible allegations of electoral irregularities and government intimidation, the MDC has been highly competitive in Zimbabwean elections since its establishment:

- the MDC won 57 of the 120 popularly elected seats in the June 2000 parliamentary elections, winning all seats in Harare and Bulawayo, and all bar two seats in Matabeleland;
- Tsvangirai won 42 per cent of the vote in the 2002 presidential election, Zimbabwe’s closest presidential election since independence;
- Despite a reduced share of the vote in the 2005 parliamentary elections, the MDC again won virtually all of the seats in Harare and Bulawayo and a majority of seats in Matabeleland;
- Tsvangirai and the MDC claimed victory in the March 2008 presidential and parliamentary elections, but were forced to contest a presidential run-off election in June 2008. Tsvangirai subsequently withdrew from the ballot in response to a campaign of violence against MDC supporters (see Political System). Internationally-brokered negotiations resulted in the creation of the GNU, with Mugabe as President and Tsvangirai as Prime Minister;
- Significant MDC in-fighting during the GNU period contributed to a poor performance in the July 2013 presidential and parliamentary elections, and the party subsequently splintered into numerous personality-based factions;
- The two largest factions formed an electoral pact (MDC Alliance) for the July 2018 presidential and parliamentary elections under the leadership of Nelson Chamisa. Although ZANU-PF comfortably defeated the MDC in the parliamentary election, Chamisa claimed victory in the presidential poll and maintains that he is the rightful leader of Zimbabwe. The MDC Alliance factions formally re-united as the MDC in September 2018.

3.31 Since the MDC’s establishment, the government has responded to the threat the new party represented by restricting its ability to operate freely in the political sphere. In working to achieve this outcome, the government has utilised state authorities, including the intelligence services, judiciary, police, and military; and non-state actors, including ZANU-PF youth activists, government-backed militia and war veterans. Authorities have regularly subjected MDC leaders, members, and supporters to harassment (including physical violence), intimidation, arbitrary arrest, and judicial harassment; have used security-based legislation to prevent the MDC from holding public gatherings or political meetings; and have often violently dispersed such events when held (see Political System). Both state authorities and ZANU-PF activists have regularly carried out violent attacks targeting MDC activists and supporters, particularly around elections. Politically motivated violence has affected MDC members and supporters at all levels, including the senior leadership. In March 2007, for example, Tsvangirai was severely beaten while in detention after riot police broke up an unauthorised prayer meeting in Harare, fatally shooting one attendee.

3.32 Government discrimination against the MDC and its supporters has occurred in both rural and urban areas. In rural areas, particularly Mashonaland, human rights observers report that ZANU-PF has discouraged citizens from supporting the MDC by manipulating the distribution of government-funded food and agricultural products. In some cases, village chiefs have reportedly required recipients to possess ZANU-PF identity documents, while in other cases ZANU-PF officials have distributed goods at party meetings. The 2005 Operation Murambatsvina (see Demography), in which police forcibly displaced thousands of urban dwellers under the pretext of preventing the emergence of slums, disproportionately affected MDC supporters and is generally understood to have been motivated by a desire to dilute political opposition in high-density urban areas.
In a number of cases, state prosecutors have brought legal charges against senior MDC figures in cases generally seen as politically motivated. Tsvangirai, for example, was charged with treason in 2002 in relation to an alleged plot to kill Mugabe that focused on a grainy video recorded by hidden cameras of a meeting with an Israeli political consultant. Although a court acquitted Tsvangirai in October 2004 after a year-long trial, the drawn-out court proceedings prevented him from leading an effective political opposition during this time. Other MDC officials have faced charges relating to their economic interests, including MDC Secretary-General Douglas Mwonzora who was charged in September 2016 with abusing trust funds. Similar charges have not been used against ZANU-PF officials, despite their access to state funds and significant evidence suggesting abuse of the same (see Corruption).

While ever-present, the level of intensity and focus of official harassment against MDC members and supporters has varied according to circumstance. Overt politically motivated violence reportedly declined significantly in the years after 2008, which analysts have attributed to the politically stabilising GNU period and the weakened threat posed by the splintered MDC after its 2013 election defeat. During this period, harassment against the MDC still occurred but generally took more subtle forms aimed at establishing and consolidating political and electoral influence. While lower-level members were targeted through biased land and food distribution and housing destructions, for example, higher ranking officials and parliamentarians were more likely to be subjected to judicial harassment or intimidation, including occasional death threats.

The levels of overt violence against MDC Alliance candidates and supporters ahead of and during the 30 July 2018 election (see Political System) was well below that of previous elections, particularly those of March 2008. The level of harassment against MDC members and supporters has reportedly increased considerably since the disputed 30 July 2018 election (see also Enforced or Involuntary Disappearances). Security authorities targeted MDC leaders and activists for arrest in the wake of both the 1 August 2018 post-election violence and the January 2019 fuel protests, (see Political Opinion (actual or imputed)), and a number of senior MDC figures face serious charges. Authorities have prevented the party from holding further demonstrations throughout 2019 (see Political Opinion (actual or imputed)).

MDC members and supporters also increasingly face a risk of violence and harassment from within their own ranks in the form of intra-party violence (see Security situation). In-country sources have expressed concerns over the increasing role of a youth element known as the ‘Vanguard’, which reportedly acts as a private army in support of Chamisa. The Vanguard has reportedly been responsible for much of the MDC’s intra-party violence, including the attack on the female vice-president of a rival faction during Tsvangirai’s funeral in February 2018 (see Women). In March 2018, Chamisa supporters reportedly assaulted supporters of a rival MDC faction during a party meeting in Bulawayo, while supporters of two rival MDC Alliance candidates reportedly assaulted each other during a brawl in Harare in June 2018 ahead of the 30 July 2018 election.

DFAT assesses that MDC members and supporters at all levels face a moderate risk of official discrimination, in that the government continues to use state authorities to restrict their ability to operate freely in the political sphere. The level and intensity of discrimination will vary according to location, and is likely to be higher in rural areas in which ZANU-PF is in the political ascendency. The discrimination may include harassment, intimidation, threatened or actual violence, and judicial harassment. The risk is likely to be higher for those involved in direct political activism, including through organising (or attempting to organise) and/or participate in street protests.
Non-MDC Opposition Parties

3.38 As noted in Political Opinion (actual or imputed), 55 political parties competed in the most recent national election. Most of these parties were newly formed, had overlapping platforms, had little to no public profile nationally, and received negligible levels of voter support. DFAT understands that officials are likely to tighten the nomination process for future elections (in particular presidential elections), with conditions likely to include candidates being nominated by at least 1,000 supporters and an increased nomination fee.

3.39 The National Patriotic Front (NPF), founded in November 2017 by members of the expelled ZANU-PF G40 faction that supported Grace Mugabe (see Recent history), was the only non-ZANU-PF or MDC Alliance-affiliated party to win a lower house seat (in Midlands Province), while one independent candidate won a seat in Mashonaland West. Although NGOs reported numerous instances in which ZANU-PF supporters removed opposition parties’ and independent candidates’ campaign signs and materials in wards throughout the country during the election campaign, DFAT is not aware of any cases in which security forces or ZANU-PF activists physically targeted members of opposition parties other than the MDC Alliance.

3.40 DFAT assesses that members and supporters of non-MDC opposition parties are unlikely to face the same overall level of discrimination as their MDC counterparts because the parties they follow do not represent a significant threat to the government. This risk may be higher in rural areas controlled by ZANU-PF.

GROUPS OF INTEREST

Civil Society Activists

3.41 Article 58 of the Constitution guarantees the right to freedom of assembly and association. Article 67 guarantees citizens the right to form, join, and participate in the activities of any organisation of their choice, and to participate in peaceful activities to influence, challenge or support the activities of the government or any political or other cause.

3.42 The Private Voluntary Organisations (PVO) Act (2007) is the primary legislation governing civil society organisation (CSO) activities. It requires that all CSOs be registered with the PVO Board in order to carry out activities or undertake fundraising. Local organisations can register through district services offices in the area where their headquarters are located. International organisations must sign a Memorandum of Understanding (MoU) with the government ministries relevant to their areas of technical operations that clearly states the proposed activities and geographic areas to be covered by the organisations. The PVOB Board may deny the application for registration if an organisation appears unable to abide by the objectives stated in its application, or if its constitution and management fail to comply with the PVO Act. Penalties for managers of unregistered CSOs that conduct activities or fundraise include up to six months’ imprisonment or a fine of up to USD200 or both. The PVO Act allows the government to deregister any CSO that fails to comply with its conditions of registration, has been subject to maladministration, or has engaged in illegal activities. CSOs can also be deregistered if, in the opinion of the Minister, ‘it is necessary or desirable to do so in the public interest’.

3.43 While there is no publicly available record or database of registered legal CSOs, unconfirmed statements by government officials put the number of CSOs operating in Zimbabwe at over 20,000. CSOs conduct activities on a wide range of social, cultural, political, and economic issues. A number of domestic and international NGOs investigate and publish their findings on human rights cases.
Following independence, and as the socio-political situation deteriorated in the late 1990s, there was a strong emphasis from CSOs towards issues dealing with democracy and governance. Zimbabwe’s political opposition has its roots in civil society and labour movement activities from this period, and many MDC figures retain strong civil society connections.

The Mugabe government routinely rejected calls for greater civil society engagement in political affairs throughout its time in office. Authorities used provisions within a number of laws, particularly the PVO Act, POSA, and the Criminal Law (Codification and Reform) Act, to interfere with the ability of CSOs to operate effectively on socio-political issues, particularly human rights. CSOs were also frequently subjected to attacks from state-sponsored media, arbitrary arrests, harassment, intimidation, and occasional physical attacks by state authorities and/or ZANU-PF activists. While the GNU pledged to pursue a progressive legislative reform agenda that would open up more democratic working space for CSOs, this proved largely cosmetic. CSO efforts in the post-GNU period to amend restrictive laws governing CSO regulation and association, assembly, and expression rights to bring them in line with the new Constitution were largely unsuccessful.

In-country sources report that there has been little practical change to CSOs’ operating environment under Mnangagwa. Security authorities reportedly remain suspicious of the motivations of CSOs and see their activities as a threat to national stability, particularly in the wake of the January 2019 fuel protests. Following these protests, authorities charged an unprecedented 22 people (including prominent CSO leaders and activists) with subverting a constitutional government, which carries a penalty of up to 20 years’ imprisonment. At least 10 individuals face treason charges, for which the death penalty is applicable. In May 2019, authorities arrested seven civil society activists on return to Zimbabwe after they had attended a capacity-building workshop in the Maldives on non-violent protest actions and strategies. The activists face charges of subverting a constitutional government and are yet to face trial, although preliminary hearings have taken place. One of the seven activists was subsequently abducted from his home, severely beaten, and dumped (see Enforced or Involuntary Disappearances). After the aborted August 2019 protests in Harare, authorities reportedly arrested 128 activists in Harare and an undisclosed number nationwide.

In addition to the substantial number of high profile arrests and charges, human rights observers report that the general operating environment for CSOs remains difficult. Like other Zimbabweans, CSOs have been significantly impacted by the ongoing economic crisis, which has placed considerable limitations on their ability to carry out activities. Authorities have continued to deny requests by CSOs to hold public events if their proposed agenda conflicts with government policy positions. State media has continued to disparage CSOs critical of government, often accusing them of seeking regime change.

DFAT assesses that civil society activists who work in areas perceived by the government as being political, including those connected to human rights, face a high risk of official discrimination, which may include harassment, intimidation, monitoring, arrest, and judicial harassment.

Media

Article 61 of the Constitution guarantees the freedom of the media. It provides specific guarantees in relation to: the protection of the confidentiality of journalists’ sources of information; the free establishment for broadcasting and other electronic media of communication; and the freedom of state-owned media to determine independently the editorial content of their broadcasts, while requiring them to be impartial and to afford fair opportunity for the presentation of divergent views and dissenting opinions. Article 61 also prohibits incitement to violence, advocacy of hatred or hate speech, malicious injury to a person’s reputation or dignity, or malicious or unwarranted breaches of a person’s right to privacy. Article 62 guarantees the right of access to any information held by the state or its institutions or agencies in so far as
the information is required in the interests of public accountability or for the exercise or protection of a right. It does allow for the restriction of access to information in the interests of defence, public security, or professional confidentiality.

3.50 Zimbabwe remains a very traditional media environment. Radio is the principal medium of public communication, particularly for the rural majority. The state-owned Zimbabwe Broadcasting Corporation operates two television networks and four radio stations, while two national private FM radio stations are also licensed. Observers report that authorities have consistently refused to grant licenses to community radio stations, and commercial radio licenses have generally gone to state-controlled companies or individuals with close links to ZANU-PF. State-run media, managed by the Ministry of Media, Information, Publicity, and Broadcasting Services, is most prevalent. Its strongly pro-government line was recognised by a number of observer missions as being particularly evident in the coverage of the 30 July 2018 election (see Political System). Several active independent newspapers and commercial radio stations express a wide variety of views. International satellite broadcasting is available through private firms, but is too expensive for most citizens.

3.51 Most international media outlets operate in Zimbabwe, including the BBC, CNN, and Al-Jazeera. Foreign reporters pay considerably more for permits and accreditation than do their local counterparts: in 2018, the ZMC charged foreign reporters USD200 for a foreigner’s 60-day accreditation, while local journalists paid USD10 for a one-year accreditation. The ZEC charged journalists covering the 30 July 2018 election an additional USD50 fee for further accreditation to election-related events and facilities. In September 2018, authorities reportedly denied a passport application for a freelance journalist who had previously worked for a London-based radio station and who had lived in exile for nearly 15 years. Authorities have not disclosed the reasons for the denial.

3.52 A number of restrictive laws undermine the constitutional protections relating to the freedom of the media in practice. According to media advocates, particular laws of concern include (or have included): the Official Secrets Act (1970, last amended 2002), the Broadcasting Services Act, the Access to Information and Protection of Privacy Act (AIPPA), POSA and CLCRA. These laws inhibit the ability of journalists and media outlets to report freely; severely limit what journalists may publish; grant authorities a wide range of powers to prosecute persons for political and security crimes that are not clearly defined; and mandate harsh penalties for violators, including long prison sentences. Media registration and accreditation laws also allow the government to maintain censorship by prohibiting the ‘abuse of free expression’.

3.53 The government has undertaken to replace the AIPPA with a law fully aligned to the 2013 Constitution. DFAT understands that three new pieces of legislation will replace the AIPPA: the Zimbabwe Media Commission Bill, the Freedom of Information Bill, and the Data Protection Bill. While the first two bills have both been gazetted and are currently the subject of consultation and consideration by parliament, the Data Protection Bill is yet to be publicly released. Amendments to the Broadcasting Services Act are also anticipated.

3.54 Authorities have routinely used the threat of prosecution under these laws to discourage perceived reporting critical of the government, a practice that has continued under Mnangagwa. As a result, most journalists have tended to practice self-censorship in their reporting, particularly in relation to sensitive issues such as the military or high-level corruption.

3.55 Human rights observers report that security forces, officials, and supporters of major political parties continue to harass journalists routinely, including through arrest, obstruction, or threatened or actual violence. Some recent examples include:

- In April 2018, police arrested a newspaper editor after he was seen taking pictures at a ZANU-PF meeting, charging him with criminal trespassing. The editor was released after paying a fine;
In May 2018, the Deputy Minister of Justice assaulted a radio host and his wife during a live radio broadcast after the host released a video recording of an internal ZANU-PF meeting in which the Deputy Minister said the military would not recognise Chamisa as president if he won the 30 July 2018 election. When the radio host attempted to file a police complaint regarding the assault, he was told that the Deputy Minister had already made a complaint identifying him as the aggressor; Also in May 2018, MDC Alliance supporters allegedly manhandled a photographer with a state media outlet covering demonstrations at the party’s Harare headquarters, demanding he delete the pictures he had taken; Security forces assaulted at least four journalists attempting to cover the 1 August 2018 post-election demonstrations, including beating them using leather whips and electric cables and a riot shield; In March 2019, security forces arrested a documentary filmmaker and charged him under the CLCRA with possession of an offensive weapon at a public gathering after he arrived at State House in Bulawayo for a meeting between Mnangagwa and civil society organisations with a used tear gas canister in his car. The charges carry a maximum five-year prison sentence or a fine of USD2,000. The filmmaker had been questioned by police in September 2018 about a documentary he had produced about the Gukurahundi, for which he had also received death threats.

In September 2018, the Media Institute of Southern Africa condemned what it described as the systematic censorship, banning, or expulsion of journalists from public events, stating that the trend was against the letter and spirit of media freedoms as espoused in the Constitution. Reporters Without Borders ranked Zimbabwe 127th out of 179 countries in its 2019 World Press Freedom Index.

According to official government data, 52 per cent of Zimbabweans had access to the internet as of mid-2018. The ongoing lack of electricity, however, raises doubts about the general availability of internet access to the ordinary citizen (see Economic overview). The International Telecommunication Union reported, however, that only 23 per cent of the population used the internet in 2017. Although mobile phone penetration stands at 88 per cent (according to official government data), millions of Zimbabweans remain virtually unconnected due to poor network coverage in remote areas or lack of affordable services. Zimbabwe has some of the most expensive mobile data in the world. In October/November 2018, one gigabyte cost USD75 per month, well beyond the means of the ordinary citizen. Internet users are mainly urban elites. WhatsApp is reportedly the most popular form of messaging app, followed by Facebook and Twitter.

The information and communications technology (ICT) market is diverse, with 12 licensed internet access providers and 27 internet service providers (ISPs). The government maintains ownership of two of the five international gateways for internet traffic and three of the five mobile service providers. The government also asserts its control through POTRAZ (the Postal and Telecommunications Regulatory Authority of Zimbabwe), a government parastatal tasked with the regulation of telecommunications and postal services, including the internet. Under the Postal and Telecommunications (Subscriber Registration) Regulations (2013), subscribers are required to register with all telecommunications service providers, providing details that include their full name, permanent residential address, and national ID number. Network operators are required to retain this information for five years after the subscriber or operator has discontinued service. The regulations also require ISPs to provide POTRAZ with copies of their subscriber registry to enable POTRAZ ‘to assist law enforcement agencies on safeguarding national security’. The Interception of Communications Act (2007) permits the government to monitor all communications in the country, including internet transmissions. The Act requires telecommunications operators and ISPs to install necessary surveillance technology at their own expense and to intercept
information on the state’s behalf, penalising failure to comply with a fine and up to three years’ imprisonment. The Act authorises the Minister for Information to issue warrants allowing the monitoring and interception of communication at the Minister’s discretion, meaning there is no judicial oversight or other independent safeguard against abuse. The extent and frequency of monitoring remains unknown. In-country sources have reported that authorities are currently prosecuting a number of individuals in relation to online postings alleging untoward military involvement in the 30 July 2018 election. In August 2018, police charged a man with criminal nuisance for allegedly posting offensive statements on Facebook concerning Mnangagwa, but withdrew the charges two days later (see also Political Opinion (actual or imputed)).

3.60 Human rights observers have expressed concern that several forthcoming policies will serve to tighten further the government’s control over the internet and online activities. In March 2018, Mnangagwa launched the National Policy for Information and Communications Technology (NPICT), initially introduced by the Mugabe administration in 2015. The NPICT details plans to establish a single national ICT ‘backbone’, to be owned by various public and private shareholders but ultimately controlled by the government. When introduced, this will make it easier for authorities to restrict access to the internet and mobile networks, and to order and impose internet disruptions.

3.61 The government is also in the process of introducing a Computer Crime and Cybercrime Bill, which will place considerable restrictions on online freedom of restriction when passed. The proposed bill penalises the dissemination of communications with intent to coerce, intimidate, harass, threaten, bully, or cause substantial emotional damage with a fine, prison sentence of up to ten years, or both; and penalises the spreading of false information with an intent to cause psychological or economic harm with a fine, prison sentence of up to five years, or both. While the government has claimed the bill is focused on addressing financial crimes, human rights observers have expressed concern that it will instead be used to target political activists. Opponents of the bill have also criticised it for the vague language used in its provisions, and for providing too much discretionary power to the police to access personal or private information through a warrant from a magistrate, who may lack independence (see Judiciary). Human rights observers report that arrests in relation to online activity and threatening statements from government officials about posting critical content have led to an increase in self-censorship among online users.

3.62 Human rights observers report that ‘fake news’ has become increasingly prevalent. There was a notable increase in unverified reports, false information, and rumours disseminated on social media during the November 2017 military intervention, including stories that a number of Mugabe’s allies had been arrested or killed. False information also fuelled political attacks on the opposition in the lead up to the 30 July 2018 elections: the state media reported incorrectly, for example, that Chamisa had been mingling with Mugabe ahead of the vote. While the government and military have denounced fake news, NGOs have reported that ZANU-PF has paid pro-government commentators on social media to defend the administration and attack opponents online. While addressing ZANU-PF youths in March 2018, Mnangagwa was reported as urging them to ‘dominate’ the social media space in the lead-up to the 30 July 2018 elections. The period following saw a noticeable increase in attacks on perceived government opponents, including human rights defenders and opposition party members, from anonymous social media accounts.

3.63 During the January 2019 fuel protests, the government issued directives from the president’s office, channelled through POTRAZ, instructing all mobile and fixed telephony companies in the country to restrict access to entire networks on the grounds of national security. This resulted in total network shutdowns in Harare and Bulawayo, and restricted access to social media platforms and messaging apps nationwide. Services were restored after the High Court ruled that the government did not have the authority to order mobile operators to restrict services. Despite the High Court’s ruling, government officials have not ruled out shutting down internet services in the future, and have repeatedly described access to social media as a potential threat.
3.64 DFAT assesses that journalists attempting to cover sensitive topics such as the military and high-level corruption face a moderate risk of official discrimination in the form of harassment, intimidation, obstruction, and threatened or actual violence. Such journalists are likely to seek to minimise these risks through practising self-censorship. DFAT further assesses that Zimbabwean internet users are likely to be subjected to monitoring, may face legal sanction should they post material perceived to be political in nature, and are also likely to practise self-censorship.

Trade Unionists

3.65 Article 65 of the Constitution guarantees citizens (with the exception of members of the security services) the right to organise and join trade unions, bargain collectively and participate in collective job action, including the right to strike. Various articles of the Labour Act (2002) reflect these rights, including Article 108, which guarantees protection for persons engaged in lawful collective action (including strikes). Article 30, however, prohibits unregistered trade unions from recommending collective job action or accessing other rights guaranteed to unions in the Act. The Labour Court handles labour-related disputes, and is empowered to reinstate directly workers fired due to discrimination, including due to membership of a trade union.

3.66 The Labour Act empowers the Minister of Public Service, Labour, and Social Welfare to: regulate union activities such as collecting dues and paying staff salaries; make decisions concerning the equipment and property that may be purchased by trade unions; veto collective bargaining agreements perceived to be harmful to the economy; and appoint investigators who can (without prior notice) enter trade union premises, question employees, and inspect and copy documents. The Labour Amendment Act (2015) empowers the Minister to order an investigation of a trade union or employer’s organisation, and to appoint an administrator to run its affairs.

3.67 Despite the constitution guaranteeing the right to strike, the law strictly regulates the ability of workers to do so. Lawful strikes are limited to disputes regarding work issues, and a majority of employees must agree to strike in a secret ballot. Strike procedure requirements include a mandatory 30-day reconciliation period and referral to binding arbitration in some cases. Following a failed attempt at conciliation, the party proposing a collective job action must provide 14 days’ written notice of intent to resort to such action, including specifying its grounds, in order to call a strike legally. There are no provisions prohibiting employers from hiring replacement workers in the event of a strike. Military and police members are the only legally recognised essential services employees, and are constitutionally prohibited from striking. The Minister may declare any non-essential service an essential service, however, if a strike is deemed a danger to the population. Employers can sue workers for liability during unlawful strikes, with penalties including fines, up to five years’ imprisonment, or both. Authorities can suspend individual unions for up to a year for organising unlawful strikes.

3.68 Unions representing at least 50 per cent of workers may bargain collectively on behalf of all workers in an industry, rather than just union members. The Labour Amendment Act, however, gives the Minister the power to veto a collective bargaining agreement if they deem it to be contrary to the public interest. While some Zimbabwe Congress of Trade Unions (ZCTU) affiliates have been able to engage in collective bargaining with employers without government interference, ZCTU members have reported that employers did not generally recognise the right of unions to represent their members’ full interests. According to International Trade Union Confederation reports, employers have frequently abused institutional weaknesses within the Zimbabwean labour law system by creating deadlocks in the bargaining process, thus forestalling a decision within a reasonable timeframe. Employers have reportedly attacked agricultural workers both verbally and physically during negotiations. Human rights observers report that members of trade unions often perceive
that they are targeted specifically for adverse employment action, and that workers themselves fear the consequences of participating in trade union activities.

3.69 Zimbabwe has two competing umbrella organisations that claim to represent the interests of the country’s workers. The Zimbabwe Congress of Trade Unions (ZCTU) is the older and larger of the two and its membership is strongly pro-MDC, while the smaller Zimbabwe Federation of Trade Unions (ZFTU) is aligned with ZANU-PF. Under Mugabe, security authorities regularly targeted ZCTU members due to their political affiliations. A 2010 commission of inquiry on trade union rights by the International Labour Organization (ILO) identified a clear pattern of intimidation by security forces against ZCTU members nationwide, including arrests, detentions, violence, and torture. The government accepted the recommendations made in the ILO’s report, and has reportedly taken some steps to address the concerns raised. In-country sources report that there were some moves towards reconciliation from the government under Mnangagwa, including a personal meeting between Mnangagwa and the ZCTU leadership.

3.70 Despite these positive signs, human rights observers report that official interference with trade union activity remains common, and that authorities have withheld or delayed the registration certificates for a number of unions. Although the law does not require unions to notify police of public gatherings, police have reportedly required such notification and have shut down ‘unauthorised’ events. ZANU-PF supporters have also occasionally prevented unions from holding meetings with their members and carrying out organisational activities. Police and intelligence services have reportedly attended and monitored trade union meetings and activities. In October 2018, police arrested the ZCTU president and 35 other trade unionists in Harare and other major city centres as they awaited a court decision to overturn the ban on their planned demonstration against the government’s two per cent tax on electronic transfers. Police had previously denied the ZCTU’s request for a permit. A Harare magistrate subsequently dismissed the ZCTU’s challenge to the police ban. In August 2019, police arrested 10 union officials who had attempted to lobby the Finance Minister over low pay for teachers, along with the group’s lawyer and a journalist attempting to film the arrest. Several prominent union leaders have also been the subject of abductions, allegedly by security authorities (see Enforced or Involuntary Disappearances).

3.71 Unions have regularly undertaken strike action under the Mnangagwa administration. The January 2019 fuel protests occurred on the first day of a three-day general strike. Junior doctors at public hospitals went on strike in September 2019 over pay and conditions. According to media reporting, hundreds were fired as a result. Junior doctors had undertaken earlier strike action in March, November and December 2018 (see Health). In mid-April 2018, the government fired 16,000 nurses after they went on strike for better working conditions, but reinstated the nurses after mediation. In May 2018, the government agreed to an increase in the proposed pay rise for public sector employees after teachers’ unions threatened to go on strike. In July 2019, public sector workers threatened to go on strike over wages, amid an inflation crisis.

3.72 DFAT assesses that trade unionists affiliated with the ZCTU face a moderate risk of discrimination in the form of monitoring, intimidation, arrest, and threatened or actual violence, particularly during periods of labour unrest. This risk is higher for those in leadership roles.

Women

3.73 Article 17 of the Constitution commits the State to promoting full gender balance in Zimbabwean society, requiring the State to promote the full participation of women in all spheres of society on the basis of equality with men and to take all measures (including legislative measures) needed to ensure that both sexes are equally represented in all institutions and agencies of government at every level. The principle of gender equality is further promoted throughout the Constitution, including in Article 56 (2), which guarantees women and men the right to equal treatment and opportunities; Article 65 (6), which guarantees
women and men the right to equal remuneration for similar work; and Article 80 (3), which states that all laws, customs, traditions, and cultural practices that infringe on the rights of women conferred by the Constitution are void to the extent of the infringement.

3.74 The ZGC (see Human Rights Framework) is mandated to monitor issues concerning gender equality; investigate possible violations of rights; receive, consider, and action complaints from the public; recommend changes to laws and practices that lead to gender-based discrimination; advise public and private institutions on steps to ensure gender equality; and secure appropriate redress where rights related to gender have been violated. Despite the appointment of commissioners in 2015, the ZGC has been significantly underfunded and has been criticised for lacking sufficient independence from government. The Ministry of Women’s Affairs, Gender, and Community Development is the lead government agency addressing women’s rights and gender equality. The Ministry, supported by the UN Development Programme (UNDP) and UN Women, produced a revised National Gender Policy in 2017. ‘Gender Focal Points’ within government ministries have the role of ensuring that ministries comply with gender parity pledges, although they reportedly lack the capacity and power to do so. Numerous laws seek to promote women’s rights and counter discriminatory traditional practices.

3.75 Article 26 of the Constitution commits the State to taking appropriate measures to ensure that marriages are not entered into without the free and fair consent of the intending spouses; that children (defined as under 18 years of age) are not pledged in marriage; that there is equality of rights and obligations of spouses during marriage and at its dissolution; and that, in the event of dissolution of a marriage through death or divorce, provision is made for the necessary protection of any children and spouses. The Constitutional Court ruled in 2016 that no individual younger than 18 may enter into marriage, including customary law unions, and struck down a provision of the Marriage Act that allowed girls (but not boys) to marry at age 16.

3.76 Despite legal prohibitions, human rights observers report that rural families in particular continue to force girls to marry young, and that there is particularly strong support for early marriage among apostolic groups. Child welfare NGOs have reported evidence of underage marriages, particularly in isolated religious communities or among HIV/AIDS orphans who lacked relatives willing or able to take care of them. High rates of unemployment, the dropout of girls from school, and the inability of families to earn a stable income were major reasons cited for child marriage. Families reportedly give girls or young women to other families in marriage to ‘placate evil spirits’, as compensatory payment in interfamily disputes, or to provide economic protection for the family. Some families have reportedly sold their daughters as brides in exchange for food, and younger daughters have at times married their deceased older sister’s husband as a ‘replacement’ bride.

3.77 A 2014 NGO study found that, because of the cultural emphasis placed on virginity, any loss of virginity – real or perceived, consensual or forced – could result in marriage, including early or forced marriage. According to the US Department of State, in some instances family members had reportedly forced girls to marry men based on the mere suspicion that the two had had sexual intercourse. This cultural practice had applied even in cases of rape, with NGOs reporting numerous instances in which families had concealed rape by facilitating marriages between rapist and victim. Although reportedly decreasing, virginity testing reportedly continued to occur in some regions.

3.78 Divorce and maintenance laws are equitable, but many women reportedly lack awareness of their rights. The customary practice of patriarchal inheritance means that property tends to revert to the man in case of divorce or to his family in the case of his death. Widows forced to relocate into rural areas are reportedly sometimes ‘inherited’ into marriage with an in-law after the deaths of their spouses. Less than 20 per cent of female farmers are official landowners or named on government lease agreements.

3.79 No laws limit the participation of women in the political process. Women fully participated in the 30 July 2018 elections as voters and candidates for all parties, although their representation is not in proportion
to their percentage of the population. Four female presidential candidates competed in the election, representing the People’s Rainbow Coalition, the MDC-T, the #1980 Freedom Movement Zimbabwe, and the United Democratic Movement. Following the elections, women accounted for six of the 21 cabinet minister positions, an increase from 2013, but still well below the equal representation required by the Constitution. Women made up 31 per cent of the National Assembly and Senate, down slightly from 34 per cent in 2013. Women also accounted for six of 12 minister of state positions, six of 13 deputy minister positions, and the position of president of the Senate. At the local government level, women held approximately 19 per cent of councillor positions nationwide.

3.8.1 A gender analysis of the election process produced by the ZGC found that men occupied most decision-making positions within the election management system while women occupied mostly administrative and support functions. NGOs reported that decision-making structures and processes in all political parties tended to exclude young women in particular. Observers reported that female candidates faced particularly vitriolic gender-based insults regarding their appearance, alleged sexual proclivity, and other gender-based stereotypes. Several female MDC Alliance candidates reported that some inside the party leadership demanded that the women have sex with them in order for their names to be included on the party candidate list.

3.8.2 Women occupy primarily administrative positions in the Zimbabwe Defence Forces (ZDF) and national services, although there are currently two female brigadier generals and one female air commodore, and the current Minister of Defence and War Veterans is a woman. Despite a constitutional requirement that both sexes be equally represented in all institutions and agencies of government at every level, there is a general lack of women in decision-making positions. Women’s salaries generally lag behind those of men in most sectors. NGOs have reported that women are often unable to access gender-based benefits such as maternity leave, which are provided for by law. Zimbabwe’s economic decline has particularly affected women, as many work in the informal sector (see Employment). Women have also been affected disproportionately by the government’s forced evictions, demolition of homes and businesses, and takeovers of commercial farms.

3.8.3 Articles 65-69 of Division B: Sexual Crimes of the CLCRA cover rape and other sexual offences (sexual crimes against Children are discussed in that section). Article 65 provides for a maximum punishment of life imprisonment for rape. Article 68 disallows being married to the victim to be used as a defence to a rape or a sexual assault charge. Rape remains a significant and widespread problem, including within marriage. Human rights observers report that social stigma and societal perceptions that rape was a ‘fact of life’ continue to inhibit reporting of rape. This is particularly the case in relation to spousal rape, which women are reluctant to report due to fear of losing economic support or of reprisal. Other reasons contributing to a low reporting rate for rape include a lack of adequate and widespread services for rape victims, unfamiliarity with laws relating to sexual offences (particularly in rural areas), and reluctance of police to become involved in domestic disputes (in the case of spousal rapes).

3.8.4 Rape victims also face bureaucratic obstacles in accessing treatment. The law requires victims of any form of violence to produce a police report to receive free treatment at government health facilities. This requirement has reportedly prevented many rape victims from receiving necessary medical treatment, including post-exposure prophylaxis to prevent victims from contracting HIV. Adult rape clinics in public hospitals in Harare and Mutare receive referrals from police and NGOs and provide medical services including HIV tests, medication for HIV and other sexually transmitted diseases, and pregnancy-related services. These clinics are run as NGOs and do not receive significant financial support from the Ministry of Health and Child Care. Although police refer for prosecution the majority of reported rapes of women (and men) receiving services from the rape centres, few prosecutions reportedly result. When prosecutions do result in convictions, sentences are inconsistent. Rape victims are not consistently offered protection in court. Children born from rape reportedly suffer stigmatisation and marginalisation. The mothers of children
born from rape are sometimes reluctant to register their births, meaning the children do not have access to social services.

3.84 Human rights observers have consistently reported the use of rape and sexual violence as a political weapon, including by security forces. Following the nationwide protests in January 2019, at least eight women in Harare told Human Rights Watch (HRW) in separate interviews that multiple uniformed and armed soldiers and police had raped them, some while concealing their identities with masks. One woman said that before they took turns to rape her without using condoms, two soldiers had said she should be raped to ‘make her tell the truth’ about her husband’s possible involvement in opposition politics. Another woman reported that police at her local station had refused to record her complaint, telling her that ‘these things are happening all over the country’. The government responded to the allegations by stating its commitment to accountability and justice for victims and encouraging women to come forward and report the cases. Several similar cases reportedly occurred following the 31 July 2018 national election and around previous elections.

3.85 The Domestic Violence Act (2006) criminalises domestic violence, which is punishable by a fine and a maximum prison sentence of ten years. Authorities generally consider domestic violence to be a private matter, however, and prosecutions are rare. Human rights observers report that there is a deeply ingrained societal acceptance of the use of violence within relationships as a show of both power and love. Domestic violence rates have reportedly increased in line with Zimbabwe’s ongoing economic decline. Government agencies and women’s rights groups have undertaken public awareness campaigns against domestic violence, including through working with law enforcement agencies, but these campaigns have been largely ineffective in reducing its prevalence. NGOs report that most urban police stations have trained officers to deal with victims of domestic violence, but that stations have a limited ability to respond in the evening and on weekends. A limited number of NGO-run women’s shelters also offer counselling to victims of domestic violence, but these are insufficient to meet demand.

3.86 There is no specific law criminalising sexual harassment, although Articles 8 (g) and (h) of the Labour Act (2002) prohibit it in the workplace. In-country sources report that sexual harassment is prevalent throughout society, particularly in workplaces and universities. Female university students routinely encounter unwanted physical contact from male students, lecturers and non-academic staff, ranging from touching and inappropriate remarks to, in some instances, rape.

3.87 DFAT assesses that, despite constitutional and legislative protections, women in Zimbabwe face a moderate risk of societal discrimination due to a number of significant disadvantages that include the threat of gender-based violence and other sexually-based harassment (including from state authorities), and longstanding traditional values and gender roles that limit their full participation in the workplace and community. Women in rural communities are particularly disadvantaged.

Sexual Orientation and Gender Identity

3.88 Article 78(3) of the Constitution specifically prohibits persons of the same sex from marrying each other. The Constitution does not prohibit discrimination based on sexual orientation or gender identity. Section 73 of the CLCRA criminalises as ‘ sodomy ’ anal sexual intercourse between male persons, or ‘ any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act ’. Sodomy is punishable by up to a year’s imprisonment, a fine of up to USD5,000, or both. Section 73 does not distinguish between consensual and non-consensual cases, meaning that the media occasionally misreports some cases of male-on-male or male-on-child rape as ‘homosexual sex’. There are no legislative prohibitions against lesbianism, or in relation to gender identity. The media regularly covers intersex issues, which authorities generally treat as medical rather than identity-related issues.
3.85 While official rhetoric under the Mugabe administration was strongly homophobic, particularly from Mugabe himself, actual prosecutions in relation to consensual same-sex sexual activities were very rare. In many cases where police did arrest LGBTI (lesbian, gay, bisexual, transgender or intersex) individuals, the charges were usually unclear from the outset and, at most, police would charge individuals with low-level misdemeanours such as loitering, indecency, or public order statutes. Despite the lack of prosecutions, however, the ongoing high-level official rhetoric, frequent homophobic commentary from church leaders and media reporting, and general conservative social attitudes all contributed to a difficult social environment for LGBTI individuals. Human rights observers reported that the criminality and social stigma of same-sex activity left homosexual men in particular vulnerable to blackmail, dismissal from employment or education, eviction from housing, and/or violence or harassment from families, neighbours, or the police. LGBTI individuals were particularly vulnerable to assault in cases where they were in the presence of a crowd, which would depend on the strength of numbers to initiate an attack following a tip-off. In cases where such mob attacks took place in the neighbourhoods of LGBTI individuals, they would usually be followed by property owners issuing eviction notices to the victims. GALZ recorded 170 violations (of all kinds) between 2012-17, but the stigma attached to LGBTI issues means this is likely to understate substantially the true number.

3.90 There has been a substantial decrease in the level of official hostility towards the LGBTI community under Mnangagwa, particularly in relation to homophobic rhetoric from state officials. President Mnangagwa met with LGBTI advocates following his accession, while ZANU- PF officials also engaged for the first time ahead of the July 2018 elections. LGBTI advocates also report that they have been able to commence a dialogue with police representatives in order to build a better understanding of the community and its needs, including through developing a field manual for policing marginalised communities. Advocates are also working with the media towards more sensitive and objective reporting of LGBTI issues, rather than the sensationalism that was the norm under Mugabe. In April 2018, the LGBTI community was for the first time granted permission to exhibit at the Zimbabwe International Trade Fair.

3.91 Despite these positive signs, there is no indication that constitutional or legislative change on LGBTI issues is on the government’s agenda. In-country sources advise that societal attitudes towards same-sex attraction and/or gender identity remain very conservative, but that these attitudes tend to be based more around a lack of understanding of the issues than on active hostility. Many Zimbabweans are reportedly under the impression that simply identifying as LGBTI is in itself a criminal offence, thus justifying homophobic and transphobic attacks. Human rights violations against LGBTI individuals have continued to occur, including blackmail and extortion from police, discrimination in employment and education, threats of violence in colleges and universities, and intimate partner and family violence. In one high-profile case in September 2018, a deputy headmaster at an elite private school resigned from his position after receiving death threats and protests from parents angered at his public declaration of his sexual orientation. In February 2018, a Masvingo magistrate convicted two prison inmates of sodomy and gave them each additional six-year prison terms to their existing sentences after they were caught having consensual sex in a cell.

3.92 While lesbian relationships are not criminalised, they remain socially unacceptable. The 2018 GALZ report on human rights violations reported that intolerance of lesbian relationships was increasingly manifesting in the form of ‘corrective’ rape and other forms of violence, although no accurate figures were available. In September 2018, a 21-year-old suspected lesbian was charged with aggravated indecent assault in Harare after allegedly drugging and sexually abusing her friend on several occasions. The defendant argued that the alleged assault was consensual, and that the complainant made a complaint only after rumours of the relationship reached her family.

3.93 According to a 2016 study by Trans Research, Education, and Training (TREAT), Zimbabwe’s first transgender advocacy organisation, there are approximately 400 openly transgender people in the country
TREAT reports that the main issues affecting transgender individuals relate to difficulties in changing identity documents to reflect their preferred gender identity; limited access to inclusive health services and affordable medications, particularly hormones; discrimination in housing and employment; and societal violence and harassment. In December 2018, TREAT’s founder Rikki Nathanson (a transgender individual) fled Zimbabwe and sought asylum in the United States following a series of incidents. Police in Bulawayo had arrested Nathanson in January 2014 for using the women’s toilet facilities in a hotel, reportedly stripping her naked in front of five police officers and keeping her in jail for three days. Nathanson subsequently filed a lawsuit against the Minister for Home Affairs, the Commissioner of the ZRP and several other local officials, although the judge who heard the case in mid-2017 had not issued a ruling as of the publication date. Nathanson claimed to have been threatened and warned to drop the case by unidentified persons who broke into her house, and said that she had been tipped off that authorities were likely to arrest her imminently.

GALZ is Zimbabwe’s leading LGBTI advocacy organisation, operating since 1990 and registered as a voluntary association. GALZ had around 500 members at its peak in 2000, but numbers have subsequently dropped to around 300 as many members have left Zimbabwe. GALZ’s current membership includes LGBTI individuals from a wide range of ethnic and socio-economic backgrounds, including from urban townships. GALZ is headquartered in Harare, but runs regular social events, education, and outreach activities nationwide. TREAT appears to be moribund following Nathanson’s departure from Zimbabwe. There are few, if any, other LGBTI service providers or social venues operating openly in Zimbabwe.

DFAT assesses that gay men face a moderate risk of official discrimination in that the existence of legislation prohibiting male homosexual acts can be used as a means of harassment, even if prosecutions or legal punishments are not generally pursued. DFAT further assesses that gay men, lesbians, and transgender individuals face a high risk of societal discrimination due to long-standing traditional views about sexuality and gender that limit their full participation in the community and workforce. Such risks may include intimidation, threatened or actual violence from both families and the general public, blackmail, extortion, or discrimination in employment or education. The risk is likely to be higher for those residing in more conservative and/or rural areas.

Children

Article 81 of the Constitution guarantees children the right to equal treatment before the law, including the right to be heard; to be given a name and family name; to the prompt provision of a birth certificate (if born in Zimbabwe or a Zimbabwean citizen by descent); to family, parental, or other appropriate care; to protection from economic and sexual exploitation, and from child labour, maltreatment, neglect, or any form of abuse; to education, health care services, nutrition, and shelter; to not be recruited into a militia force or to take part in armed conflict or hostilities; to not be compelled to take part in any political activity; to not be detained except as a measure of last resort, and, if detained, to be held for the shortest appropriate period, kept separate from detained adults; and to be treated in a manner and in conditions that take account of their age (see Detention and Prison).

Article 70 of the CLCRA criminalises sexual intercourse with, and indecent acts committed against, young persons, defined as under the age of 16 years. It provides for a punishment of a fine of USD2,000, imprisonment of up to ten years, or both. Article 70 clarifies that children aged below 12 cannot grant consent. Articles 64(2)(a) and (b) of the Act, however, allow a person charged with rape or indecent assault of a person aged between 12 and 14 years to argue that the young person was capable of giving consent to the sexual intercourse or other sexual conduct, and did so. It is unclear whether these provisions are applied differently in cases where the offender is also a minor or only just over the age of consent themselves. Article 83 of the Act criminalises the procurement of a child younger than age 16 for the purposes of
engaging in unlawful sexual conduct, providing for punishments of a fine of up to USD5,000, up to ten years’ imprisonment, or both. NGOs report that persons charged with facilitating the prostitution of a child are often also charged with statutory rape, indicating that the child was aged under 12 years.

3.98 Child abuse, including incest, infanticide, child abandonment, and rape, are serious problems in Zimbabwe. In 2018, the NGO Childline reportedly received more than 14,500 reports of child abuse via its national helpline, managed more than 5,500 in-person cases at its drop-in facilities across the country, and counselled more than 4,000 children. Just less than half of all reported cases of abuse concerned a child who had been sexually, physically, or emotionally abused, neglected, or forced into marriage (see Women). Approximately twice as many girls reported abuse as boys. Increasing economic hardships, coupled with the effect of drought, have led more girls to resort to prostitution as a means of survival. NGOs report that girls from areas bordering South Africa, Zambia, and Mozambique are often subjected to prostitution in brothels catering to long-distance truck drivers.

3.99 Government efforts to combat child abuse have generally proved ineffective, due in part to underfunding. The government is continuing to implement a case management protocol developed in 2013 to guide the provision of child welfare services. There are some government and NGO facilities that serve underage victims of sexual assault and abuse.

3.100 The Labour Amendment Act raised the minimum age for general labour and apprenticeship by boys and girls to 16 years (from 13 and 15 respectively), and declared void and unenforceable apprenticeship contracts entered into by children younger than age 18 without the permission of a guardian. The Act further states that no person younger than age 18 shall perform any work likely to jeopardise that person’s health, safety, or morals, and prohibits forced or compulsory labour with the exception of work for the national youth service.

3.101 Despite the reformed provisions contained within the Act, and a National Action Plan, child labour remains endemic, primarily in the informal economy. NGOs report that forced labour by children occurred in the agricultural, street vending, herding, forestry, fishing, artisanal gold and chrome mining, and domestic sectors. Adults have also utilised children in the commission of illegal activities, including gambling and drug smuggling. Street children, who live and/or beg on the streets, are highly common in urban areas. Children working in all of these sectors often face hazards to their health and safety, lack necessary equipment and training, and are highly vulnerable to wage exploitation and other forms of abuse.

3.102 NGOs report that the general lack of free basic Education for children increases the risk of children’s involvement in child labour. Because children are legally required to attend school up to age 12, those aged between 12 and 15 are particularly vulnerable to becoming involved in child labour as they are not required to attend school and not legally permitted to work. In a 2018 HRW report on child labour in tobacco farms, many child workers cited the need to pay school fees or buy basic necessities as reasons for working. Teachers interviewed in the report noted that many children missed school in order to raise funds for the next set of school fees.

3.103 Zimbabwe has a very high proportion of orphans, due primarily to the HIV/AIDS crisis (see Health). UNICEF estimated in 2016 that 18 per cent of children had lost one or both parents to HIV or other causes. Many orphaned children are cared for by their extended families or live in households headed by children, while others are homeless. Many are not enrolled in school, and some are forced to turn to prostitution for income. Orphaned children suffer discrimination and social stigma, and are vulnerable to abuse, food insecurity, malnutrition, and HIV/AIDS.

3.104 DFAT assesses that the ongoing political and economic dysfunction in Zimbabwe increases the risk of abuse for children, particularly for those without family support and/or those involved in the informal economy. The level of this risk will vary according to geographic location and individual circumstance.
Persons with Disabilities

3.105 Articles 22 and 83 of the Constitution guarantee equality for persons with disabilities; prohibit discrimination against them in employment, access to public places, and the provision of services; and commit the State to taking appropriate measures to ensure that persons with disabilities realise their full mental and physical potential. Other articles commit the State to taking necessary measures to ensure the inclusion and representation of persons with disabilities in employment, education, and political bodies. The Disabled Persons Act (1992) is the primary law addressing disability issues. Like other forms of legislation, it has not been aligned with the 2013 Constitution. Neither the Constitution nor the law specify physical, sensory, mental, or intellectual disabilities, and NGOs have lobbied the government to broaden the legal definition of ‘disabled’ to include persons with albinism, epilepsy, and other conditions.

3.106 Human rights observers report that government institutions are often uninformed about the law and their requirements to implement it. Although two senators are specifically elected to represent persons with disabilities, parliament rarely addresses issues especially affecting persons with disabilities. Parliament does not provide specific line items for persons with disabilities in the various social service ministry budgets. Although the law stipulates that government buildings be accessible, implementation has been slow and most buildings remain inaccessible. There are minimal legal or administrative safeguards to allow persons with disabilities to participate in electoral processes. Administrative arrangements for voter registration at relevant government offices are burdensome, and often necessitate return visits that effectively serve to disenfranchise some persons with disabilities. Access to justice in courts is compromised for persons with hearing disabilities due to a lack of sign language interpreters, particularly in rural areas.

3.107 NGOs report that three-quarters of children with disabilities have no access to education. Few government schools or education facilities are specifically equipped to cater for children with disabilities, and many refuse to accept them as students. Although some children with disabilities in urban areas are able to obtain informal education through private institutions, these options are generally unavaiable for those in rural areas. Children with disabilities are highly vulnerable to sexual abuse. According to NGOs, the public generally consider persons with disabilities to be objects of pity rather than persons with rights. Most persons holding traditional beliefs reportedly view persons with disabilities as bewitched. In many cases, families will hide children with disabilities from public view by confining them to the home.

3.108 For information on people with mental disabilities, see Health.

3.109 DFAT assesses that, notwithstanding the constitutional and legislative protections in place, persons with disabilities continue to face considerable official and societal restrictions that limit their ability to participate fully in society. This is particularly the case for children with disabilities.
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4
Preface

Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the basis of claim section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis and assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

Assessment

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment on whether, in general:

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must, however, still consider all claims on an individual basis, taking into account each case’s specific facts.

Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation’s (ACCORD), Researching Country Origin Information – Training Manual, 2013. Namely, taking into account the COI’s relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a terms of reference which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the ‘cut-off’ date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.
Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the bibliography.

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email the Country Policy and Information Team.

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

Independent Advisory Group on Country Information
Independent Chief Inspector of Borders and Immigration
5th Floor
Globe House
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Information about the IAGCI’s work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s pages of the gov.uk website.
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Assessment

Updated: 23 January 2019

1. Introduction
   1.1 Basis of claim
   1.1.1 Fear of persecution or serious harm by the state and/or non-state actors because of the person’s actual or perceived sexual orientation and/or gender identity or expression.

1.2 Points to note
   1.2.1 This note provides analysis on the general situation of gay men, lesbians, bisexuals, trans and intersex persons, as well as those perceived as such. They are referred hereafter collectively as ‘LGBTI persons’, though the experiences of each group may differ.

   1.2.2 Decision makers must also refer to the Asylum Instructions on Sexual Identity Issues in the Asylum Claim and Gender identity and expression, including intersex issues in asylum claims.

2. Consideration of issues
   2.1 Credibility
   2.1.1 For information on assessing credibility, see the Asylum Instruction on Assessing Credibility and Refugee Status. Decision makers must also refer to the Asylum Instructions on Sexual Identity Issues in the Asylum Claim and Gender identity and expression, including intersex issues in asylum claims.

   2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants).

   2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the Asylum Instruction on Language Analysis).

2.2 Particular social group
   2.2.1 LGBTI persons in Zimbabwe form a particular social group (PSG) within the meaning of the Refugee Convention because they share an innate characteristic or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to their identity or conscience that they should not be forced to renounce it, and have a distinct identity which is perceived as being different by the surrounding society.

   2.2.2 Although LGBTI persons form a PSG, this does not mean that establishing such membership is sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular person will face a real risk of persecution on account of their membership of such a group.
2.2.3 For further guidance on particular social groups, see the Asylum Instruction on Assessing Credibility and Refugee Status.

2.3 Exclusion

2.3.1 Decision makers must consider whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts.

2.3.2 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instruction on Exclusion: Article 1F of the Refugee Convention and the Asylum Instruction on Restricted Leave.

2.4 Assessment of risk

a. General points

2.4.1 Decision makers must establish whether or not an LGBTI person, if returned to their country of origin, will live freely and openly as such. This involves a wide spectrum of conduct which goes beyond merely attracting partners and maintaining relationships with them. Even if LGBTI persons who lived openly would not generally be at risk, decision makers must consider whether there are reasons why the particular person would be at risk.

2.4.2 If it is found that the person will in fact conceal aspects of his or her sexual orientation/identity if returned, decision makers must consider why.

2.4.3 If this will simply be in response to social pressures or for cultural or religious reasons of their own choosing and not because of a fear of persecution, then they may not have a well-founded fear of persecution. If a material reason why the person will resort to concealment is that they genuinely fear that otherwise they will be persecuted, it will be necessary to consider whether that fear is well-founded.

2.4.4 Decision makers should also consider if there are individual- or country-specific factors that could put the person at risk even if they choose to live discreetly because of social or religious pressures and/or whether the steps taken by them would be sufficient to avoid the risk of persecution. Some will not be able to avoid being known or perceived to be LGBTI whilst others will take some steps to conceal but would still be at risk.

2.4.5 For further guidance, see the Asylum Instructions on Sexual Identity Issues in the Asylum Claim and Gender identity and expression, including intersex issues in asylum claims.

b. State treatment

2.4.6 The Constitution specifically prohibits same sex marriage. Common law prevents gay men and, to a lesser extent, lesbians from fully expressing their sexual orientation. Same-sex sexual relations between men are criminalised and can result in custodial sentences. However, prosecutions are very rare. Same-sex relationships between women are not criminalised. There is no legislation regarding gender identity and transgender people are not legally acknowledged. As a result, a transgender woman is likely to be prosecuted as if they were a man (see legal context).
2.4.7 Senior figures in the government, particularly former president Robert Mugabe, used anti-LGBTI rhetoric in public addresses. The authorities are also reported to commonly harass LGBTI persons on the grounds of loitering, indecency and public order offences. Additionally, there are reports of arbitrary detention and ill-treatment, as well as police extortion and intimidation. Some members of Gays and Lesbians of Zimbabwe, the lead LGBTI advocacy and support group, face harassment and discrimination (see State treatment).

2.4.8 In the country guidance case LZ (homosexuals) Zimbabwe CG [2011] UKUT 487 (IAC) (26 January 2012), heard on 13/14 October 2011, the Upper Tribunal held that although some gay men and lesbians suffer discrimination, harassment, intimidation, violence and blackmail from the general public and the police, there is no general risk to gays and lesbians, although personal circumstances may place some persons at risk (para 116).

2.4.9 Personal circumstances which may place some persons at risk include, but are not limited to, LGBTI rights activists and other persons who openly campaign for LGBTI rights in Zimbabwe as well as a positive HIV/AIDS diagnosis. Although not decisive on its own, being ‘openly’ gay may increase risk. Such people face the risk of arbitrary arrests by the police, and harassment by state agents and may be at increased risk of persecution (para 116 of LZ and State treatment).

2.4.10 The situation for LGBTI persons has not significantly changed since LZ was promulgated. In general, state treatment of LGBTI persons, even when taken cumulatively, is not sufficiently serious by its nature and repetition as to amount to persecution or serious harm.

2.4.11 Decision makers must consider each case on its facts. The onus will be on the person to demonstrate why, in their particular circumstances, they would be at real risk from the authorities.

c. Societal treatment

2.4.12 Politicians, traditional leaders, and religious leaders have publicly rejected LGBTI people. However, during the Harmonised elections in July 2018, a leading gay rights group noted the decline in the use of hate speech and harassment of the LGBT community, compared to past election periods. Public attitudes are generally intolerant, though there is some variation by geography, age and education. LGBTI persons generally do not openly express their sexuality or gender identity in their workplaces, or within their families. Zimbabwe is deeply religious and traditional, and sexuality generally (homo- or hetero-sexual) is inhibited and unlikely to be publicly expressed. LGBTI persons experience a climate of intimidation, stigma and discrimination which may exclude them from society, public services and job opportunities. Numerous LGBTI persons have lost their jobs, been expelled from education or been evicted once their sexual orientation has been revealed (see Societal attitudes and treatment).

2.4.13 Some persons may also be subject to physical assault, including ‘corrective’ rape, although the evidence does not indicate that such violence is frequent or widespread. However, victims rarely reported such crimes to the police, in part because a fear of being outed is a barrier to reporting abuse, and it is
difficult to find reference to the numbers and scale of violence against LGBTI persons generally, and in particular lesbians and bisexuals. Although underreporting may make it difficult to ascertain the scale of violence, it does not necessarily mean there is a significant increase in risk to LGBTI persons. Cases of violence against LGBTI persons which are reported, are infrequent and do not appear to follow a set pattern of victimisation. (see State treatment and Societal attitudes and treatment).

2.4.14 Privileged LGBTI persons may be able to be more open about their sexual orientation and identities, but still only within their like-minded social circles (see Societal attitudes in general).

2.4.15 LGBTI persons may also find it difficult to access information about and treatment for HIV and medical care for sexually transmitted diseases (see General medical and HIV/AIDS).

2.4.16 In the country guidance case of LZ, the Upper Tribunal held that although some gay men and lesbians suffer discrimination, harassment, intimidation, violence and blackmail from the general public, there is no general risk to gay men or lesbians, and ‘corrective rape’ is rare, and does not represent a general risk (para 116).

2.4.17 However, the Tribunal went on to find that personal circumstances place some gay men and lesbians at risk. Lesbians, living on their own or together, may face greater difficulties than gay men. Although not decisive on its own, someone who is ‘openly’ gay may be at an increased risk. A positive HIV/AIDS diagnosis may also increase the likelihood of a person facing difficulties such as discrimination, harassment and intimidation (para 116).

2.4.18 The situation has not significantly changed since LZ was promulgated. In general, the societal treatment of LGBTI people in Zimbabwe, even when taken cumulatively, is not sufficiently serious by its nature and repetition as to amount to persecution or serious harm.

2.4.19 However personal circumstances may place some persons at risk; each case must however be considered on its facts. The onus is on the person to demonstrate why, in their particular circumstances, they would be at real risk from non-state actors.

2.4.20 For guidance on assessing risk, see the Asylum Instruction on Assessing Credibility and Refugee Status.

2.5 Protection

2.5.1 Where the person’s fear is of persecution or serious harm at the hands of the state, they will not be able to avail themselves of the protection of the state.

2.5.2 Where the person’s fear is of persecution or serious harm from non-state actors, the Upper Tribunal in LZ found that the police and other state agents are not willing to provide protection (para 116).

2.5.3 For further guidance on assessing the availability or not of state protection, see the Asylum Instruction on Assessing Credibility and Refugee Status.
2.6 Internal relocation

2.6.1 Homophobic attitudes are prevalent throughout the country. Where LGBTI persons do encounter local hostility they may be able to avoid this by moving elsewhere, but only if the risk is not present there and if it would not be unduly harsh to expect them to do so (see Freedom of movement).

2.6.2 The Upper Tribunal in LZ found that a gay man or lesbian at risk in his or her community can move elsewhere, either in the same city or to another part of the country. He or she might choose to relocate to where there is relatively greater tolerance, such as Bulawayo, but the choice of a new area is not restricted. The option is excluded only if personal circumstances present risk throughout the country (para 116).

2.6.3 Special attention should be given where the person is a lesbian or perceived as a lesbian, as LZ found that lesbians ‘on their own or together, may face greater difficulties than gay men’ (para 116).

2.6.4 The country situation has not changed significantly since LZ was promulgated. In general, it may be reasonable for a LGBTI person to relocate depending on the facts of the case.

2.6.5 Internal relocation will not be an option if it depends on the person concealing their sexual orientation and/or gender identity in the proposed new location for fear of persecution.

2.6.6 For further guidance, see the Asylum Instructions on Sexual Identity Issues in the Asylum Claim, Gender identity issues in the asylum claim and Gender issues in the asylum claim.

2.7 Certification

2.7.1 Where a claim is refused, it is unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

2.7.2 For further guidance on certification, see Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).

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3. Legal context

3.1 Constitution


3.1.2 The UN Committee on the Rights of the Child noted in its report dated 7 March 2016 that ‘While welcoming the inclusive non-discrimination provision in the Constitution, the Committee is concerned that national legislation remains inconsistent with the non-discrimination provisions of the Convention. It reiterates its concern about high levels of discrimination against [...] lesbian, gay, bisexual, transgender and intersex children and children affected or infected by HIV/AIDS.’

The Constitution of Zimbabwe is available [here](#).

3.2 Legislation

3.2.1 Section 73 of the Criminal Law (Codification and Reform) Act which became effective from July 2006 criminalises same sex sexual behaviour between men.

‘73 Sodomy

‘(1) Any male person who, with the consent of another male person, knowingly performs with that other person anal sexual intercourse, or any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act, shall be guilty of sodomy and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding one year or both.

‘(2) Subject to subsection (3), both parties to the performance of an act referred to in subsection (1) may be charged with and convicted of sodomy.

‘(3) For the avoidance of doubt it is declared that the competent charge against a male person who performs anal sexual intercourse with or commits an indecent act upon a young male person –

‘(a) who is below the age of twelve years, shall be aggravated indecent assault or indecent assault, as the case may be; or

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1 DFAT, DFAT Report 2016 (paragraph 3.58), 11 April 2016, [url](#).
2 UN Committee on the Rights of the Child, ‘Concluding observations on the second periodic report of Zimbabwe’ (paragraph 26), 7 March 2016, [url](#).
‘(b) who is of or above the age of twelve years but below the age of sixteen years and without the consent of such young male person, shall be aggravated indecent assault or indecent assault, as the case may be; or

‘(c) who is of or above the age of twelve years but below the age of sixteen years and with the consent of such young male person, shall be performing an indecent act with a young person.’

3.2.2 The US State Department (USSD) report 2017 (USSD report 2017) published 20 April 2018 noted:

‘The constitution does not prohibit discrimination based on sexual orientation and gender identity. According to the country’s criminal code “any act involving physical contact between men that would be regarded by a reasonable person to be an indecent act” carries a penalty if convicted of up to one year in prison or a fine up to [US]$5,000… Common law prevents gay men and, to a lesser extent, lesbians from fully expressing their sexual orientation. In some cases, it criminalizes the display of affection between men.’

3.2.3 An article from Voice of America (VOA) published 12 January 2017, cites a gay rights activist in Zimbabwe, Mojalifa Mokwele ‘[t]here is no law that states that one cannot be gay. It only becomes a crime once you start committing homosexual acts in public… If you take a look at the constitution in Zimbabwe, it is not a crime to stand in the streets and publicly state that he or she is homosexual. It is not illegal to be gay in Zimbabwe. Being homosexual is only regarded criminal in Zimbabwe once you publicly commit homosexual acts.’

3.2.4 The Avert website stated the following in relation men who have sex with men (MSM) and HIV in Zimbabwe: ‘Homosexual acts are illegal in Zimbabwe for men who have sex with men (sometimes referred to as MSM), but legal for women who have sex with women. As a consequence of this punitive law, national statistics are rarely available.’

3.2.5 The Joint submission by Sexual Rights Centre, GALZ and COC Netherlands to the United Nations Human Rights Council (UNHRC) Universal Periodic Review of Zimbabwe 26th Session October 2016, stated:

‘In addition, the Constitution of Zimbabwe, which was gazetted as a law on the 22nd of May 2013 explicitly prohibits same sex marriages in terms of section 78 (3). Transgender individuals …are unable to have their gender identity legally recognized.

‘Further, transgender individuals’ gender identity is not recognized in court proceedings or law enforcement, which can result in dehumanizing and

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4 USSD, USSD Report 2017 (Section 6), 20 April 2018, url
5 VOA, Gay Zimbabweans Fight Stigma, Harsh Laws, 12 January 2017, url
6 Avert, HIV and Aids in Zimbabwe, last updated: 26 March 2018, url
unfair treatment under the law, leaving transgender women likely to be prosecuted under the "sodomy" law.'

3.2.6 The Southern Africa Litigation Centre noted in its report dated 27 September 2016 that ‘Zimbabwe does not have a specific law that allows transgender people to change the gender marker on their birth documents, or other official documents’ and ‘There are no laws or policies that provide for hormonal treatment or any other gender-affirming healthcare for transgender people.'

4. State treatment

4.1 Government attitudes

4.1.1 The DFAT report 2016 noted that:

‘Official rhetoric on homosexuality is strongly homophobic. On 28 September 2015, [then] President Mugabe rejected calls from the UN to implement gay rights in Zimbabwe, saying “We (Zimbabweans) are not gays”’ Mugabe has previously described homosexuals as “worse than pigs and dogs.” Allegations of homosexuality are commonly used to sully the personal or professional reputations of business or political rivals, particularly men. On 18 October 2015, a ZANU-PF MP brought defamation proceedings against a ZANU-PF member aligned with a different party faction for allegedly calling him gay. Lesbians, bisexuals and transsexuals are also stigmatised.’

4.1.2 The same report noted ‘DFAT assesses that there is a high level of official discrimination … against LGBTI persons in Zimbabwe.’

4.1.3 The Human Rights Watch World Report 2016 – Zimbabwe (HRW 2016 report) published 27 January 2016, stated that the authorities disparaged lesbian, gay, bisexual, and trans persons (LGBT) people. The report further noted that ‘Authorities continued to violate rights of LGBT people. A Zimbabwe Human Rights Commission report published in July showed continued hostility and systematic discrimination by police and politicians against LGBT people, driving many underground.’

4.1.4 The USSD report 2017 stated (regarding the then president) ‘President Mugabe and ZANU-PF leaders publicly criticized the LGBTI community, rejecting the promotion of LGBTI rights as contrary to the country’s values, norms, traditions, and beliefs.’

4.1.5 Robert Mugabe, using a speech at a celebration of his 92nd birthday in 2016, spoke about his attitude to Western views of gay marriage: "If aid [to help

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7 UNHRC, Universal Periodic Review of Zimbabwe 26th Session October 2016 Joint submission by: Sexual Rights Centre, GALZ and COC Netherlands (page 2-3), October 2016, url
8 Southern Africa Litigation Centre, Laws and Policies Affecting Transgender Persons in Southern Africa (p.50-1), 24 September 2016, url
9 DFAT, DFAT Report 2016 (paragraph 3.60), 11 April 2016, url
10 DFAT, DFAT Report 2016 (paragraph 3.62), 11 April 2016, url
12 USSD, USSD Report 2017 (Section 6), 20 April 2018, url
pay for grain and other food], as I understand, is to be given on the basis that we accept the principle of gay marriages, then let that aid stay where it is. We don't want it. It is rotten aid, filthy aid and we won't have anything to do with it.”

4.1.6 Zimbabwe has rejected calls by European countries at the United Nations Human Rights Council Working Group meeting to embrace homosexuality, but accepted 142 other recommendations that are in line with the national Constitution. In an interview with The Herald after the United Nations Human Rights Council Working Group meeting in November 2016, the then Vice President, Emmerson Mnangagwa, said:

“With regards to areas that we felt we would not accept, it is issues of gays and homosexuality, which is unlawful in our country,” said VP Mnangagwa.

“We rejected all those. There are a few countries from Europe which recommended that we re-consider our position with regard to adults of same sex marrying each other. That we have rejected.”

4.1.7 In the same report, The Herald noted that 142 recommendations in line with the constitution were accepted. Of the two rejected, the Permanent Secretary in the Ministry of Justice, Legal and Parliamentary Affairs Virginia Mabhiza was quoted: “We have rejected two broad categories of recommendations, that is the one to do with marriage between people of the same sex and another one to do with the Rome Statutes. Those are the two that we have outrightly rejected.”

4.1.8 In November 2017 Robert Mugabe was replaced as president by Emmerson Mnangagwa (CPIN Zimbabwe: Opposition to the government). President Emmerson Mnangagwa gave an interview to CNN at the World Economic Forum in Davos in January 2018. In an article entitled ‘President Mnangagwa: “Zimbabwe is open for business”’ CNN stated:

‘Gay rights not changing any time soon. Same-sex marriage is banned in Zimbabwe, and that doesn't appear to be changing any time soon under Mnangagwa's leadership.

"Those people who want it are the people who should canvass for it, but it's not my duty to campaign for this," he said. "In our constitution it is banned -- and it is my duty to obey my constitution."

4.1.9 HRW in the world report 2019, covering events of 2018 noted: ‘Ahead of the July 2018 national elections, representatives of the LGBT community in Zimbabwe met with top ruling ZANU-PF party officials. The Gays and Lesbians of Zimbabwe (GALZ) advocacy group thanked Mnangagwa for this unprecedented meeting and for "understanding" them better than his predecessor Mugabe and the opposition parties.’

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13 Reuters, Mugabe birthday bash riles critics in drought-hit Zimbabwe, 27 February 2016, [url]
14 The Herald, Zimbabwe resists gay rights push, 7 November 2016, [url]
15 The Herald, Zimbabwe resists gay rights push, 7 November 2016, [url]
16 CNN, President Mnangagwa: ‘Zimbabwe is open for business’, 24 January 2018, [url]
17 HRW, World report 2019 (section Women's and girls' rights), 17 January 2019, [url]
4.2 Police / authorities

4.2.1 For general information on the function, role and effectiveness of the security services in Zimbabwe, see the country policy and information note on Zimbabwe: Opposition to the government.

4.2.2 The USSD report for 2017 noted that ‘… there were no known cases of prosecutions of consensual same-sex sexual activity.’ The USSD report 2017 repeated the assessment from the 2014, 2015 and 2016 USSD reports; that there were no known cases of prosecutions of consensual same-sex sexual activity.

4.2.3 The DFAT report 2016 stated ‘The authorities more commonly harass LGBTI persons using loitering, indecency and public order statutes, although violations are under-reported because of the stigma attached to the LGBTI community. In 2014, Gays and Lesbians Zimbabwe (GALZ) reported 41 cases of arbitrary arrest, violence, harassment, unfair dismissal and forcible displacement involving LGBTI persons.’

4.2.4 The Freedom House report covering events in 2016 and the Human Rights Watch report published in 2016 both noted that the police and security forces regularly harassed LGBT people.

4.2.5 The Joint submission by Sexual Rights Centre, GALZ and COC Netherlands to the United Nations Human Rights Council (UNHRC) Universal Periodic Review of Zimbabwe 26th Session October 2016, stated:

‘Transgender individuals […] are subject to arbitrary arrests and detention, cruel, inhumane or degrading treatment, and torture. Trans women can be charged with sodomy despite their gender identity.

‘LGBTI individuals, and in particular, transgender women and men, highlighted how arbitrary detention and torture at the hands of law enforcement officials were frequent and harmful. In one case, a transgender woman, who had been arbitrarily detained for three days for having used a female bathroom, was stripped in front of four police officers, verbally mocked and degraded, and paraded around for the amusement of the police officers on duty. A number of LGBTI individuals have reported cases of police abuse, including being doused in cold water, verbally abused, and threatened with arms.’

4.2.6 In its submission to the Universal Periodic Review of Zimbabwe, GALZ documented that

‘[…] at police stations and detention facilities, LGBTI individuals are intimidated and physically assaulted by police officers. LGBTI individuals in Zimbabwe are often detained for hours at a time, without access to judicial

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18 USSD, USSD Report 2017, 20 April 2018, url
20 USSD, USSD Report 2015, 13 April 2016, url
21 USSD, USSD Report 2016, 3 March 2017, url
25 UNHRC, Universal Periodic Review of Zimbabwe 26th Session October 2016 Joint submission by: Sexual Rights Centre, GALZ and COC Netherlands (page 2-3), October 2016, url
LGBTI individuals are frequently beaten, mocked, and forced to pay bribes in order to escape custody.

‘[…] extortion with impunity against LGBTI individuals in Zimbabwe has been documented on both a state-based and privatized level. Extortion has taken the form of demands for money, personal belongings, or other valuables in order to keep the blackmailer silent. LGBTI individuals often succumb to such extortions due to a fear of being discriminated against, being disowned by their family, or being faced with the possibility of criminal charges due to Section 73 or other relevant laws which discriminate against LGBTI people.’

4.2.7 In an UN compilation report dated 25 August 2016 submitted to the UN Human Rights Council (UNHRC) it cited the Committee on the Elimination of Discrimination against Women’s 2012 report which expressed concern about state perpetrated acts of violence against LGBT women, urging Zimbabwe to provide them with effective protection from discrimination and violence.

4.2.8 The DFAT 2016 report noted, ‘The authorities are more sympathetic towards intersex persons; intersex issues …are generally treated as medical rather than identity issues.’

4.2.9 The USSD report 2017 stated ‘The police reportedly detained and held persons suspected of being gay for up to 48 hours before releasing them. LGBTI advocacy groups also reported police used extortion and threats to intimidate persons based on their sexual orientation. Members of Gays and Lesbians of Zimbabwe, the primary organization dedicated to advancing the rights of LGBTI persons, experienced harassment and discrimination.’

4.2.10 The Constitution of Zimbabwe states that any person arrested or detained who is not released, must be brought before the court as soon as possible and in any event not later than 48 hours. If this is not done, the person must be released immediately unless their detention has been extended by the court. For further information on the rights of arrested and detained persons see section 50 of the Constitution of Zimbabwe.

4.2.11 In relation to prosecutions, the FCO noted in the Human Rights and Democracy: the 2017 Foreign and Commonwealth Office report that ‘A court sentenced one LGBT person to 18 months in jail for “inappropriate conduct”.’ Among sources consulted (see bibliography), CPIT could find no further information on the nature of this case.

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26 GALZ, Universal Periodic Review of Zimbabwe 26th Session October 2016, url
28 DFAT, DFAT report 2016 (paragraph 3.61), 11 April 2016, url.
29 USSD, USSD Report 2017, (Section 6), 20 April 2018, url
31 FCO, The 2017 report (section Zimbabwe), updated 5 October 2018, url
4.3 Avenues for redress

4.3.1 Information on access to state protection for LGBT persons who were subjected to discrimination or violence was scarce among the sources consulted (see Bibliography).

4.3.2 The DFAT report 2016 stated: ‘Reported cases of violence against LGBTI persons are infrequent.’

4.3.3 In its submission to the Universal Periodic Review of Zimbabwe, GALZ stated that ‘Zimbabwe has failed to protect LGBTI individuals from numerous human rights abuses within its jurisdiction. By directly curtailing fundamental rights through state action, allowing others to abuse the fundamental rights of the LGBTI community with impunity, and by not protecting sexual minorities from discrimination or guaranteeing their equal protection under law, Zimbabwe is in direct violation of both its own constitution and its international human rights treaty obligations.’

4.3.4 The joint submission by SRC, GALZ and COC Nederland reports that ‘Law enforcement officials, healthcare service providers, and other institutions are reluctant to work with sexual minorities and sex workers as a result of criminalization and prejudice… Further, sex workers and sexual minorities have little access to recourse when they are subjected to violence, rape, torture, or other forms of mistreatment and abuse at the hands of service providers and law enforcement officials.’

4.3.5 The same report further added:

‘Sex workers and LGBTI individuals also reported a number of incidents in which law enforcement officials violated their right to remedies and redress on the basis of an individual’s profession, sexual orientation, and/or gender identity. Criminalization and stigmatization has meant that sexual minorities and sex workers are not only at much higher risk of experiencing violence within society; the perpetrators of violence and crimes against these individuals act with impunity. Therefore, sex workers and sexual minorities are reluctant to report cases, abuses and violations with the police and are unlikely to be taken seriously if they do. Lack of redress is particularly pressing for sex workers and for LGBTI women who are at extremely high risk of sexual violence at the hands of clients, family members, intimate partners, and others.’

4.3.6 The Southern Africa Litigation Centre website provided details of ongoing cases. In an entry dated 28 July 2017, Zimbabwe: Challenging unlawful arrest of trans woman they stated:

‘On 16 January 2014 a transgender activist was arrested in Bulawayo after entering a female toilet. At the police station she was forced to strip and examined by medical doctors to verify her gender. After spending two nights

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32 DFAT, DFAT report 2016 (paragraph 3.62), 11 April 2016, [url]
33 GALZ, Universal Periodic Review of Zimbabwe 26th Session October 2016, [url]
34 UNHRC, Universal Periodic Review of Zimbabwe 26th Session October 2016 Joint submission by: Sexual Rights Centre, GALZ and COC Netherlands (page 3), October 2016, [url]
35 UNHRC, Universal Periodic Review of Zimbabwe 26th Session October 2016 Joint submission by: Sexual Rights Centre, GALZ and COC Netherlands (page 5-6), October 2016, [url]
in a holding cell, she was charged with criminal nuisance. The criminal charge was later withdrawn. The civil trial on unlawful arrest and malicious prosecution took place from 25 to 27 July 2017. SALC and the Sexual Rights Centre is providing support in this case.'

5. **Societal attitudes and treatment**

5.1 **Political opponents**

5.1.1 On 30 April 2016 MDC-T president Morgan Tsvangirai said he had no intentions of persecuting gays and lesbians should he become the country's president. All Africa reported that 'Tsvangirai told journalists during a discussion at the Bulawayo press club on Friday [29 April 2016] that he was not gay and was not a personal admirer of gays but insisted the latter were entitled to their freedoms under the country’s constitution.'

5.1.2 Morgan Tsvangirai died in February 2018. For more information regarding the political situation in Zimbabwe see the country policy and information note on Zimbabwe: Opposition to the government.

5.2 **Societal attitudes in general**

5.2.1 Afrobarometer reported that, based on data gathered in 2014, that ‘…many politicians, traditional leaders, and religious leaders have been vehement in their rejection of homosexuality. Public attitudes reflect this widespread intolerance: Nine in 10 Zimbabweans (89%) say they would “somewhat dislike” (6%) or “strongly dislike” (83%) having LGBT persons as neighbours’.

5.2.2 The same report noted that:

‘Intolerance for homosexuals cuts across all walks of life, but some demographic sub-groups are somewhat more tolerant than others […]. Tolerance levels (strongly like/somewhat like/would not care) are somewhat higher among urban residents (13%) than among rural residents (9%). Education seems to affect levels of tolerance: Citizens with post-secondary education are more likely to express tolerant attitudes toward homosexuals (17%) than respondents with secondary (10%), primary (7%), or no formal education (8%).

‘Similarly, younger respondents are more likely to say they would like or not care about having LGBT neighbours: 13% of 18- to 39-year-olds vs. 10% of 40- to 64-year-olds and 7% of those aged 65 and older.

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37 All Africa, Zimbabwe: Tsvangirai Says He Is Not Gay, Will Not Quarrel With Gays If He Becomes President, 30 April 2016, url
38 Afrobarometer, Dispatch No. 124 (p7), November 2016, url
‘MDC-T supporters are more likely to express tolerance toward homosexuals (16%) than ZANU-PF adherents (6%).’\textsuperscript{39}

5.2.3 The report also noted that: ‘The least intolerant provinces are Bulawayo and Midlands, where 25% and 24%, respectively, say they would like or not mind having LGBT neighbours, whereas in Masvingo and Mashonaland Central, only one in 50 respondents express such tolerance [...]’\textsuperscript{40}

5.2.4 The DFAT report 2016, stated:

‘LGBTI persons generally do not openly express their sexuality or identity in their workplaces, or within their families. DFAT understands that more privileged LGBTI persons are possibly able to be more open about their sexual orientation and identities, but still only within their like-minded social circles. Deeply embedded, traditional cultural (and religious) factors also inhibit the free expression of sexuality in any form, whether an individual identifies as homosexual, heterosexual or otherwise.’\textsuperscript{41}

5.3 Harassment, discrimination and violence

5.3.1 The DFAT report 2016, stated: ‘DFAT assesses that there is … a moderate degree of societal discrimination against LGBTI persons in Zimbabwe. Reported cases of violence against LGBTI persons are infrequent and do not appear to follow a set pattern of victimisation.’\textsuperscript{42}

5.3.2 The UN Human Rights Council gathered stakeholder submissions for the forthcoming November 2016 Universal Periodic Review, one of which was:

‘GALZ stated that… homophobia permeates Zimbabwean society unchecked and manifests itself in different forms, ranging from verbal and physical assault on, to discrimination of, lesbian, gay, bisexual, transgender and intersex people on the basis of their sexual orientation or gender identity. Refusal by duty bearers and policy makers to address this issue has resulted in the public intolerance of lesbian, gay, bisexual, transgender and intersex persons becoming deeply ingrained in the community and reinforces the general stigmatization of sexual minorities in society.’\textsuperscript{43}

5.3.3 Bridging the Gaps, in a 2016 report about its ‘LGBT People Project Zimbabwe’ stated: ‘This climate of criminalisation and intimidation has increased stigma and discrimination against LGBT people, excluding them from society, services and job opportunities.’\textsuperscript{44}

5.3.4 The FCO noted in the Human Rights and Democracy: the 2017 Foreign and Commonwealth Office report that ‘LGBT people faced discrimination, family disownment, displacement from lodgings, unfair labour practices, arrest and harassment by police, blackmail and bullying on social media.’\textsuperscript{45}

\textsuperscript{39} Afrobarometer, Dispatch No. 124 (p8), November 2016, url
\textsuperscript{40} Afrobarometer, Dispatch No. 124 (p9), November 2016, url
\textsuperscript{41} DFAT, DFAT report 2016 (paragraph 3.61), 11 April 2016, url.
\textsuperscript{42} DFAT, DFAT report 2016 (paragraph 3.62), 11 April 2016, url.
\textsuperscript{43} UNHRC, The UN Human Rights Council Stakeholder submissions for the forthcoming November 2016 Universal Periodic Review (paras 25 and 38), 23 August 2016, url
\textsuperscript{44} Bridging the Gaps, LGBT People Project Zimbabwe, 2016, url
\textsuperscript{45} FCO, The 2017 report (section Zimbabwe), updated 5 October 2018, url
5.3.5 The BBC in the article Zimbabwe election: Five things, published 23 July 2018 stated:

‘The director of a gay rights group says there been “a sharp decline in use of hate speech and harassment of the LGBT community” during campaigning in Zimbabwe, where homosexual acts and gay marriage are banned. Mr Mugabe once infamously said gay people were “worse than pigs and dogs” and claimed homosexuality was unAfrican.

“LGBTI issues have been used as a tool to divert Zimbabweans from discussing other pressing issues affecting them and a convenient ploy for political leaders facing rampant unemployment, political unrest, and a downward economic spiral,” Chester Samba, from Gays and Lesbians of Zimbabwe (Galz), told the BBC News website.

“Elections in the past have been characterised by scapegoating a largely invisible and unpopular minority, creating moral panic, which at times easily escalated into a witch-hunt.”

‘He admits that no party’s manifesto has anything specific on gay rights, though Zanu-PF did invite Galz for a meeting to gauge the challenges the LGBT community faces.”

5.4 Women

5.4.1 The UN Human Rights Council gathered stakeholder submissions for the forthcoming November 2016 Universal Periodic Review, one of which was:

‘Joint submission 5 [The Sexual Rights Centre, Ottawa, Canada, GALZ – An Association of LGBTI People in Zimbabwe, Harare, Zimbabwe, COC Nederland, Amsterdam, Netherlands] stated that lesbian, bisexual and transgender women were particularly at risk of sexual violence in the form of “corrective” or “curative” rape, where those women were raped by family members under the erroneous belief that this will “cure” their sexuality.”

5.4.2 The USSD report 2017 stated that some families subjected their LGBTI family members to “corrective rape”, particularly women. This treatment was rarely reported to the police.

5.4.3 The GALZ March 2017 newsletter stated: ‘While in Harare, it was highlighted that there is an increase of correctional rape or sexual abuse cases.” The same newsletter further noted: ‘These cases and many more in which members are being violated, discriminated and verbally abused because of their choice in dressing and because of their body language are the tips of the iceberg. LBT women are compounded by societal expectations.”

5.4.4 The same source further noted that: ‘There is still need to advance the rights of women as women face violence in public spaces and in their homes and

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46 BBC, Zimbabwe election: Five things, 23 July 2018, url
48 USSD, USSD Report 2017 (Section 6), 20 April 2018, url
49 GALZ, Monthly Newsletter, March 2017, url
50 GALZ, Monthly Newsletter, March 2017, url
for LBT women it is especially difficult to get justice as fear of being outed is a barrier to reporting abuse.⁵¹

5.4.5 In sources consulted (see Bibliography), CPIT was unable to find reference to the numbers or frequency of violence against LGBTI persons in general or lesbians and bisexual persons in particular.

5.4.6 For background information on the position and treatment of women generally see the country policy and information note on Zimbabwe: women fearing gender-based harm or violence.

5.5 Religious attitudes

5.5.1 The USSD report 2016 published 3 March 2017 stated: ‘Religious leaders in this traditionally conservative and Christian society encouraged discrimination against LGBTI persons. For example, Walter Magaya, leader of the Healing and Deliverance Ministries, continued to host shows on television and radio during which he “healed” members of the LGBTI community.’⁵²

5.5.2 In contrast to this, the OSF report 2016 stated:

‘One of the SRC’s most successful engagements has been with religious leaders. Sex workers specifically asked the SRC to target clergy because of how influential the church is in creating negative perceptions of them. In essence, they were “sick and tired of being labeled [sic] whores when they came to church.” The SRC organized trainings for 40-50 church leaders at a time, and identified 12 clergy who wanted to engage more deeply. The SRC recognized that if it wanted these individuals to step-up and champion sexual rights in Zimbabwe’s conservative environment, it needed to support them. It started monthly meetings to allow clergy to discuss challenges and ask questions. Since this work began, several clergy have spoken publicly to their congregations and at SRC events about sexual rights, and have provided support to parishioners whose children identify as lesbian or gay.’⁵³

5.6 Media

5.6.1 The UN Human Rights Council gathered stakeholder submissions for the November 2016 Universal Periodic Review, which included: ‘Joint submission [JS] 5 [The Sexual Rights Centre, Ottawa, Canada, GALZ – An Association of LGBTI People in Zimbabwe, Harare, Zimbabwe, COC Nederland, Amsterdam, Netherlands] which stated that ‘political leaders and state-sponsored media regularly incited hatred towards gays and lesbians by depicting same-sex relations as immoral.’⁵⁴

⁵¹ GALZ, Monthly Newsletter, March 2017, url
⁵² USSD, USSD report 2016 (section 6), 3 March 2017, url
⁵³ Open Society Foundations (OSF), No Turning Back: Examining Sex Worker-Led Programs That Protect Health and Rights (p.27), 15 September 2016, url
5.6.2 The Daily News article, Call to discuss homosexual teachers, published 1 October 2018 reported on the need for dialogue on LGBTI issues:

‘Secretary-general of the Progressive Teachers Union of Zimbabwe (PTUZ) Raymond Majongwe said Hovelmeier’s [a gay teacher] resignation is an indication that there should be dialogue about homosexual teachers.

“As a country we must conduct dialogue over this issue of homosexuality because it is a reality in our country, so we can’t pretend that it’s not there.

“The resignation therefore means that wherever he is going to go, he is going to remain homosexual, so we are simply saying to our ministry let’s engage and let’s dialogue because just like we have this teacher who is homosexual, there are children as well who are of that sexual orientation…

“We need policies in terms of how we handle these people because the moment when we identify somebody who is homosexual, we go after them with arrows and chase them away and that will not kill or deal with the problem…

“Let us engage as citizens and see how best we can handle this homosexual matter without calling anyone names, without chasing after them, let us dialogue and see how best we can handle the children and the teachers who are of this sexual orientation…”

‘Zimbabwe Teachers Association (Zimta) chief executive officer Sifiso Ndlovu said the resignation was a good decision as it relieved the tension from the school…

“Zimta respects the rights of individuals but we do not support the practice of homosexuality, we need to protect schools in terms of conflict,” he said.’

See Access to services

6. Civil society and support services

6.1 Civil society (NGOs)

6.1.1 The Zimbabwe Lawyers for Human Rights (ZLHR) provided the following (undated) information on their website on the small projects they are involved in:

‘Human Rights and Key Populations Initiative. The key populations initiative has two target groups viz; sex workers and Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) groups. Opportunities exist to expand on this work in future to address rights of an expanded cohort.

‘LGBTI Rights Sub-Initiative: The initiative in partnership with Gays and Lesbians of Zimbabwe (GALZ) focuses on law and human rights responses to LGBTI rights violations and access to reproductive health rights. The initiative also looks at LGBTI as human rights defenders. ZLHR helps in the protection and promotion of LGBTI rights and seeks to increase their understanding of law and human rights including SRHR [sexual and

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55 The Daily News, Call to discuss homosexual teachers, 1 October 2018, url
reproductive health and rights]. The work also involves advocacy towards eradication of stigma in the general communities. The initiative also seeks improved awareness and understanding on legislation and the right to equal opportunities by both the government and the key populations communities.\textsuperscript{56}

6.1.2 On the \textit{Zimbabwe Human Rights NGO Forum} website the following information was provided in relation to Gays and Lesbians of Zimbabwe (GALZ):

‘GALZ is an organization which strives for the attainment of full and equal human, social and economic rights in all aspects of life for Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) persons…today, it remains unique in that it is the only organisation in the country specifically working with people who engage in same-sex sexual activity. Originally a small social club of mostly middle-class professionals, the association has grown over the years and now truly represents the broader LGBTI community in ten centres throughout Zimbabwe.

‘Today, the GALZ Resource Centre in Harare provides professional counselling, entertainment and educational activities for members. GALZ is also actively involved in broader human rights campaigning and in the fight for access to affordable treatment for all people living with HIV or AIDS.\textsuperscript{57}

6.1.3 GALZ has a \textit{website} and public facing accounts on \textit{Twitter} and \textit{Facebook} which provide information and regular updates on events and campaigns of interest to the LGBT community in Zimbabwe. Its Twitter page states, ‘Promoting, representing and protecting the rights and interests of Lesbians, Gays, Bisexuals, Transgender and Intersex people in Zimbabwe.’\textsuperscript{58}

6.2 LGBT events

6.2.1 An undated entry on the GALZ \textit{website} stated:

‘General homophobia and restrictive legislation make it difficult for LGBTI people in Zimbabwe to feel safe about being open about their sexuality in public spaces and so the community is not yet ready to march onto the streets in numbers and celebrate Pride. However, GALZ members frequently attend pride marches in South Africa, in particular Joburg Pride.

‘The traditional international Gay Pride month of June is generally observed in Zimbabwe by throwing a large party, but the homegrown ZimPride takes place in October in the week running up to the big event of the Zimbabwean gay and lesbian calendar, Miss Jacaranda Queen Drag Pageant, named after the exotic jacaranda tree which comes into vivid purple bloom around this time.

‘Drag pageants were a major part of the Zimbabwean gay and lesbian scene in the 1980s, but the first official Jacaranda Queen took place in 1995. For

\textsuperscript{56} \textit{ZLHR}, Special Projects, undated, \url{url}
\textsuperscript{57} \textit{Zimbabwe Human Rights NGO Forum}, Gays and Lesbians of Zimbabwe, undated, \url{url}
\textsuperscript{58} Twitter, GALZ, undated (account created January 2013), \url{url}
the first five years, it was organised independently from GALZ but, in 2000, the association took over official control of the event.

‘Traditionally, Jacaranda Queen is held in a public hall although this is becoming increasingly difficult because of acts of violence perpetrated by homophobes, and last-minute cancellations by nervous venue managers.

‘Every year a Queen is chosen along with a First Princess, a Second Princess and a Miss Personality.’

6.2.2 The GALZ Newsletter from March 2017 stated:

‘International Women’s Day 2017 was celebrated in both Harare and Bulawayo. The management of GALZ decided to honor and host women within the organization and those from other partners’ organizations such as Trans Smart and Pakasipiti in Harare and VOVO in Bulawayo. The events saw a total of 86 participants with 64% being either, lesbian, bisexual women or transgender men. Transgender women and gender nonconforming individuals constituted 16.3% of the guests, the remainder were other invited community members.

‘It was an opportunity for the women and women membership to raise awareness of issues within the lesbian, bisexual and transgender (LBT) community.

‘In Bulawayo, the quorum discussed the opportunities available for women within the organization. Guests shared stories of their lives especially around gender and sexuality. The stories included the day to day challenges that women face and issues they have to deal with in the community (both mainstream and LGBTI).’

6.2.3 OutRight provided information on the work undertaken by the organisation:

‘In response to the challenging conditions facing LGBTIQ activists, OutRight runs security training workshops in the most affected regions of the world with the aim of providing activists with the tools to be able to handle the most complex environment. The training model is rooted in real experiences and addresses all aspects of security from digital to physical.

‘The most recent of these workshops took place in Johannesburg, South Africa, at the end of 2016 where 18 LGBTIQ activists from the Southern African Development Community (SADC) region came together to discuss concepts of security, raise their security concerns and seek solutions. Participants were also able to share experiences and exchange notes on how they dealt with specific security issues. Participants came from Zambia, Zimbabwe, Mauritius, South Africa, Malawi, Botswana, Lesotho and Tanzania.

‘Ricky Nathanson, a transgender activist from Zimbabwe, raised the issue that digital security and learning how to store documents safely was one of the major requirements of the activist community. She highlighted that police raids on LGBTIQ organizations resulted in the confiscation of computers and

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59 GALZ, Zimpride, undated, url
60 GALZ, Monthly Newsletter, March 2017, url
with them confidential information that could expose organizations, and those they work with to undue harm. She stated, “It is really critical that all activists learn how to safeguard themselves and ensure their computers are secure.”

6.2.4 Erasing 76 Crimes (a LGBT campaigning site) reported in March 2017 about people attending an open air auditorium:

‘They are Zimbabwe’s gay community, coming together for The Rainbow 263 Film Festival, a two-day event organised by local activists and attended by several international visitors. (Zimbabwe’s international calling code is 263.)

‘This two-day event is the culmination of a week-long program under the “Queer University” banner, where experts quietly flew in to teach film-making skills to select members of the gay community and to empower them financially to bring their own little projects to life.’

6.3 Treatment of civil society

6.3.1 The USSD report 2016 stated in regard to civil society generally, not specifically groups that support and advocate on behalf of LGBT people: ‘The government arrested, detained, prosecuted, and harassed members of civil society, including members of nongovernmental organizations (NGOs).’

6.3.2 On 15 July 2016, GALZ published a report on their website, ‘An assessment of the impact of state sanctioned and unsanctioned raids on GALZ premises and gatherings’. The executive summary noted:

‘GALZ has been attacked by different kinds of adversaries including but not limited to uniformed police officers, officers in plain clothes, state security agents, youth militia and unidentified groups. GALZ members have been subjected to verbal and physical assaults, confiscation of personal belongings, detentions and arrests. This has had negative ramifications on GALZ and its members and affected the fulfilment of organisational objectives. Fear has been instilled and inculcated amongst its members to the extent that even when they were entitled to receive legal protection, they have preferred to abstain from reporting abuse or injustices perpetrated against them.’

6.3.3 A report by the Open Society Foundations (OSF), ‘No Turning Back: Examining Sex Worker-Led Programs that Protect Health and Rights’, published 15 September 2016, looked at the Sexual Rights Centre (SRC) in Bulawayo, set up in 2008 by Sian Maseko:

‘The SRC was originally to have a broader sexual rights mandate, but ended up prioritizing work with groups who experience violations and oppression related to sexual rights, including women living with HIV and AIDS, women

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61 OutRight, African LGBTIQ Activists Trained on Safety and Security, 24 January 2017, url
63 USSD, USSD report 2016 (Executive Summary), 3 March 2017, url
64 GALZ, An assessment of the impact of state sanctioned and unsanctioned raids on GALZ premises and gatherings, executive summary, 15 July 2016, url
with disabilities, sex workers, and the lesbian, gay, bisexual, queer, transgender, and intersex (LGBQTI) community. Given the frequency and magnitude of the abuses these groups faced, Sian believed the organization could have a real impact…

‘The SRC has also organized creative stunts to get people talking about sexual rights. In 2011, it donated 20 pink trash bins to the city of Bulawayo, causing a public sensation. The mayor accepted the gift declaring, “Gays have the right to donate to [the city] council and we have the right to receive from them,” and vowing that anyone who vandalized the bins would be held accountable. While some citizens refused to use them, others expressed appreciation and said the donation was a noble gesture.’

7. Access to services

7.1 Education, employment and housing

7.1.1 In a VOA article, Court Rules in Favour of Dismissed Zimbabwe Worker Linked to Gay Party, published 27 October 2015

‘A Bulawayo man who had been fired from the civil service for allegedly engaging in homosexual activities has successfully appealed against his dismissal at the Labour Court.

‘Some human rights defenders are welcoming the ruling.

‘Labour Court president Justice Evangelista Kabasa on Monday ruled that Raymond Sibanda’s appeal against dismissal was valid as no one should be dismissed from work on the basis of their sexual orientation.

‘Justice Kabasa said the case against Sibanda had no merit as it involved a moral issue over which there is no absolute right or wrong.

‘Sibanda was employed as a youth officer by the Ministry of Youth and Economic Empowerment and was fired last year after a disciplinary hearing found him guilty of misconduct.

‘This emanated from Sibanda’s arrest and payment of an admission-of-guilt fine for a charge of allegedly performing an indecent act in a public place, following a police raid at a hotel in the outskirts of Bulawayo, where he was part of a crowd that attended a Christmas party hosted by the Gays and Lesbians Association of Zimbabwe, commonly known as GALZ, in 2013.

‘Sibanda was dismissed on the basis of misconduct in terms of civil service regulations for, among other things -quote- “putting the name of the ministry into disrespect and disrepute” on the grounds that he was engaging in gay practices….

‘Although they had argued in their heads of argument that Sibanda’s payment of guilt fine to conduct associated with public indecency and gay activities was enough for the government to sack him, state lawyers from the

65 OSF, No Turning Back: Examining Sex Worker-Led Programs That Protect Health and Rights, 15 September 2016, url
Attorney General’s civil division, agreed with the court that the dismissal was invalid.

‘The state lawyers said they agreed with the court that the case had no merit but had gone on to represent their client at the insistence of an unnamed departmental head who had wanted to have Sibanda fired as a way sending a message that -quote- “government does not support gay activities.”’

7.1.2 Amongst sources consulted (see Bibliography), CPIT was unable to find the publication of Justice Evangelista Kabasa’s ruling on the Sibanda case in the Labour Court or any surrounding caselaw.

7.1.3 GALZ director Chester Samba reported in a November 2016 Standard newspaper article that:

‘Numerous LGBTI individuals have reported having their employment discontinued after supervisors and colleagues discovered their sexual orientation. The LGBTI population in Zimbabwe has reported high rates of eviction and homelessness on account of landlords or families discovering their sexual orientation. LGBTI persons in Zimbabwe have reported expulsions due to their sexual orientation or gender identity at both secondary and tertiary education levels; even without expulsion, many LGBTI individuals withdraw from school at an early age due to the effects of discrimination.’

7.1.4 The USSD report 2017 stated ‘LGBTI persons often left school at an early age due to discrimination. Higher education institutions reportedly threatened to expel students based on their sexual orientation. Members of the LGBTI community also had higher rates of unemployment and homelessness.’

7.1.5 In an April 2016 document Outright recorded that ‘As a result of the harsh laws and public denunciation, particularly by President Robert Mugabe, members of the LGBT community are routinely stigmatized, discriminated against, denied access to services and benefits […] in practice, state services are often not made available to members of the LGBT community.’

7.1.6 The same source stated ‘With respect to housing, while there is no explicit legislation that directly promotes, or alternatively infringes upon, the rights of LGBT individuals when it comes to access to housing, it is likely that LGBT individuals open about their sexual orientation or gender identity would be at risk of being discriminated against due to the prevailing prejudices within Zimbabwean society.’

7.1.7 HRW in the World report 2019, covering events of 2018 noted: ‘…restrictive legislation contributes to stigma and discrimination against lesbian, gay, bisexual, and transgender (LGBT) people. In September, a teacher at a

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66 VOA, Court Rules in Favour…, 27 October 2015 [url]
67 The Standard, Zim govt’s same-sex marriages lie exposed, 27 November 2016, [url]
68 USSD, USSD Report 2017 (Section 6), 20 April 2018, [url]
Harare school who came out as gay resigned after he received death threats from members of the public over his sexual orientation. See State treatment and Societal attitudes and treatment.

7.2 General medical

7.2.1 The UN Human Rights Council gathered stakeholder submissions for the November 2016 Universal Periodic Review, which included: ‘Joint submission [JS] 5 [The Sexual Rights Centre, Ottawa, Canada, GALZ – An Association of LGBTI People in Zimbabwe, Harare, Zimbabwe, COC Nederland, Amsterdam, Netherlands which in a joint submission to The UN Human Rights Council for their forthcoming November 2016 Universal Periodic Review stated that: ‘Lesbian, gay, bisexual, transgender and intersex persons have reported being threatened, ridiculed, and driven out of health institutions upon disclosing that they have engaged in same-sex relations. This stigmatization prevented sex workers and lesbian, gay, bisexual, transgender and intersex persons from fully disclosing their specific health needs.’

7.2.2 In an April 2016 document Outright recorded that ‘…consistent with the general public’s perception of homosexuality and transgenderism, many healthcare providers in Zimbabwe are homophobic or transphobic and fail to understand sexual orientation and the needs and concerns of LGBT individuals.’

7.2.3 The USSD report 2017 stated ‘Many persons who identified themselves as LGBTI did not seek medical care for sexually transmitted diseases or other health problems due to fear that health-care providers would shun them or report them to authorities. Since the completion of a nation-wide sensitization program for health-care workers, however, the LGBTI community reported an improvement in health service delivery.

7.2.4 In March 2018 Erasing 76 Crimes reported that ‘Activists see Zimbabwe’s new Public Health Bill as progressive, though not as progressive as it should be. It explicitly mentions key populations (those most at risk of HIV infection) and calls for them to the involved in anti-AIDS planning. But Zimbabwe Lawyers for Human Rights notes that LGBT people are not explicitly included in the bill, unlike Ministry of Health documents about the anti-AIDS advisory board.’

7.2.5 A 2017 study by Hunt J, Bristowe K, Chidyamatare S, et al ‘They will be afraid to touch you’: LGBTI people and sex workers’ experiences of accessing healthcare in Zimbabwe, interviewed sixty individuals from key populations across Zimbabwe (key populations included sex workers and sexual and gender minorities (LGBTI individuals and MSM)).

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71 HRW, World report 2019 (section Women’s and girls’ rights), 17 January 2019, url
72 UNHRC, The UN Human Rights Council Stakeholder submissions for the forthcoming November 2016 Universal Periodic Review (para 72), 23 August 2016, url
74 USSD, USSD Report 2017 (Section 6), 20 April 2018, url
75 Erasing 76 Crimes, Zimbabwe progress toward LGBT role in HIV fight, 14 March 2018, url
Participants were sampled by age (aged at least 18 years), gender, sexual orientation, gender identity and sex worker status from four centres in Zimbabwe. The study found:

‘Three distinct main themes emerged from the data: (1) illnesses have been caused by ‘bad behaviour’ and deserve blame, discouraging key populations from seeking health support: key populations were perceived to have brought illnesses on themselves through sexual behaviour; (2) equal access to healthcare is conditional on conforming to sexual norms: to receive the same access to health and palliative care services as the general population, key populations believed they must pretend, deny or lie about their sexual identity/behaviour and (3) perceptions that healthcare workers were ill-informed about needs of key populations, and personal attitudes impacted on their care delivery: the lack of understanding of, and disrespect for, key populations by health workers resulted in experiences of poor support and provision of care during chronic illness, significantly increasing morbidity and mortality.’  

7.3 HIV/AIDS

7.3.1 The World Health Organisation (WHO) Consolidated Guidelines on HIV prevention, diagnosis, treatment and care for key populations. Updated version, July 2016, commenting on the situation of men who have sex with men generally, not specifically Zimbabwe noted:

‘Men who have sex with men (MSM) have a disproportionate burden of HIV in most countries in the world, even in many countries with generalized HIV epidemics. Worldwide, for MSM, the odds of being infected with HIV are 19.3 times higher than for men in the general population (Baral et al., 2007). Although there are a variety of existing efficacious HIV prevention interventions for MSM, they face political and structural barriers to accessing services in many settings due to their stigmatized and marginalized status. The disproportionate burden of HIV faced by MSM suggests that existing methods of HIV prevention are not sufficient and additional prevention modalities would be helpful.’

7.3.2 Avert stated the following in relation men who have sex with men (MSM) and HIV in Zimbabwe:

‘Criminalising men who have sex with men drives this vulnerable group away from HIV services. As a result, many do not know their HIV status, let alone access treatment.

‘However, Zimbabwean organisations that support the rights of men who have sex with men and their access to HIV services do exist, such as Gays and Lesbians Zimbabwe (GALZ). Many are routinely punished and shutdown or have their members arrested.'
'UNAIDS reported in 2016 that just one in seven men who have sex with men in Zimbabwe (14.1%) are aware of their status.

'International donors such as the Global Fund to Fight AIDS, Malaria and Tuberculosis and PEPFAR have attempted to ensure some of their funding is directed towards men who have sex with men. Government restrictions mean this has not materialised.'

7.3.3 Bridging the Gaps, in a 2016 report about its LGBT People Project Zimbabwe stated:

‘Zimbabwe’s HIV prevalence rate is estimated at 15.2% among the general population. HIV prevalence among men who have sex with men is high. The estimated HIV prevalence among MSM is 17%. Zimbabwe has developed a National HIV and AIDS Strategic Plan that recognises the need to prioritise the needs of key populations. However, the legal framework is not supportive for LGBT people which limits the access to HIV and SRHR (sexual and reproductive health rights) services.’

7.3.4 Bridging the Gaps went on to describe how their ‘project builds on the strong advocacy work of our partners GALZ and SRC to put LGBT people’s health issues on the political agenda and to provide rights-based health services.’ They listed their achievements:

- ‘3869 LGBT people are reached with good quality health services (2011-2015).
- 60 staff of health facilities in Harare and Bulawayo were trained to provide LGBT-friendly services (2011-2015)
- 11 community events were organized for LGBT people (2011-2015)
- 4 advocacy tools were developed, including shadow reports, fact sheets, statements (2011-2015)

7.3.5 On 30 April 2016, All Africa News noted that the ‘government tried to stop foreign gays and lesbians attending the International Conference on Aids and STI’s in Africa (ICASA) in Harare, from displaying their wares, after suspected state security agents pulled down their displays. They were however, allowed to proceed with their exhibition after massive lobbying from local and international human rights organisations.’

7.4 Trans persons

7.4.1 A joint submission by the Sexual Rights Centre, Ottawa, Canada, GALZ –, Zimbabwe and COC Nederland, Amsterdam, Netherlands to The UN Human Rights Council, for their forthcoming November 2016 Universal Periodic Review stated: ‘With regard to transgender individuals, there was a lack of

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78 Avert, HIV and AIDS in Zimbabwe, Last updated: 02 February 2018, [url](https://www.avert.org/zimbabwe)
79 Bridging the Gaps, LGBT People Project Zimbabwe, 2016, [url](http://www.bridgingthegaps-zimbabwe.org)
80 Bridging the Gaps, LGBT People Project Zimbabwe, 2016, [url](http://www.bridgingthegaps-zimbabwe.org)
access to gender affirming services including access to hormones, medical equipment such as binders, and to medical procedures such as surgery.’

7.4.2 The Southern Africa Litigation Centre noted in its report dated 27 September 2016 that ‘Transgender people who want to access hormonal treatment usually look to the black market or travel outside Zimbabwe – mainly to South Africa – to access this medication.’

8. Freedom of movement

8.1 Demography

8.1.1 The Central Intelligence Agency (CIA) in the World Factbook, updated 26 March 2018, estimated in July 2017 that Zimbabwe has a population of around 13.8 million.

8.1.2 About a third of the population is in urban areas primarily Harare (population circa 1.5 to 2 million) and Bulawayo (population circa 600,000).

8.1.3 Encyclopaedia Britannica, last updated 22 February 2018, noted that ‘Among urban blacks there is a disproportionately large number of males of working age, leaving an excess of older people, women, and children in rural areas.’

8.2 Legal rights

8.2.1 The USSD report 2017 stated ‘The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, but the government restricted these rights.’

8.3 In-country movement

8.3.1 The USSD report 2016 stated ‘Police made in-country movement difficult by regularly mounting checkpoints nationwide along most major routes. In urban areas a single road could have several roadblocks in the span of a few miles. Despite court injunctions against “on-the-spot” fines, police levied fines for minor offenses ranging from five to several hundred dollars and demanded immediate payment.’

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82 UNHRC, The UN Human Rights Council Stakeholder submissions for the forthcoming November 2016 Universal Periodic Review (para 72), 23 August 2016, url
84 CIA, The World Factbook, updated 26 March 2018, url
85 CIA, The World Factbook, updated 26 March 2018, url
87 Encyclopaedia Britannica, Zimbabwe, (Demographic trends), last updated 22 February 2018, url
88 USSD, USSD Report 2017 (Section 2d), 20 April 2018, url
89 USSD, USSD Report 2017 (Section 2d), 20 April 2018, url
8.3.2 The Freedom House ‘Freedom in the World 2018’ report covering events of 2017 stated ‘Police roadblocks within and between cities, at which police frequently stop motorists to demand bribes, have become a serious inconvenience. In December 2017, the government issued a directive to reduce police roadblocks and abolish spot fines.’

8.3.3 The DFAT report 2016 stated ‘Women’s rights organisations have told DFAT that women in Zimbabwe are generally less able to relocate internally than men. This is because they have less access to financial resources, which impacts their ability to find shelter and food. They are also bound by cultural expectations that they will look after their children.’

8.3.4 The same report noted in relation to LGBTI persons ‘DFAT assesses that there are no major restrictions on internal relocation for…LGBTI persons.’

8.4 Foreign travel

8.4.1 The USSD report 2017 stated ‘The constitution provides the right for citizens to enter and leave the country and the right to a passport or other travel documents. The Office of the Registrar General imposed administrative obstacles in the passport application process for citizens entitled to dual citizenship, particularly Malawian, Zambian, and Mozambican citizenship.’

8.4.2 The Freedom House report 2018 stated ‘Passport offices, which in the past were characterized by long queues and instances of bribery, have since become more efficient. However, in September 2017, the registrar’s office temporarily suspended applications for emergency passports, citing a backlog of over 2,000 applications.’

91 DFAT, DFAT report 2016 (paragraph 5.17), 11 April 2016, url.
92 DFAT, DFAT report 2016 (paragraph 5.18), 11 April 2016, url.
93 USSD, USSD report 2017 (section 2d), 3 March 2017, url.
Terms of Reference

A ‘Terms of Reference’ (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the country information section. The Home Office’s Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- **Legal context**
  - Constitution
  - Legislation
  - Legal rights

- **State attitudes and treatment**
  - Government attitudes
  - Arrests and detention
  - Prosecution of same-sex acts
  - Arrest / prosecution of LGBT persons for other offences
  - State violence and discrimination
  - Avenues of redress

- **Societal attitudes and treatment**
  - Political
  - General societal attitudes
  - Violence and discrimination
  - Religious attitudes
  - Media

- **Civic societies / NGOs**
  - LGBT NGOs
  - LGBT activities
  - State treatment of LGBT NGOs / events
  - Societal treatment of LGBT NGOs / events

- **Access to services**
  - Healthcare
  - Accommodation
  - Employment
  - Education
Sources cited


Erasing 76 Crimes,


Human Rights Watch (HRW),


OutRight,


Voice of America (VOA),


Sources consulted but not cited


Version control

Clearance

Below is information on when this note was cleared:

- version 4.0
- valid from 29 January 2019

Changes from last version of this note

Update of country information and corresponding review of assessment section after an Independent Advisory Group on Country Information (IAGCI) commissioned review in December 2018.
TAB

5
ZIMBABWE 2018 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Zimbabwe is constitutionally a republic. On July 30, the country elected Emmerson Mnangagwa president in general elections. Despite incremental improvements from past elections, domestic and international observers noted serious concerns and called for further reforms necessary to meet regional and international standards for democratic elections. While the pre-election period saw increased democratic space, numerous factors contributed to a flawed overall election process, including: the Zimbabwe Election Commission’s (ZEC) lack of independence; heavily biased state media favoring the ruling party; voter intimidation; unconstitutional influence of tribal leaders; disenfranchisement of alien and diaspora voters; failure to provide a preliminary voters roll in electronic format; politicization of food aid; security services’ excess use of force; and lack of precision and transparency around the release of election results. On August 26, the chief justice swore in Mnangagwa as president with the constitutional authority to complete a five-year term, scheduled to end in 2023. The election resulted in the formation of a ZANU-PF-led government with a supermajority in the National Assembly but not in the Senate.

Civilian authorities at times did not maintain effective control over the security forces.

Human rights issues included arbitrary killings, government-targeted abductions, and arbitrary arrests; torture; harsh prison conditions; criminal libel; censorship; restrictions on freedoms of assembly, association, and movement; government corruption; ineffective government response towards violence against women; and criminalization of lesbian, gay, bisexual, transgender, and intersex (LGBTI) status or conduct.

The government took limited steps toward potential consequences for security-sector officials and nongovernment actors who committed human rights violations, including appointing a Commission of Inquiry (COI) to investigate the post-election violence. In December the COI found the military and police culpable for the deaths of six protestors, but it did not identify individual perpetrators, units, or commanders. Impunity remained a problem.

Section 1. Respect for the Integrity of the Person, Including Freedom from:
The government did not overtly attempt to obstruct the ZHRC’s work or deliberately withhold resources based on the commission’s criticism of the government or security services’ actions.

The establishment of the constitutionally mandated National Peace and Reconciliation Commission (NPRC) remained ongoing. In January President Mnangagwa signed the National Peace and Reconciliation Commission Bill into law to operationalize the commission, whose commissioners were appointed in 2016. The commission consists of nine members who do not yet have staff or offices, although the government has purchased a building to house the commission that was scheduled to be ready for use by year’s end.

The NPRC conducted nationwide stakeholder engagements beginning in February to solicit input from the public and determine its first areas of focus. The NPRC finalized a national strategy document outlining its plans and publically released it in October in a ceremony featuring the vice president and various civil society stakeholders.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: While the law criminalizes sexual offenses, including rape and spousal rape, these crimes remained widespread problems. Almost a quarter of married women who had experienced domestic violence reported sexual violence, while 8 percent reported both physical and sexual violence.

Although conviction of sexual offenses is punishable by lengthy prison sentences, women’s organizations stated that sentences were inconsistent. Rape victims were not consistently afforded protection in court.

Social stigma and societal perceptions that rape was a “fact of life” continued to inhibit reporting of rape. In the case of spousal rape, reporting was even lower due to women’s fear of losing economic support or of reprisal, lack of awareness that spousal rape is a crime, police reluctance to be involved in domestic disputes, and bureaucratic hurdles. Most rural citizens were unfamiliar with laws against domestic violence and sexual offenses. A lack of adequate and widespread services for rape victims also discouraged reporting.
According to a credible NGO, there were reports of rape being used as a political weapon during the year. In Buhera an MDC polling agent claimed a group of men came to her house in the middle of the night and assaulted and raped her for refusing to sign the vote tabulation form she claimed contained irregularities. In Mutoko a woman claimed three men came to her home demanding to know the candidate she voted for during the July 30 elections. She claimed the men assaulted and raped her when she gave an unfavorable answer. Police arrested one of the men responsible and the court case was pending at year’s end.

Female political leaders were targeted physically or through threats and intimidation. MDC Alliance youth members attacked MDC-T vice president Thokozani Khupe with stones and attempted to burn a hut she entered while in a village outside Buhera for the funeral of MDC-T leader Morgan Tsvangirai on February 20. ZEC Chairwoman Priscilla Chigumba faced frequent harassment on social media during the July electoral period. On September 12, MDC Alliance members of parliament verbally heckled Chigumba for allegedly enabling President Mnangagwa’s election victory, prompting security personnel to escort her from the parliament building for her safety.

Children born from rape suffered stigmatization and marginalization. The mothers of children resulting from rape sometimes were reluctant to register the births, and, therefore, such children did not have access to social services.

The adult rape clinics in public hospitals in Harare and Mutare were run as NGOs and did not receive a significant amount of financial support from the Ministry of Health and Child Care. The clinics received referrals from police and NGOs. They administered HIV tests, provided medication for HIV and other sexually transmitted diseases, and provided medical services for pregnancy. Although police referred for prosecution the majority of reported rapes of women and men who received services from the rape centers, very few individuals were prosecuted.

Despite the enactment of the Domestic Violence Act in 2006, domestic violence remained a serious problem, especially intimate partner violence perpetrated by men against women. Although conviction of domestic violence is punishable by a fine and a maximum sentence of 10 years’ imprisonment, authorities generally considered it a private matter, and prosecution was rare.

The joint government-NGO Anti-Domestic Violence Council as a whole was ineffective due to lack of funding and the unavailability of information on prevailing trends of domestic violence, although its members were active in raising
domestic violence awareness. NGOs reported the council was not involved in much of their programmatic work.

The government continued a public awareness campaign against domestic violence. Several women’s rights groups worked with law enforcement agencies and provided training and literature on domestic violence as well as shelters and counseling for women. According to NGOs, most urban police stations had trained officers to deal with victims of domestic violence, but stations had a limited ability to respond on evenings and weekends. The law requires victims of any form of violence to produce a police report to receive treatment without cost at government health facilities. This requirement prevented many rape victims from receiving necessary medical treatment, including post-exposure prophylaxis to prevent victims from contracting HIV.

Other Harmful Traditional Practices: Virginity testing, although reportedly decreasing, continued to occur in some regions during the year.

Sexual Harassment: No specific law criminalizes sexual harassment, but labor law prohibits the practice in the workplace. Media reported that sexual harassment was prevalent in universities, workplaces, and parliament. The Ministry of Women Affairs, Gender, and Community Development acknowledged that lack of sexual harassment policies at higher education institutions was a major cause for concern. This occurred after a student advocacy group, the Female Students Network, revealed incidents of gender-based violence and sexual harassment against students in a 2015 survey. Female college students reported they routinely encountered unwanted physical contact from male students, lecturers, and nonacademic staff, ranging from touching and inappropriate remarks to rape. Of the 3,425 students interviewed, 94 percent indicated they had experienced sexual harassment, while 16 percent reported having been forced into unprotected sex with lecturers or other staff.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: The constitution provides for the same legal status and rights for women as for men. The constitution’s bill of rights, in the section on the rights of women, states that all “laws, customs, traditions, and practices that infringe the rights of women conferred by this constitution are void to the extent of the infringement.” There is also an institutional framework to address women’s rights and gender equality through the Ministry of Women Affairs, Gender, and
Community Development and the Gender Commission--one of the independent commissions established under the constitution. Despite the appointment of commissioners in 2015, the commission received only minimal funding from the government and lacked sufficient independence from the ministry. The commission conducted an observation mission during the July elections and produced a gender analysis of the election process. It found men occupied most decision-making positions within the election management system while women occupied mostly administrative and support functions.

In 2017, the Ministry of Women Affairs, Gender, and Community, with support from the UN Development Program and UN Women, unveiled a revised National Gender Policy calling for greater gender equality and demanding an end to gender discrimination. Despite laws aimed at enhancing women’s rights and countering certain discriminatory traditional practices, women remained disadvantaged in society.

The law recognizes a woman’s right to own property, but very few women owned property due to the customary practice of patriarchal inheritance. Less than 20 percent of female farmers were official landowners or named on government lease agreements. Divorce and maintenance laws were equitable, but many women lacked awareness of their rights, and in traditional practice property reverts to the man in case of divorce or to his family in case of his death.

Women have the right to register their children’s births, although either the father or another male relative must be present. If the father or other male relative refuses to register the child, the child may be deprived of a birth certificate, which limits the child’s ability to acquire identity documents, enroll in school, and access social services.

Women and children were adversely affected by the government’s forced evictions, demolition of homes and businesses, and takeover of commercial farms. Widows, when forced to relocate to rural areas, were sometimes “inherited” into marriages with an in-law after the deaths of their spouses.

The government gave qualified women access to training in the armed forces and national service, where they occupied primarily administrative positions. In the Zimbabwe Defense Forces, there were two women brigadier generals appointed in 2013 and 2016 respectively, and one female air commodore appointed in 2016. Women comprised 35 percent of personnel deployed to peacekeeping missions. The Minister of Defense and War Veterans, Oppah Minchiguri, is a woman.
Children

Birth Registration: Citizenship is derived from birth in the country and from either parent, and all births are to be registered with the Births and Deaths Registry. The 2012 population census data show that just one in three children younger than age five possessed a birth certificate. Of urban children younger than age five, 55 percent possessed a birth certificate, compared with 25 percent of rural children. Approximately 39 percent of school age children did not have birth certificates. Lack of birth certificates impeded access to public services, such as education and health care, resulting in many children being unable to attend school and increasing their vulnerability to exploitation. For additional information, see Appendix C.

Education: Primary education is not compulsory, free, or universal. The constitution states that every citizen and permanent resident of the country has a right to a basic state-funded education but adds a caveat that the state “must take reasonable legislative and other measures, within the limits of the resources available to it.” According to the 2012 population census, 87 percent of all children attended primary school. School attendance was only slightly higher in urban than in rural areas, and enrollment for children older than 14 was in decline. Urban and rural equity in primary school attendance rates disappeared at the secondary school level. Rural secondary education attendance (44 percent) trailed behind urban attendance (72 percent) by a wide margin.

Child Abuse: Child abuse, including incest, infanticide, child abandonment, and rape, continued to be serious problems. In 2017 the NGO Childline received more than 14,500 reports of child abuse via its national helpline. Childline managed more than 5,500 in-person cases at its drop-in facilities across the country and counseled more than 4,000 children. Just less than half of all reported cases of abuse concerned a child who had been sexually, physically, or emotionally abused, neglected, or forced into marriage. Approximately twice as many girls reported abuse as boys.

It is legal for parents and schools to inflict corporal punishment on boys but not on girls. The constitution provides that “no person may be subjected to cruel, inhuman, or degrading treatment or punishment,” but the courts had not interpreted the clause nor determined whether it applied to corporal punishment. In addition the Constitutional Court deferred ruling on the constitutionality of caning juvenile offenders as judicial punishment. While the issue remained pending, magistrates
could impose corporal punishment on juvenile offenders but normally imposed strict conditions on its application.

Government efforts to combat child abuse continued to be inadequate and underfunded. The government continued to implement a case management protocol developed in 2013 to guide the provision of child welfare services. In addition there were facilities that served underage victims of sexual assault and abuse.

**Early and Forced Marriage:** The constitution declares anyone younger than age 18 a child. In 2016 the Constitutional Court ruled no individual younger than age 18 may enter into marriage, including customary law unions. The court also struck down a provision of the Marriage Act that allowed girls but not boys to marry at age 16.

Despite legal prohibitions, mostly rural families continued to force girls to marry. According to the 2012 population census, almost one in four teenage girls were married. Child welfare NGOs reported evidence of underage marriages, particularly in isolated religious communities or among HIV/AIDS orphans who had no relatives willing or able to take care of them. High rates of unemployment, the dropout of girls from school, and the inability of families to earn a stable income were major causes of child marriage.

Families gave girls or young women to other families in marriage to avenge spirits, as compensatory payment in interfamily disputes, or to provide economic protection for the family. Some families sold their daughters as brides in exchange for food, and younger daughters at times married their deceased older sister’s husband as a “replacement” bride. An NGO study published in 2014 found that because of the cultural emphasis placed on virginity, any loss of virginity--real or perceived, consensual or forced--could result in marriage, including early or forced marriage. In some instances family members forced a girl to marry a man based on the mere suspicion that the two had had sexual intercourse. This cultural practice even applied in cases of rape, and the study found numerous instances in which families concealed rape by facilitating the marriage between rapist and victim.

For additional information, see Appendix C.

**Sexual Exploitation of Children:** Conviction of statutory rape, legally defined as sexual intercourse with a child younger than age 12, carries a fine of $2,000, up to
10 years’ imprisonment, or both. A person in possession of child pornography may be charged with public indecency and if convicted faces a fine of $600, imprisonment up to six months, or both. A person convicted of procuring a child younger than age 16 for purposes of engaging in unlawful sexual conduct is liable to a fine up to $5,000, up to 10 years’ imprisonment, or both. Persons charged with facilitating the prostitution of a child often were also charged with statutory rape. A parent or guardian convicted of allowing a child younger than age 18 to associate with or become a prostitute may face up to 10 years’ imprisonment. Girls from towns bordering South Africa, Zambia, and Mozambique were subjected to prostitution in brothels that catered to long-distance truck drivers. Increasing economic hardships coupled with the effects of drought also led more girls to turn to prostitution.

**Displaced Children:** Approximately 10,000 children were displaced from the Tokwe-Mukosi dam area in Masvingo Province (see section 2.d.). The disruption of their parents’ livelihoods negatively affected the children’s access to health care and schooling.

A 2016 UNICEF report estimated 18 percent of children had lost one or both parents to HIV or other causes. The proportion of orphans in the country remained very high. Many orphans were cared for by their extended family or lived in households headed by children.

Orphaned children were more likely to be abused, not enrolled in school, suffer discrimination and social stigma, and be vulnerable to food insecurity, malnutrition, and HIV/AIDS. Some children were forced to turn to prostitution for income. Orphaned children often were unable to obtain birth certificates because they could not provide enough information regarding their parents or afford to travel to offices that issued birth certificates. Orphans were often homeless.


**Anti-Semitism**

The Jewish community numbered approximately 150 persons. There were no reports of anti-Semitic acts.
Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

Persons with Disabilities

The constitution and law prohibit discrimination against persons with disabilities in employment, access to public places, and the provision of services, including education and health care. The constitution and law do not specifically address air travel or other transportation. They do not specify physical, sensory, mental, or intellectual disabilities. NGOs continued to lobby to broaden the legal definition of “disabled” to include persons with albinism, epilepsy, and other conditions. NGOs also petitioned the government to align the Disabled Persons Act with the constitution. Government institutions often were uninformed and did not implement the law. The law stipulates that government buildings be accessible to persons with disabilities, but its implementation was slow.

NASCOH reported that access to justice in courts was compromised for persons with hearing disabilities due to a lack of sign language interpreters. Persons with disabilities living in rural settings faced even greater challenges.

Although two senators were elected to represent persons with disabilities, parliament rarely addressed problems especially affecting persons with disabilities. Parliament does not provide specific line items for persons with disabilities in the various social service ministry budgets.

Most persons holding traditional beliefs viewed persons with disabilities as bewitched, and in extreme cases families hid children with disabilities from visitors. According to NASCOH, the public considered persons with disabilities to be objects of pity rather than persons with rights. NASCOH reported that 75 percent of children with disabilities had no access to education.

There were very few government-sponsored education facilities dedicated to persons with disabilities. Educational institutions discriminated against children with disabilities. Essential services, including sign language interpreters, Braille materials, and ramps, were not available and prevented children with disabilities from attending school. Many schools refused to accept children with certain disabilities. Schools that accepted students with disabilities offered very little in
the way of nonacademic facilities for those accepted as compared with their counterparts without disabilities. Many urban children with disabilities obtained informal education through private institutions, but these options were generally unavailable for persons with disabilities in rural areas. Government programs, such as the basic education assistance module intended to benefit children with disabilities, failed to address adequately the root causes of their systematic exclusion.

Women with disabilities faced compounded discrimination, resulting in limited access to services, reduced opportunities for civic and economic participation, and increased vulnerability to violence.

Persons with mental disabilities also experienced inadequate medical care and a lack of health services. There were eight centralized mental health institutions in the country with a total capacity of more than 1,300 residents, in addition to the three special institutions run by the ZPCS for long-term residents and those considered dangerous to society. Residents in the eight centralized institutions received cursory screening, and most waited for at least one year for a full medical review.

A shortage of drugs and adequately trained mental health professionals resulted in persons with mental disabilities not being properly diagnosed and not receiving adequate therapy. There were few certified psychiatrists working in public and private clinics and teaching in the country. NGOs reported that getting access to mental health services was slow and frustrating. They reported persons with mental disabilities suffered from extremely poor living conditions, due in part to shortages of food, water, clothing, and sanitation.

Prison inmates in facilities run by the ZPCS were not necessarily convicted prisoners. Two doctors examined inmates with psychiatric conditions. The doctors were required to confirm a mental disability and recommend an individual for release or return to a mental institution. Inmates with mental disabilities routinely waited as long as three years for evaluation.

There were minimal legal or administrative safeguards to allow participation in the electoral processes by persons with disabilities. Administrative arrangements for voter registration at relevant government offices were burdensome, involving long queues, several hours or days of waiting, and necessary return visits that effectively served to disenfranchise some persons with disabilities.
National/Racial/Ethnic Minorities

According to government statistics, the Shona ethnic group made up 82 percent of the population, Ndebele 14 percent, whites and Asians less than 1 percent, and other ethnic and racial groups 3 percent. In a shift from past speeches and broadcasts, government leaders discouraged hatred of whites, proclaimed an end to former president Mugabe’s “era of land seizures,” and vowed to compensate white farmers who lost land under the program. In the lead-up to July 30 elections, neither the ruling nor opposition parties publically disparaged any race.

Historical tension between the Shona majority and the Ndebele minority resulted in marginalization of the Ndebele by the Shona-dominated government. During the year senior political leaders refrained from attacking each other along ethnic lines to consolidate support ahead of the July 30 elections. Within the Shona majority, the Zezuru, who dominated the government under Mugabe, reportedly harbored resentment toward the Karanga after Mnangagwa, an ethnic Karanga, became president.

Some government officials continued to blame the country’s economic and political problems on the white minority and western countries. Police seldom arrested government officials or charged them with infringing upon minority rights, particularly the property rights of the minority white commercial farmers or wildlife conservancy owners targeted in the land redistribution program.

In March the government changed its policy regarding its enforcement of the 2007 indigenization law requiring 51 percent indigenous ownership of companies, and in some cases no longer required all businesses to comply with the 51-49 percent rule. The law defines an indigenous Zimbabwean as any person, or the descendant of such person, who before the date of the country’s independence in 1980 was disadvantaged. Legal experts criticized the law as unfairly discriminatory and a violation of the constitution.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The constitution does not prohibit discrimination based on sexual orientation and gender identity. According to the criminal code, “any act involving physical contact between men that would be regarded by a reasonable person to be an indecent act” carries a penalty if convicted of up to one year in prison or a fine up to $5,000. Despite that, there were no known cases of prosecutions of consensual
same-sex sexual activity. Common law prevents gay men and, to a lesser extent, lesbians from fully expressing their sexual orientation. Members of Gays and Lesbians of Zimbabwe (GALZ), the primary organization dedicated to advancing the rights of lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons, experienced harassment and discrimination.

LGBTI persons were vulnerable to blackmail because of the criminality and stigma of same-sex activity. LGBTI advocacy organizations reported blackmail and being “outed” as two of the most common forms of repression of LGBTI persons. It was common for blackmailers to threaten to reveal one’s sexual identity to police, the church, or family if the victim refuses to render payment.

According to GALZ, LGBTI persons often left school at an early age due to discrimination. Higher education institutions reportedly threatened to expel students based on their sexual orientation. Members of the LGBTI community also had higher rates of unemployment and homelessness. On September 21, a deputy headmaster at an elite private primary and secondary school publicly declared his sexual orientation. Parents protested the proclamation and hired attorneys to file suit, demanding the educator’s resignation. He tendered his resignation September 28 after receiving death threats and threats of physical harm to his person and his pets.

GALZ reports that many persons who identified themselves as LGBTI did not seek medical care for sexually transmitted diseases or other health problems due to fear that health-care providers would shun them or report them to authorities.

**HIV and AIDS Social Stigma**

The government has a national HIV/AIDS policy that prohibits discrimination against persons with HIV/AIDS, and the law prohibits discrimination against workers with HIV/AIDS in the private sector and parastatals. Despite these provisions, societal discrimination against persons living with HIV/AIDS remained a problem. Local NGOs reported persons affected by HIV/AIDS faced discrimination in health services, education, and employment. Although there was an active information campaign to destigmatize HIV/AIDS by international and local NGOs, the Ministry of Health and Child Welfare, and the National AIDS Council, such ostracism and criticism continued.
In the 2015 Demographic Health Survey, 22 percent of women and 20 percent of men reported they held discriminatory attitudes towards those living with HIV/AIDS.

Other Societal Violence or Discrimination

Inexplicable disappearances and killings, sometimes involving mutilation of the victim, often were attributed to customary or traditional rituals, in some cases involving a healer who requested a human body part to complete a required task. Police generally rejected the “ritual killing” explanation, despite its being commonly used in society and the press.

Promotion of Acts of Discrimination

Throughout the year government-controlled media no longer continued to vilify white citizens and blame them for the country’s problems, as was common practice under former president Mugabe.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

While the law provides for the right of private-sector workers to form and join unions, conduct legal strikes, and bargain collectively, other provisions of law and economic realities (i.e., lack of ability to pay dues) abrogated these rights. Public-sector workers may not form or join trade unions but may form associations that bargain collectively and strike. The law prohibits antiunion discrimination, provides that the labor court handle complaints of such discrimination, and may direct reinstatement of workers fired due to such discrimination.

The law provides for the registrar of the Ministry of Public Service, Labor, and Social Welfare to supervise the election of officers of workers’ and employers’ organizations, to cancel or postpone elections, and to change the venue of an election. The law also grants the minister extensive powers to regulate union activities such as collecting dues and paying staff salaries, and making decisions concerning the equipment and property that may be purchased by trade unions. The minister has the authority to veto collective bargaining agreements perceived to be harmful to the economy as well as to appoint an investigator who may, without prior notice, enter trade union premises, question any employee, and inspect and copy any books, records, or other documents. The Labor Amendment
TAB
6
ZIMBABWE 2017 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Zimbabwe is constitutionally a republic. In November a military intervention, public demonstrations calling for President Robert Mugabe’s removal, the ruling party’s vote of no confidence, and impeachment proceedings led to Mugabe’s resignation after ruling the country since independence in 1980. The ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF) nominated former vice president Emmerson Mnangagwa to replace Mugabe as both president of ZANU-PF and the government. On November 24, Mnangagwa was sworn in as president with the constitutional authority to complete the remainder of former president Mugabe’s five-year term, scheduled to end in 2018. Presidential and parliamentary elections held in 2013 were free of the widespread violence of the 2008 elections, but the process was neither fair nor credible. Numerous factors contributed to a deeply flawed election process: a hastily convened and politically compromised Constitutional Court that unilaterally declared the election date before key electoral reforms were in place; heavily biased state media; a voter registration process that did not comply with the law and that skewed registration towards supporters of the ruling party; partisan statements and actions by security forces, including active-duty personnel running for office in contravention of the law; limitations on international observers; failure to provide a publicly useful voters register; and a chaotic, separate voting process for the security sector. The elections resulted in the formation of a unitary ZANU-PF government led by President Mugabe and ZANU-PF supermajorities in both houses of parliament. ZANU-PF again used intimidation and targeted violence to retain some parliamentary seats during by-elections.

Civilian authorities at times did not maintain effective control over the security forces.

The most significant human rights issues included government-targeted abductions, arrests, torture, abuse, and harassment, including of members of civil society and political opponents; harsh prison conditions; executive political influence on and interference in the judiciary; government-sponsored evictions of farms, private businesses, and property; invasions and demolition of informal marketplaces and settlements; restrictions on freedoms of expression, press, assembly, association, and movement; government corruption, including at the local level; trafficking of men, women, and children; and criminalization of LGBTI status or conduct, including arrests.
postconflict justice, healing, and reconciliation. In 2016 President Mugabe swore
in members of the commission.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: While the law criminalizes sexual offenses,
including rape and spousal rape, these crimes remained widespread problems.
Spousal rape received less attention than physical violence against women.
Almost a quarter of married women who had experienced domestic violence
reported sexual violence, while 8 percent reported both physical and sexual
violence.

Although conviction of sexual offenses is punishable by lengthy prison sentences,
women’s organizations stated that sentences were inconsistent. Rape victims were
not consistently afforded protection in court.

Social stigma and societal perceptions that rape was a “fact of life” continued to
inhibit reporting of rape. In the case of spousal rape, reporting was even lower due
to women’s fear of losing economic support or of reprisal, lack of awareness that
spousal rape is a crime, police reluctance to be involved in domestic disputes, and
bureaucratic hurdles. Most rural citizens were unfamiliar with laws against
domestic violence and sexual offenses. A lack of adequate and widespread
services for rape victims also discouraged reporting.

Government officials sometimes acted on reported rape cases if the perpetrators
were security force members or aligned with ZANU-PF. For example, in August
police arrested police deputy commissioner Cosmas Mushore and Zimbabwe
National Army lieutenant-colonel Rangarirai Kembo on charges of rape in two
separate incidents.

According to a credible NGO, there were no official reports of rape being used as a
political weapon during the year, but female political leaders were targeted
physically or through threats and intimidation. On August 6, MDC-T supporters
reportedly attacked MDC-T vice president Thokozani Khupe at MDC-T’s
Bulawayo provincial headquarters, accusing her of convening an unsanctioned
meeting. In September MDC member of parliament Priscilla Misihairabwi-
Mushongwa received death threats following a radio interview in which she
appeared to attack MDC-T leader Morgan Tsvangirai.
Children born from rape suffered stigmatization and marginalization. The mothers of children resulting from rape sometimes were reluctant to register the births, and such children did not have access to social services.

The adult rape clinics in public hospitals in Harare and Mutare were run as NGOs and did not receive a substantial amount of financial support from the Ministry of Health. The clinics received referrals from police and NGOs. They administered HIV tests, provided medication for HIV and other sexually transmitted diseases, and provided medical services for pregnancy. Although police referred for prosecution the majority of reported rapes of women and men who received services from the rape centers, very few individuals were prosecuted.

Despite the enactment of the Domestic Violence Act in 2006 that criminalized acts of domestic violence, domestic violence remained a serious problem, especially intimate partner violence perpetrated by men against women. Although conviction of domestic violence is punishable by a fine and a maximum sentence of 10 years’ imprisonment, authorities generally considered it a private matter, and prosecution was rare.

The joint government-NGO Anti-Domestic Violence Council as a whole was ineffective due to lack of funding and the unavailability of information on prevailing trends of domestic violence, although its members were active in raising domestic violence awareness.

The government continued a public awareness campaign against domestic violence. Several women’s rights groups worked with law enforcement agencies and provided training and literature on domestic violence as well as shelters and counseling for women. The law requires victims of any form of violence to produce a police report to receive treatment without cost at government health facilities. This requirement prevented many rape victims from receiving necessary medical treatment, including post-exposure prophylaxis to prevent victims from contracting HIV.

Other Harmful Traditional Practices: Virginity testing, although reportedly decreasing, continued to occur in some parts the country during the year.

Sexual Harassment: No specific law criminalizes sexual harassment, but labor law prohibits the practice in the workplace. Media reported that sexual harassment was prevalent in universities, workplaces, and parliament. The Ministry of Women
Affairs, Gender, and Community Development acknowledged that lack of sexual harassment policies at higher education institutions was a major cause for concern. This occurred after a student advocacy group, the Female Students Network, revealed incidents of gender-based violence and sexual harassment against students. Female college students reported they routinely encountered unwanted physical contact from male students, lecturers, and nonacademic staff, ranging from touching and inappropriate remarks to rape. Of the 3,425 students interviewed, 94 percent indicated they had experienced sexual harassment, while 16 percent reported having been forced into unprotected sex with lecturers or other staff.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: The constitution provides for the same legal status and rights for women as for men. The constitution’s bill of rights, in the section on the rights of women, states that all “laws, customs, traditions, and practices that infringe the rights of women conferred by this constitution are void to the extent of the infringement.” There is also an institutional framework to address women’s rights and gender equality through the Ministry of Women Affairs, Gender, and Community Development and the Gender Commission— one of the independent commissions established under the constitution. Despite the appointment of commissioners in 2015, the commission received only minimal funding from the government and lacked sufficient independence from the ministry.

In July the Ministry of Women Affairs, Gender, and Community, with support from the UN Development Program and UN Women, unveiled a revised National Gender Policy calling for greater gender equality and demanding an end to gender discrimination. Despite laws aimed at enhancing women’s rights and countering certain discriminatory traditional practices, women remained disadvantaged in society.

The law recognizes a woman’s right to own property, but very few women owned property due to the customary practice of patriarchal inheritance. Less than 20 percent of female farmers were official landowners or named on government lease agreements. Divorce and maintenance laws were equitable, but many women lacked awareness of their rights.
Women have the right to register their children’s births, although either the father or another male relative must be present. If the father or other male relative refuses to register the child, the child may be deprived of a birth certificate, which limits the child’s ability to acquire identity documents and enroll in school. Discrimination with respect to women’s employment also occurred.

Women and children were adversely affected by the government’s forced evictions, demolition of homes and businesses, and takeover of commercial farms. Widows, when forced to relocate to rural areas, were sometimes “inherited” into marriages with an in-law after the deaths of their spouses.

The government gave qualified women access to training in the armed forces and national service, where they occupied primarily administrative positions. Women comprised 35 percent of deployed personnel to peacekeeping missions.

The United Kingdom Department for International Development’s 2011 Gender and Social Exclusion Analysis Report indicated women experienced extensive economic discrimination, including in access to employment, credit, pay, and owning or managing businesses.

Children

Birth Registration: Citizenship is derived from birth in the country and from either parent, and all births are to be registered with the Births and Deaths Registry. The 2012 population census data showed that just one in three children under age five possessed a birth certificate. Of urban children under age five, 55 percent possessed a birth certificate, compared with 25 percent of rural children. Lack of birth certificates impeded access to public services, such as education and health care, resulting in many children being unable to attend school and increasing their vulnerability to exploitation. For additional information, see Appendix C.

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secondary school level. Rural secondary education attendance (44 percent) trailed behind urban attendance (72 percent) by a wide margin.

**Child Abuse:** Child abuse, including incest, infanticide, child abandonment, and rape, continued to be serious problems. In 2016 the NGO Childline received more than 11,300 reports of child abuse via its national helpline. Childline managed nearly 7,000 in-person cases at its drop-in facilities across the country and counseled more than 4,500 children. More than half of all reported cases of abuse concerned a child who had been sexually, physically, or emotionally abused, neglected, or forced into marriage. Approximately twice as many girls reported abuse as boys.

It is legal for parents and schools to inflict corporal punishment on boys but not on girls. The constitution provides that “no person may be subjected to cruel, inhuman, or degrading treatment or punishment,” but the courts had not interpreted the clause nor determined whether it applied to corporal punishment. In addition, the Constitutional Court deferred ruling on the constitutionality of caning juvenile offenders as judicial punishment. While the issue remained pending, magistrates may impose corporal punishment on juvenile offenders.

Government efforts to combat child abuse continued to be inadequate and underfunded. The government continued to implement a case management protocol developed in 2013 to guide the provision of child welfare services. In addition, there were facilities that served underage victims of sexual assault and abuse.

**Early and Forced Marriage:** The constitution declares anyone under age 18 a child. In 2016 the Constitutional Court ruled no individual under age 18 may enter into marriage, including customary law unions. The court also struck down a provision of the Marriage Act that allowed girls but not boys to marry at age 16.

Despite legal prohibitions, mostly rural families continued to force girls to marry. According to the 2012 population census, almost one in four teenage girls were married. Child welfare NGOs reported evidence of underage marriages, particularly in isolated religious communities or among HIV/AIDS orphans who had no relatives willing or able to take care of them. High rates of unemployment, the dropout of girls from school, and the inability of families to earn a stable income were major causes of child marriage.
Families gave girls or young women to other families in marriage to avenge spirits, as compensatory payment in interfamily disputes, or when promised to others--to provide economic protection for the family. Some families sold their daughters as brides in exchange for food, and younger daughters at times married their deceased older sister’s husband as a “replacement” bride. An NGO study published in 2014 found that because of the cultural emphasis placed on virginity, any loss of virginity--real or perceived, consensual or forced--could result in marriage, including early or forced marriage. In some instances family members forced a girl to marry a man based on the mere suspicion that the two had had sexual intercourse. This cultural practice even applied in cases of rape, and the study found numerous instances in which families concealed rape by facilitating the marriage between rapist and victim.

For additional information, see Appendix C.

**Sexual Exploitation of Children:** Conviction of statutory rape, legally defined as sexual intercourse with a child under age 12, carries a fine of $2,000, up to 10 years’ imprisonment, or both. A person in possession of child pornography may be charged with public indecency and if convicted faces a fine of $600, imprisonment up to six months, or both. A person convicted of procuring a child under age 16 for purposes of engaging in unlawful sexual conduct is liable to a fine up to $5,000, up to 10 years’ imprisonment, or both. Persons charged with facilitating the prostitution of a child often were also charged with statutory rape. A parent or guardian convicted of allowing a child under age 18 to associate with or become a prostitute may face up to 10 years’ imprisonment. Girls from towns bordering South Africa, Zambia, and Mozambique were subjected to prostitution in brothels that catered to long-distance truck drivers. Increasing economic hardships coupled with the effects of drought also led more girls to turn to prostitution.

**Displaced Children:** Approximately 10,000 children were displaced from the Tokwe-Mukosi dam area in Masvingo Province (see section 2.d.). The disruption of their parents’ livelihoods negatively affected the children’s access to health care and schooling.

The UNICEF 2005-10 report estimated 25 percent of children had lost one or both parents to HIV or other causes. The proportion of orphans in the country remained very high. Many orphans were cared for by their extended family or lived in households headed by children.
Orphaned children were more likely to be abused, not enrolled in school, suffer discrimination and social stigma, and be vulnerable to food insecurity, malnutrition, and HIV/AIDS. Some children were forced to turn to prostitution for income. Orphaned children often were unable to obtain birth certificates because they could not provide enough information regarding their parents or afford to travel to offices that issued birth certificates. Orphans were often homeless.


Anti-Semitism

The Jewish community numbered approximately 150 persons. There were no reports of anti-Semitic acts.

 Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The constitution and law prohibit discrimination against persons with disabilities in employment, access to public places, and the provision of services, including education and health care. The constitution and law do not specifically address air travel or other transportation. They do not specify physical, sensory, mental, or intellectual disabilities. NGOs continued to lobby to broaden the legal definition of “disabled” to include persons with albinism, epilepsy, and other conditions. NGOs also petitioned the government to align the Disabled Persons Act with the constitution. Government institutions often were uninformed and did not implement the law. The law stipulates that government buildings be accessible to persons with disabilities, but implementation was slow.

The National Association of Societies for the Care of the Handicapped (NASCOH) reported that access to justice in courts was compromised for persons with hearing disabilities due to a lack of sign language interpreters. Persons with disabilities living in rural settings faced even greater challenges.
Although two senators were elected to represent persons with disabilities, parliament rarely addressed problems especially affecting persons with disabilities. Parliament does not provide specific line items for persons with disabilities in the various social service ministry budgets.

Most persons holding traditional beliefs viewed persons with disabilities as bewitched, and in extreme cases families hid children with disabilities from visitors. According to NASCOH, the public considered persons with disabilities to be objects of pity rather than persons with rights. NASCOH reported that 75 percent of children with disabilities had no access to education.

There were very few government-sponsored education facilities dedicated to persons with disabilities. Educational institutions discriminated against children with disabilities. Essential services, including sign language interpreters, Braille materials, and ramps, were not available and prevented children with disabilities from attending school. Many schools refused to accept children with certain disabilities. Schools that accepted students with disabilities offered very little in the way of nonacademic facilities for those accepted as compared with their counterparts without disabilities. Many urban children with disabilities obtained informal education through private institutions, but these options were generally unavailable for persons with disabilities in rural areas. Government programs, such as the basic education assistance module intended to benefit children with disabilities, failed to address adequately the root causes of their systematic exclusion.

Women with disabilities faced compounded discrimination, resulting in limited access to services, reduced opportunities for civic and economic participation, and increased vulnerability to violence.

Persons with mental disabilities also suffered from inadequate medical care and a lack of health services. There were eight centralized mental health institutions in the country with a total capacity of more than 1,300 residents, in addition to the three special institutions run by the ZPCS for long-term residents and those considered dangerous to society. Residents in the eight centralized institutions received cursory screening, and most waited for at least one year for a full medical review.

A shortage of drugs and adequately trained mental health professionals resulted in persons with mental disabilities not being properly diagnosed and not receiving adequate therapy. There were few certified psychiatrists working in public and
private clinics and teaching in the country. NGOs reported that getting access to mental health services was slow and frustrating. They reported persons with mental disabilities suffered from extremely poor living conditions, due in part to shortages of food, water, clothing, and sanitation.

Prison inmates in facilities run by the ZPCS were not necessarily convicted prisoners. Two doctors examined inmates with psychiatric conditions. The doctors were required to confirm a mental disability and recommend an individual for release or return to a mental institution. Inmates with mental disabilities routinely waited as long as three years for evaluation.

There were minimal legal or administrative safeguards to allow participation in the electoral processes by persons with disabilities. Administrative arrangements for voter registration at relevant government offices were burdensome, involving long queues, several hours or days of waiting, and necessary return visits that effectively served to disenfranchise some persons with disabilities. Advocacy groups petitioned the government in September, demanding the government protect persons with disabilities’ constitutional rights by considering their electoral needs. The law permits blind persons to bring an individual with them in marking their ballots.

**National/Racial/Ethnic Minorities**

According to government statistics, the Shona ethnic group made up 82 percent of the population, Ndebele 14 percent, whites and Asians less than 1 percent, and other ethnic and racial groups 3 percent. ZANU-PF leaders often encouraged hatred of whites through public speeches and broadcasts. This created tension between ZANU-PF supporters and whites. In public remarks President Mugabe encouraged ZANU-PF supporters to seize all land that remained in the hands of white farmers. He also discouraged supporters from doing business with white farmers who sought partnerships in farming.

Historical tension between the Shona majority and the Ndebele minority resulted in marginalization of the Ndebele by the Shona-dominated government. During a February rally in Chiweshe, ZANU-PF supporters ignited tensions between two Shona subgroups, the Zezuru and the Karanga. The Zezuru, who dominated the government, sang “Zezuru Unconquerable,” reportedly offending the Karanga. During the year senior ZANU-PF leaders attacked each other, calling on their own ethnic group for support against the other in party in-fighting.
The government continued its attempts to blame the country’s economic and political problems on the white minority and western countries. Police seldom arrested ZANU-PF supporters or charged them with infringing upon minority rights, particularly the property rights of the minority white commercial farmers or wildlife conservancy owners targeted in the land redistribution program.

The government enforced few of the provisions or timelines in the 2007 indigenization law, and no businesses were forced to transfer ownership. The law defines an indigenous Zimbabwean as any person, or the descendant of such person, who before the date of the country’s independence in 1980 was disadvantaged. The official purpose of the indigenization law was to increase the participation of indigenous citizens in the economy, including at least 51 percent indigenous ownership of all businesses. Legal experts criticized the law as unfairly discriminatory and a violation of the constitution.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The constitution does not prohibit discrimination based on sexual orientation and gender identity. According to the criminal code, “any act involving physical contact between men that would be regarded by a reasonable person to be an indecent act” carries a penalty if convicted of up to one year in prison or a fine up to $5,000. Despite that, there were no known cases of prosecutions of consensual same-sex sexual activity. Common law prevents gay men and, to a lesser extent, lesbians from fully expressing their sexual orientation. In some cases it criminalizes the display of affection between men.

President Mugabe and ZANU-PF leaders publicly criticized the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community, rejecting the promotion of LGBTI rights as contrary to the country’s values, norms, traditions, and beliefs.

The police reportedly detained and held persons suspected of being gay for up to 48 hours before releasing them. LGBTI advocacy groups also reported police used extortion and threats to intimidate persons based on their sexual orientation. Members of Gays and Lesbians of Zimbabwe, the primary organization dedicated to advancing the rights of LGBTI persons, experienced harassment and discrimination.

Religious leaders in this traditionally conservative and Christian society encouraged discrimination against LGBTI persons. Also, LGBTI persons reported
widespread societal discrimination based on sexual orientation. In response to social pressure, some families subjected their LGBTI members to “corrective” rape and forced marriages to encourage heterosexual conduct. Women in particular were subjected to rape by male family members. Victims rarely reported such crimes to police.

LGBTI persons often left school at an early age due to discrimination. Higher education institutions reportedly threatened to expel students based on their sexual orientation. Members of the LGBTI community also had higher rates of unemployment and homelessness. Many persons who identified themselves as LGBTI did not seek medical care for sexually transmitted diseases or other health problems due to fear that health-care providers would shun them or report them to authorities. Since the completion of a nationwide sensitization program for health-care workers, however, the LGBTI community reported an improvement in health-service delivery.

HIV and AIDS Social Stigma

The government has a national HIV/AIDS policy that prohibits discrimination against persons with HIV/AIDS, and the law prohibits discrimination against workers with HIV/AIDS in the private sector and parastatals. Despite these provisions, societal discrimination against persons living with HIV/AIDS remained a problem. Local NGOs reported persons affected by HIV/AIDS faced discrimination in health services, education, and employment. Although there was an active information campaign to destigmatize HIV/AIDS by international and local NGOs, the Ministry of Health and Child Welfare, and the National AIDS Council, such ostracism and criticism continued.

In the 2015 DHS, 22 percent of women and 20 percent of men reported they held discriminatory attitudes towards those living with HIV/AIDS.

Other Societal Violence or Discrimination

Inexplicable disappearances and killings, sometimes involving mutilation of the victim, often were attributed to customary or traditional rituals, in some cases involving a healer who requested a human body part to complete a required task. Police generally rejected the “ritual killing” explanation, despite its being commonly used in society and the press.

Promotion of Acts of Discrimination
Throughout the year government-controlled media continued to vilify white citizens and blame them for the country’s problems. President Mugabe was complicit in vilifying white citizens and urged the eviction of remaining white farmers.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

While the law provides for the right of private-sector workers to form and join unions, conduct legal strikes, and bargain collectively, other provisions of law and economic realities (i.e., lack of ability to pay dues) abrogated these rights. Public-sector workers may not form or join trade unions but may form associations that bargain collectively and strike. The law prohibits antiunion discrimination, provides that the labor court handle complaints of such discrimination, and may direct reinstatement of workers fired due to such discrimination.

The law provides for the registrar of the Ministry of Public Service, Labor, and Social Welfare to supervise the election of officers of workers’ and employers’ organizations, to cancel or postpone elections, and to change the venue of an election. The law also grants the minister extensive powers to regulate union activities. For example, the minister has the authority to veto collective bargaining agreements perceived to be harmful to the economy as well as to appoint an investigator who can, without prior notice, enter trade union premises, question any employee, and inspect and copy any books, records, or other documents. The Labor Amendment Act empowers the minister to order an investigation of a trade union or employers’ organization and to appoint an administrator to run its affairs.

The law strictly regulates the right to strike. Strikes are limited to disputes over work issues. The law provides that a majority of the employees must agree to strike by voting in a secret ballot. Strike procedure requirements include a mandatory 30-day reconciliation period and referral to binding arbitration (in essential services and in nonessential services where the parties agree or where the dispute involves rights). Following an attempt to conciliate a dispute of interest and a labor officer’s issuance of a certificate of no settlement, the party proposing a collective job action must provide 14 days’ written notice of intent to resort to such action, including specifying the grounds for the intended action, in order legally to call a strike. No provisions prohibit employers from hiring replacement workers in the event of a strike. The Zimbabwe Chamber of Informal Economy Associations
ZIMBABWE 2016 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Zimbabwe is constitutionally a republic. President Robert Mugabe, his Zimbabwe African National Union-Patriotic Front (ZANU-PF) party, and its authoritarian security sector have dominated the country since independence in 1980. Presidential and parliamentary elections held in 2013 were free of the widespread violence of the 2008 elections, but the process was neither fair nor credible. Numerous factors contributed to a deeply flawed election process: a hastily convened and politically compromised Constitutional Court that unilaterally declared the election date before key electoral reforms were in place; heavily biased state media; a voter registration process that did not comply with the law and that skewed registration towards supporters of the ruling party; partisan statements and actions by security forces, including active-duty personnel running for office in contravention of the law; limitations on international observers; failure to provide a publicly useful voters register; and a chaotic, separate voting process for the security sector. The elections resulted in the formation of a unitary ZANU-PF government led by President Mugabe and ZANU-PF supermajorities in both houses of parliament. ZANU-PF used intimidation and targeted violence again to retain some parliamentary seats during by-elections.

Civilian authorities failed at times to maintain effective control over the security forces.

The most important human rights problems remained the government’s targeting members of non-ZANU-PF parties and civil society activists for abduction, arrest, torture, abuse, and harassment; partisan application of the rule of law by security forces and the judiciary; and restrictions on civil liberties, including freedoms of expression and assembly.

There were many other human rights problems. Prison conditions were harsh. The government’s expropriation of private property continued. Executive political influence on and interference in the judiciary continued, and the government infringed on citizens’ privacy rights. The government generally failed to investigate or prosecute state security or ZANU-PF supporters responsible for violence. Authorities restricted freedoms of expression, press, assembly, association, and movement. The government evicted citizens, invaded farms and private businesses and properties, and demolished informal marketplaces and settlements. The government arrested, detained, prosecuted, and harassed
distribution of food aid for personal political gain at the expense of deserving beneficiaries.

The constitution calls for the establishment of a National Peace and Reconciliation Commission to operate during a 10-year period with the goal of ensuring post-conflict justice, healing, and reconciliation. On February 24, President Mugabe swore in members of the commission. Although the government presented to parliament a National Peace and Reconciliation Commission bill, civil society organizations and citizens advocated for its withdrawal, citing concerns regarding limitations placed on the commission’s authority.

**Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

**Women**

*Rape and Domestic Violence*: While the law criminalizes sexual offenses, including rape and spousal rape, these crimes remained widespread problems. Spousal rape received less attention than physical violence against women. Almost a quarter of married women who had experienced domestic violence reported sexual violence, while 8 percent reported both physical and sexual violence. The 2015 *Demographic Health Survey* (DHS) indicated approximately 35 percent of women had experienced physical violence at some time in their lives, while almost 15 percent had experienced physical violence in the last 12 months. The survey also revealed that married women were more likely to experience physical violence, while husbands/partners were the most commonly reported perpetrator (54 percent), followed by former husbands/partners (23 percent). Lack of education increased women’s vulnerability to physical violence.

Although conviction of sexual offenses is punishable by lengthy prison sentences, women’s organizations stated that sentences were inconsistent. Rape victims were not consistently afforded protection in court.

Social stigma and societal perceptions that rape was a “fact of life” continued to inhibit reporting of rape. In the case of spousal rape, reporting was even lower due to women’s fear of losing economic support or of reprisal, lack of awareness that spousal rape is a crime, police reluctance to be involved in domestic disputes, and bureaucratic hurdles. Most rural citizens were unfamiliar with laws against domestic violence and sexual offenses. A lack of adequate and widespread services for rape victims also discouraged reporting.
Government officials, including police, did not always act on reported rape cases if the perpetrators were aligned with ZANU-PF. In one high-profile case, a ZANU-PF legislator in the House of Assembly, Munyaradzi Kereke, was convicted of raping his 11-year-old niece in 2010. In July, Kereke was sentenced to 14 years’ imprisonment. The attorney general at the time declined to prosecute the case on the grounds that there was no evidence linking the legislator to the offense. When the victim’s guardian conducted a private prosecution, the prosecutor general made further attempts to block prosecution. Finally, the Constitutional Court forced the prosecutor general to grant the requisite permission for private prosecution, resulting in Kereke’s subsequent conviction.

According to a credible NGO, there were no reports of rape or sexual harassment being used as a political weapon during the year.

Children born from rape suffered stigmatization and marginalization. The mothers of children resulting from rape sometimes were reluctant to register the births, and such children did not have access to social services.

The adult rape clinics in public hospitals in Harare and Mutare were run as NGOs and did not receive a substantial amount of financial support from the Ministry of Health. The clinics received referrals from police and NGOs. They administered HIV tests, provided medication for HIV and other sexually transmitted diseases, and provided medical services for pregnancy. Although police referred the majority of reported rapes of women and men who received services from the rape centers for prosecution, very few were prosecuted. Private clinics and clinics supported by NGOs and bilateral and multilateral development partners emerged in the past few years to provide medical assistance to survivors of rape. There were also NGOs that provided psychosocial support to survivors of sexual and gender-based violence.

Despite the enactment of the Domestic Violence Act in 2006 that criminalized acts of domestic violence, domestic violence remained a serious problem, especially intimate partner violence perpetrated by men against women. Although conviction of domestic violence is punishable by a fine and a maximum sentence of 10 years’ imprisonment, authorities generally considered it a private matter, and prosecution was rare.

Most cases of domestic violence went unreported due to traditional sensitivities, victims’ fear of abandonment without support, police reluctance to intervene, and the expectation that perpetrators would not be tried or convicted. There were
newspaper reports of wife killings and a few other media reports of prosecutions and convictions for such crimes.

The joint government-NGO Anti-Domestic Violence Council as a whole was ineffective due to lack of funding and the unavailability of information on prevailing trends of domestic violence, although its members were active in raising domestic violence awareness.

The government continued a public awareness campaign against domestic violence. Several women’s rights groups worked with law enforcement agencies and provided training and literature on domestic violence as well as shelters and counseling for women. The high turnover rate within the police force demanded a continuous level of training that could not be met. While public awareness increased, other problems emerged. For example, the form required to report domestic violence was difficult to complete, and victims were often required to make their own photocopies due to police budgetary constraints. The law requires victims of any form of violence to produce a police report to receive treatment without cost at government health facilities. This requirement prevented many rape victims from receiving necessary medical treatment, including post-exposure prophylaxis to prevent victims from contracting HIV.

A local NGO, Musasa Project, which provides emergency shelter and related services for women and girls, handled a monthly average of 2,100 cases of violence. Musasa reported that 50 percent of their clients were girls under age 18.

Other Harmful Traditional Practices: Virginity testing, although reportedly decreasing, continued to occur in some parts the country during the year.

Sexual Harassment: No specific law criminalizes sexual harassment, but labor law prohibits the practice in the workplace. Media reported that sexual harassment was prevalent in universities, workplaces, and parliament. The Ministry of Women Affairs, Gender, and Community Development acknowledged that lack of sexual harassment policies at higher education institutions was a major cause for concern. This occurred after a student advocacy group, the Female Students Network, revealed incidents of gender-based violence and sexual harassment against students. Female college students reported they routinely encountered unwanted physical contact from male students, lecturers, and nonacademic staff, ranging from touching and inappropriate remarks to rape. Of the 3,425 students’ interviewed, 94 percent indicated they had experienced sexual harassment, while 16 percent reported having been forced into unprotected sex with lecturers or other
staff. Some students also reported having been subjected to date rape in relationships with older men, mostly lecturers and other staff. At least 80 percent of tertiary education institutions did not have a sexual harassment policy to protect students. More than half of students said they would not report gender-based violence and sexual harassment because they feared retaliation, among other reasons.

**Reproductive Rights:** Couples and individuals have the right to decide the number, spacing, and timing of their children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, and violence. According to the 2015 DHS, the contraceptive prevalence rate was 66.5 percent. The DHS also reported that 22 percent of girls and women ages 15 to 19 had begun childbearing. Inadequate medical facilities, an advanced HIV/AIDS epidemic, and a shortage of well-trained health-care professionals contributed to the high maternal mortality rate of 651 deaths per 100,000 live births for the period 2008-15 (DHS estimate). The DHS demonstrated continued improvements in maternal health. The percentage of women who received antenatal care from a trained provider and had skilled birth attendance increased to 93 percent and 78 percent, respectively, up from 90 percent and 66 percent in the 2010-11 DHS report. While antenatal care attendance was almost the same between rural and urban areas, skilled birth attendance was much lower in rural areas, 71 percent compared with 93 percent in urban areas.

**Discrimination:** The constitution provides for the same legal status and rights for women as for men. The constitution’s bill of rights, in the section on the rights of women, states that all “laws, customs, traditions, and practices that infringe the rights of women conferred by this constitution are void to the extent of the infringement.” There is also an institutional framework to address women’s rights and gender equality through the Ministry of Women Affairs, Gender, and Community Development and the Gender Commission--one of the independent commissions established under the constitution. Despite the appointment of commissioners in June 2015, the commission received only minimal funding from the government and lacked sufficient independence from the ministry. Despite laws aimed at enhancing women’s rights and countering certain discriminatory traditional practices, women remained disadvantaged in society. Economic dependency and prevailing social norms prevented rural women in particular from combating societal discrimination and from participating equally in the civic and economic life of the country.
The law recognizes a woman’s right to own property, but very few women owned property due to the customary practice of patriarchal inheritance. Less than 20 percent of female farmers were official landowners or named on government lease agreements. Divorce and maintenance laws were equitable, but many women lacked awareness of their rights. Onerous requirements to register for identification documents disadvantaged women, who often lacked the resources or time to fulfill all requirements. Without proper identification, many women were unable to access services or register to vote.

Women have the right to register their children’s births, although either the father or another male relative must be present. If the father or other male relative refuses to register the child, the child may be deprived of a birth certificate, which limits the child’s ability to acquire identify documents and enroll in school. Discrimination with respect to women’s employment also occurred.

Women and children were adversely affected by the government’s forced evictions, demolition of homes and businesses, and takeover of commercial farms. Widows, when forced to relocate to rural areas, were sometimes “inherited” into marriages with an in-law after the deaths of their spouses.

The government gave qualified women access to training in the armed forces and national service, where they occupied primarily administrative positions.

Women remained underrepresented in the media sector, and media coverage of gender and women’s issues was very limited. Objectification of women and perpetuation of gender stereotypes were common in the media.

The United Kingdom Department for International Development’s 2011 Gender and Social Exclusion Analysis Report indicated women experienced extensive economic discrimination, including in access to employment, credit, pay, and owning or managing businesses. The 2015 SADC Gender Barometer reported women constituted 54 percent of unskilled labor, while men made up 59 percent of the professional labor force. More than six of 10 women did not own a home or land.

Women also faced higher levels of food insecurity throughout the country, exacerbated by recent drought. Women accounted for 86 percent of farmers, and 59 percent of women engaged in communal farming, making them particularly vulnerable to the effects of climate change.
Children

Birth Registration: Citizenship is derived from birth in the country and from either parent, and all births are to be registered with the Births and Deaths Registry. The 2012 population census data showed that just one in three children under age five possessed a birth certificate. Of urban children under age five, 55 percent possessed a birth certificate, while 25 percent of rural children did. Children under the care of parents older than age 20 were significantly more likely to have their births registered than were children of younger parents. Many orphaned children were unable to obtain birth certificates. Children of unregistered parents were also less likely to obtain birth certificates. Lack of birth certificates impeded access to public services, such as education and health care, resulting in many children being unable to attend school and increasing their vulnerability to exploitation.

Education: Primary education is not compulsory, free, or universal. The constitution states that every citizen and permanent resident of the country has a right to a basic state-funded education but adds a caveat that the state “must take reasonable legislative and other measures, within the limits of the resources available to it.” According to the 2012 population census, 87 percent of all children attended primary school. School attendance was only slightly higher in urban than in rural areas, and enrollment for children older than 14 was in decline. Urban and rural equity in primary school attendance rates disappeared at the secondary school level. Rural secondary education attendance (44 percent) trailed behind urban attendance (72 percent) by a wide margin. Relatively high and increasing school fees were the main reason for lack of attendance after age 14, particularly affecting girls ages 17 and 18. According to the 2012 government-led DHS, only 52 percent of girls age 17 attended school, compared with 64 percent of boys. Reports that schools turned away students with unpaid fees continued.

Child Abuse: Child abuse, including incest, infanticide, child abandonment, and rape, continued to be serious problems. In 2015 the NGO Childline counseled more than 12,000 children directly affected by abuse through their hotline service. Most of the substantive calls concerned sexual and physical abuse, generally inflicted by a relative or someone who lived with the child. A third of all calls related to cases of child neglect, an increase from previous years as families struggled to respond to food insecurity and unemployment issues. Childline also managed more than 7,000 in-person cases at their drop-in facilities throughout the country. Approximately twice as many girls reported abuse as boys. According to the 2011 National Baseline Survey on Life Experiences of Adolescents Preliminary Report, approximately 9 percent of girls and slightly less than 2 percent of boys
between ages 13 and 17 reported experiencing sexual violence in the previous 12 months. Older adolescents reported that one-third of girls and nearly one-tenth of boys experienced sexual violence during childhood. The survey defined sexual violence as unwanted sexual touching, unwanted attempted sex, physically forced sex, and pressured sex.

It is legal for parents and schools to inflict corporal punishment on boys but not girls. The constitution provides that “no person may be subjected to cruel, inhuman, or degrading treatment or punishment,” but the courts had not interpreted the clause nor determined whether it applied to corporal punishment. In addition the Constitutional Court deferred ruling on the constitutionality of caning juvenile offenders as judicial punishment. While the issue remained pending, magistrates may impose corporal punishment on juvenile offenders.

Government efforts to combat child abuse continued to be inadequate and underfunded. The government continued to implement a case management protocol developed in 2013 to guide the provision of child welfare services. In addition there were facilities that served underage victims of sexual assault and abuse.

**Early and Forced Marriage:** The constitution declares anyone under age 18 a child. On January 20, the Constitutional Court ruled no individual under age 18 may enter into marriage, including customary law unions. The court also struck down a provision of the Marriage Act that allowed girls but not boys to marry at age 16. Despite this ruling, laws on marriage—including the Marriage Act and Customary Law Marriages Act—required further reform in order to align them with the Constitutional Court ruling.

Despite legal prohibitions, mostly rural families continued to force girls to marry. According to the 2012 population census, almost one in four teenage girls were married. Child welfare NGOs reported evidence of underage marriages, particularly in isolated religious communities or among HIV/AIDS orphans who had no relatives willing or able to take care of them. High rates of unemployment, the dropout of girls from school, and the inability of families to earn a stable income were major causes of child marriage.

Families gave girls or young women to other families in marriage to avenge spirits, as compensatory payment in interfamily disputes, or when promised to others—to provide economic protection for the family. Some families sold their daughters as brides in exchange for food, and younger daughters at times married their deceased
older sister’s husband as a “replacement” bride. An NGO study published in 2014 found that because of the cultural emphasis placed on virginity, any loss of virginity—real or perceived, consensual or forced—could result in marriage, including early or forced marriage. In some instances family members forced a girl to marry a man based on the mere suspicion that the two had had sexual intercourse. This cultural practice even applied in cases of rape, and the study found numerous instances in which families concealed rape by facilitating the marriage between rapist and victim.

Sexual Exploitation of Children: Conviction of statutory rape, legally defined as sexual intercourse with a child under age 12, carries a fine of $2,000, up to 10 years’ imprisonment, or both. A person in possession of child pornography may be charged with public indecency and if convicted faces a fine of $600, imprisonment up to six months, or both. A person convicted of procuring a child under age 16 for purposes of engaging in unlawful sexual conduct is liable to a fine up to $5,000, up to 10 years’ imprisonment, or both. Persons charged with facilitating the prostitution of a child often were also charged with statutory rape. A parent or guardian convicted of allowing a child under age 18 to associate with or become a prostitute may face up to 10 years’ imprisonment. Girls from towns bordering South Africa, Zambia, and Mozambique were subjected to prostitution in brothels that catered to long-distance truck drivers. Increasing economic hardships coupled with the effects of drought also led more girls to turn to prostitution.

Displaced Children: Approximately 10,000 children were displaced from the Tokwe-Mukosi dam area in Masvingo Province (see section 2.d.). The disruption of their parents’ livelihoods negatively affected the children’s access to health care and schooling.

The UN Children’s Fund 2005-10 report estimated 25 percent of children had lost one or both parents to HIV or other causes. The proportion of orphans in the country remained very high. Many orphans were cared for by their extended family or lived in households headed by children.

Orphaned children were more likely to be abused, not enrolled in school, suffer discrimination and social stigma, and be vulnerable to food insecurity, malnutrition, and HIV/AIDS. Some children were forced to turn to prostitution for income. Orphaned children often were unable to obtain birth certificates because they could not provide enough information regarding their parents or afford to travel to offices that issued birth certificates. Orphans were often homeless.
A UN Children’s Fund report stated that government support of the poor “suffered from a severe lack of human and financial resources” and was “in urgent need of review and revival to meet the growing needs of children.”


Anti-Semitism

The Jewish community numbered approximately 150 persons. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/rls rpt/.

Persons with Disabilities

The constitution and law prohibit discrimination against persons with disabilities in employment, access to public places, and the provision of services, including education and health care. The constitution and law do not specifically address air travel or other transportation. They do not specify physical, sensory, mental, or intellectual disabilities. NGOs continued to lobby to broaden the legal definition of “disabled” to include persons with albinism, epilepsy, and other conditions. Government institutions often were uninformed and did not implement the law. The lack of resources devoted to training and education severely hampered the ability of persons with disabilities to compete for scarce jobs. The law stipulates that government buildings be accessible to persons with disabilities, but implementation was slow.

The National Association of Societies for the Care of the Handicapped (NASCOH) drafted a National Policy on Disabilities in 2009, but the government had not approved the policy. Persons with disabilities faced harsh societal discrimination and exclusion, as well as poor service delivery from state bodies. For example, NASCOH reported that access to justice in courts was compromised for persons with hearing disabilities due to a lack of sign language interpreters. Persons with disabilities living in rural settings faced even greater challenges.
Although two senators were elected to represent persons with disabilities, parliament rarely addressed problems especially affecting persons with disabilities. Parliament does not provide specific line items for persons with disabilities in the various social service ministry budgets.

Most persons holding traditional beliefs viewed persons with disabilities as bewitched, and in extreme cases families hid children with disabilities from visitors. According to NASCOH, the public considered persons with disabilities to be objects of pity rather than persons with rights.

There were very few government-sponsored education facilities dedicated to persons with disabilities. Educational institutions discriminated against children with disabilities. Essential services, including sign language interpreters, Braille materials, and ramps, were not available and prevented children with disabilities from attending school. Many schools refused to accept children with certain disabilities. Schools that accepted students with disabilities offered very little in the way of nonacademic facilities for those accepted as compared with their counterparts without disabilities. Many urban children with disabilities obtained informal education through private institutions, but these options were generally unavailable for persons with disabilities in rural areas. Government programs, such as the basic education assistance module intended to benefit children with disabilities, failed to address adequately the root causes of their systematic exclusion. NASCOH reported that 75 percent of children with disabilities had no access to education.

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Persons with mental disabilities also suffered from inadequate medical care and a lack of health services. There were eight centralized mental health institutions in the country with a total capacity of more than 1,300 residents, in addition to the three special institutions run by the ZPCS for long-term residents and those considered dangerous to society. Residents in the eight centralized institutions received cursory screening, and most waited for at least one year for a full medical review.

A shortage of drugs and adequately trained mental health professionals resulted in persons with mental disabilities not being properly diagnosed and not receiving
adequate therapy. There were few certified psychiatrists working in public and private clinics and teaching in the country. NGOs reported that getting access to mental health services was slow and frustrating. They reported persons with mental disabilities suffered from extremely poor living conditions, due in part to shortages of food, water, clothing, and sanitation. Budgetary constraints and limited capacity at these institutions resulted in families keeping persons with mental disabilities at home where family members cared for them.

Prison inmates in the three facilities run by the ZPCS were not necessarily convicted prisoners. Two doctors examined inmates with psychiatric conditions. The doctors were required to confirm a mental disability and recommend an individual for release or return to a mental institution. Inmates with mental disabilities routinely waited as long as three years for evaluation.

There were minimal legal or administrative safeguards to allow participation in the electoral processes by persons with disabilities. Administrative arrangements for voter registration at relevant government offices were burdensome, involving long queues, several hours or days of waiting, and necessary return visits that effectively served to disenfranchise some persons with disabilities. The law permits blind persons to bring an individual with them in marking their ballots.

National/Racial/Ethnic Minorities

According to government statistics, the Shona ethnic group made up 82 percent of the population, Ndebele 14 percent, whites and Asians less than 1 percent, and other ethnic and racial groups 3 percent. ZANU-PF leaders often encouraged hatred of whites through public speeches and broadcasts. This created tension between ZANU-PF supporters and whites. Historical tension between the Shona majority and the Ndebele minority resulted in marginalization of the Ndebele by the Shona-dominated government. During the 2013 elections, the mainstream MDC-T often accused Welshman Ncube of the Movement for Democratic Change-Ncube (MDC-N) of campaigning on a tribal platform. In turn the smaller MDC-N complained of continued victimization and neglect of the minority Ndebele by the Shona-dominated MDC-T and ZANU-PF.

The government continued its attempts to blame the country’s economic and political problems on the white minority and western countries. Police seldom arrested ZANU-PF supporters or charged them with infringing upon minority rights, particularly the property rights of the minority white commercial farmers or wildlife conservancy owners targeted in the land redistribution program.
The government enforced few of the provisions or timelines in the 2007 indigenization law, and no businesses were forced to transfer ownership. The law defines an indigenous Zimbabwean as any person, or the descendant of such person, who before the date of the country’s independence in 1980 was disadvantaged. The official purpose of the indigenization law was to increase the participation of indigenous citizens in the economy, including at least 51 percent indigenous ownership of all businesses. Legal experts criticized the law as unfairly discriminatory and a violation of the constitution.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The constitution does not prohibit discrimination based on sexual orientation and gender identity. According to the country’s criminal code, “any act involving physical contact between men that would be regarded by a reasonable person to be an indecent act” carries a penalty if convicted of up to one year in prison or a fine up to $5,000. Despite that, there were no known cases of prosecutions of consensual same-sex sexual activity. Common law prevents gay men and, to a lesser extent, lesbians from fully expressing their sexual orientation. In some cases it criminalizes the display of affection between men.

President Mugabe and ZANU-PF leaders publicly criticized the LGBTI community, rejecting the promotion of LGBTI rights as contrary to the country’s values, norms, traditions, and beliefs.

The police reportedly detained and held persons suspected of being gay for up to 48 hours before releasing them. LGBTI advocacy groups also reported police used extortion and threats to intimidate persons based on their sexual orientation. Members of Gays and Lesbians of Zimbabwe, the primary organization dedicated to advancing the rights of LGBTI persons, experienced harassment and discrimination.

Religious leaders in this traditionally conservative and Christian society encouraged discrimination against LGBTI persons. For example, Walter Magaya, leader of the Healing and Deliverance Ministries, continued to host shows on television and radio during which he “healed” members of the LGBTI community.

LGBTI persons reported widespread societal discrimination based on sexual orientation. In response to social pressure, some families subjected their LGBTI
members to “corrective” rape and forced marriages to encourage heterosexual conduct. Women in particular were subjected to rape by male family members. Victims rarely reported such crimes to police.

LGBTI persons often left school at an early age due to discrimination. Higher education institutions reportedly threatened to expel students based on their sexual orientation. Members of the LGBTI community also had higher rates of unemployment and homelessness. Many persons who identified themselves as LGBTI did not seek medical care for sexually transmitted diseases or other health problems due to fear that health-care providers would shun them or report them to authorities. Since the completion of a nation-wide sensitization program for health-care workers, however, the LGBTI community reported an improvement in health service delivery.

**HIV and AIDS Social Stigma**

The government has a national HIV/AIDS policy that prohibits discrimination against persons with HIV/AIDS, and the law prohibits discrimination against workers with HIV/AIDS in the private sector and parastatals. Despite these provisions, societal discrimination against persons affected by HIV/AIDS remained a problem. Local NGOs reported persons affected by HIV/AIDS faced discrimination in health services, education, and employment. Although there was an active information campaign to destigmatize HIV/AIDS by international and local NGOs, the Ministry of Health and Child Welfare, and the National AIDS Council, such ostracism and criticism continued.

In the 2015 DHS, 22 percent of women and 20 percent of men reported they held discriminatory attitudes towards those living with HIV/AIDS.

**Other Societal Violence or Discrimination**

Inexplicable disappearances and killings, sometimes involving mutilation of the victim, often were attributed to customary or traditional rituals, in some cases involving a healer who requested a human body part to complete a required task. Police generally rejected the “ritual killing” explanation, despite its being commonly used in society and the press.

**Promotion of Acts of Discrimination**
Throughout the year government-controlled media continued to vilify white citizens and blame them for the country’s problems. President Mugabe was complicit in vilifying white citizens and urged the eviction of remaining white farmers.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

While the law provides for the right of private-sector workers to form and join unions, conduct legal strikes, and bargain collectively, other provisions of law abrogated these rights. Public-sector workers may not form or join trade unions but may form associations that bargain collectively and strike. The law prohibits antiunion discrimination, provides that the labor court handle complaints of such discrimination, and may direct reinstatement of workers fired due to such discrimination.

The law provides for the registrar of the Ministry of Public Service, Labor, and Social Welfare to supervise the election of officers of workers’ and employers’ organizations, to cancel or postpone elections, and to change the venue of an election. The law also grants the minister extensive powers to regulate union activities. For example, the minister has the authority to veto collective bargaining agreements perceived to be harmful to the economy as well as to appoint an investigator who can, without prior notice, enter trade union premises, question any employee, and inspect and copy any books, records, or other documents. The Labor Amendment Act empowers the minister to order an investigation of a trade union or employers’ organization and to appoint an administrator to run its affairs. There were no reports of investigations during the year.

The law strictly regulates the right to strike. Strikes are limited to disputes of interest. The law provides that a majority of the employees must agree to strike by voting in a secret ballot. Strike procedure requirements include a mandatory 30-day reconciliation period and referral to binding arbitration (in essential services and in nonessential services where the parties agree or where the dispute involves rights). Following an attempt to conciliate a dispute of interest and a labor officer’s issuance of a certificate of no settlement, the party proposing a collective job action must provide 14 days’ written notice of intent to resort to such action, including specifying the grounds for the intended action, in order legally to call a strike. In April and May, more than 4,000 National Railway of Zimbabwe (NRZ) workers went on a spontaneous strike to protest 15 months of salary arrears.
EXECUTIVE SUMMARY

Zimbabwe is constitutionally a republic. President Robert Mugabe, his Zimbabwe African National Union-Patriotic Front (ZANU-PF) party, and its authoritarian security sector have dominated the country since independence in 1980. Presidential and parliamentary elections held in 2013 were free of the widespread violence of the 2008 elections, but the process was neither fair nor credible. Numerous factors contributed to a deeply flawed election process: A unilateral declaration of the election date by the hastily convened and politically compromised Constitutional Court, formed after the country adopted a new constitution; heavily biased state media; a voter registration process that did not comply with the law and that skewed registration towards supporters of the ruling party; partisan statements and actions by security forces, and active-duty personnel standing for office in contravention of the law; limitations on international observers; failure to provide a publicly useful voters’ register; and a chaotic separate voting process for the security sector. The elections resulted in the formation of a unitary ZANU-PF government led by President Mugabe and ZANU-PF supermajorities in both houses of Parliament. ZANU-PF used intimidation and targeted violence to retain some parliamentary seats during 2015 by-elections. Civilian authorities failed at times to maintain effective control over the security forces.

The most important human rights problems remained the government’s targeting members of non-ZANU-PF parties and civil society activists for abduction, arrest, torture, abuse, and harassment; partisan application of the rule of law by security forces and the judiciary; and restrictions on civil liberties.

There were many other human rights problems. Prison conditions were harsh. The government’s expropriation of private property continued. Executive political influence and interference in the judiciary continued, and the government infringed on citizens’ privacy rights. The government generally failed to investigate or prosecute state security or ZANU-PF supporters responsible for violence. Authorities restricted freedoms of speech, press, assembly, association, and movement. The government continued to evict citizens; invade farms, private businesses and properties; and demolish informal marketplaces and settlements. The government arrested, detained, prosecuted, and harassed nongovernmental organization (NGO) members. Government corruption remained widespread, including at the local level. Violence and discrimination against women; child
abuse; trafficking of men, women, and children; and discrimination against persons with disabilities, racial and ethnic minorities, lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons, and persons with HIV/AIDS were problems. The government interfered with labor-related events.

The government took limited steps to punish security sector officials and ZANU-PF supporters who committed violations, but impunity continued to be a problem.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were reports the government or its agents committed arbitrary or unlawful killings. Progress in cases from previous years was slow, and most cases remained open. Police units sometimes organized or participated in political violence. Security sector impunity stemming from politically motivated abuses remained a problem.

On April 23, three Criminal Investigation Department police officers arrested Robert Takawira for suspected theft. The officers severely beat Takawira with baton sticks before taking him to a police station where they denied him medical attention. On April 24, he died from those injuries while in police custody.

With few exceptions, investigations remained pending for previous cases of violence resulting in death committed by security forces and ZANU-PF supporters.

On April 24, ZANU-PF supporters and state security agents allegedly killed Pepukai Mudzembiri, Zaka North District Chairperson of the Democratic Change-Tsvangirai (MDC-T). Police investigators stated that he was killed in a hit-and-run accident, a point disputed by human rights organizations and MDC-T party officials. A ZANU-PF supporter reportedly threatened Mudzembiri with abduction and death before the 2013 presidential and parliamentary elections.

Impunity for past politically motivated violence remained a problem. Police and the prosecutor general failed to arrest or prosecute senior or well-known ZANU-PF supporters for violence in previous years.

There were limited advances in holding legally accountable those responsible for the killings of at least 19 citizens who died of injuries sustained during the 2008 political violence that targeted opposition party members; more than 270 others
affecting the right of citizens to vote for non-ZANU-PF candidates and concluded that the possibility of a free and fair election in the constituency was remote. The ZHRC also directed the ZRP commissioner general to investigate the suspected criminal violations of human rights that occurred in Hurungwe West.

The constitution called for the Organ of National Healing, a ZANU-PF-connected, organization based in the Office of the President to evolve into a neutral peace and reconciliation commission. Due to a lack of political will and funding, the commission had not been formed by year’s end.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution’s bill of rights provides that no person may be deprived of fundamental rights, such as the right to life, personal liberty, security of person, freedom of assembly and association, equality, and political and socioeconomic rights. It prohibits discrimination based on one’s race, tribe, place of origin, political opinion, color, creed, gender, or disability. The bill of rights may not be arbitrarily amended and, in the section on the rights of women, states that all “laws, customs, traditions, and practices that infringe the rights of women conferred by this constitution are void to the extent of the infringement.” Nevertheless, discrimination against women and persons with disabilities persisted. The government and ZANU-PF continued to infringe on the right to due process, citizenship, and property ownership in ways that affected the white minority disproportionately.

Women

Rape and Domestic Violence: While the law criminalizes rape, including spousal rape, the law was not effectively enforced, and rape remained a widespread problem. Sexual offenses, including rape, are punishable by lengthy prison sentences, although women’s organizations stated that the sentences of those convicted were inconsistent. Rape victims seldom received protection in court.

Victims reported few cases of rape due to social stigma and societal perceptions that rape was simply a “fact of life” that could not be challenged. A lack of services for rape victims also discouraged reporting. Victims reported even fewer cases of spousal rape because of fear of losing economic support, fear of reprisal, lack of awareness that spousal rape was a crime, police reluctance to be involved in domestic disputes, and bureaucratic hurdles. Most rural citizens were unfamiliar with laws against domestic violence and sexual offenses. Chiefs of local
jurisdictions usually handled gender-based violence in trials applying customary law.

Police sometimes did not act on reported rape cases if the perpetrators were aligned with ZANU-PF or if the rape was used as a political tool against non-ZANU-PF members, as occurred during the 2008 election. Unlike the 2008 elections, which resulted in numerous cases of politically motivated gang rapes, there were very few reports of rape used as a political weapon during the 2013 elections period.

The media frequently published stories criticizing rape and reporting convictions. In September the Chronicle newspaper reported that a Harare magistrate sentenced Greatness Tapfuma, a prominent local pastor, to 30 years in prison for raping a female minor. During the sentencing the magistrate expressed concern regarding the prevalence of rape cases committed by religious leaders. In May a man age 19 was sentenced to 210 hours of community service for impregnating a girl age 12.

Children born from rape suffered stigmatization and marginalization. The mothers of children resulting from rape sometimes were reluctant to register the births, and such children did not have access to social services.

The adult rape clinics in public hospitals in Harare and Mutare were run as NGOs and did not receive a substantial amount of financial support from the Ministry of Health. The clinics received referrals from police and NGOs. They administered HIV tests, provided medication for HIV and other sexually transmitted diseases, and provided medical services for pregnancy. Although police referred the majority of reported rapes of women and men who received services from the rape centers for prosecution, very few were prosecuted. Private clinics and clinics supported by NGOs and bilateral and multilateral development partners emerged in the past few years to provide medical assistance to survivors of rape. There were also NGOs that provided psychosocial support to survivors of sexual and gender-based violence through assistance from the Integrated Support Program, a multidonor effort funded by international aid donors and managed by the UN Population Fund.

In June 2014 the government launched an anti-rape campaign that included a national action plan to combat the problem. The plan focuses on rape prevention services, researching the problem, and increasing coordination between government agencies and civic groups working on the problem. Women’s organizations contended that the government was not likely to implement the plan due to resource constraints.
Gender-based violence was prevalent in society. The law criminalizes domestic violence, which was a serious problem, especially intimate partner violence perpetrated by men against women. Although domestic violence is punishable by a fine and a maximum prison sentence of 10 years, authorities generally considered it a private matter, so prosecution was rare. Most cases of domestic violence went unreported due to traditional sensitivities, victims’ fear of abandonment without support, police reluctance to intervene, and the expectation that perpetrators would not be tried or convicted. There were newspaper reports of wife killings and a few other media reports of prosecutions and convictions for such crimes.

The joint government-NGO Anti-Domestic Violence Council as a whole was ineffective due to lack of funding and the unavailability of information on prevailing trends of domestic violence, although its members were active in raising domestic violence awareness.

The government continued a public awareness campaign against domestic violence. Several women’s rights groups worked with law enforcement agencies and provided training and literature on domestic violence as well as shelters and counseling for women. The high turnover rate within the police force demanded a continuous level of training that could not be met. While public awareness increased, other problems emerged. For example, the form required to report domestic violence was difficult to complete, and victims were often required to make their own photocopies due to police budgetary constraints. The law requires victims of any form of violence to produce a police report to receive treatment without cost at government health facilities. This requirement prevented many rape victims from receiving necessary medical treatment, including postexposure prophylaxis to prevent victims from contracting HIV.

A local NGO, Musasa Project, which provides emergency shelter and related services for women, handled a monthly average of 1,684 cases of violence against women. Musasa reported that 77 percent of their clients were girls under age 18.

The Judicial Service Commission established a Multi-Sectoral Protocol on Sexual Abuse in 2012 in partnership with 11 government bodies. The protocol details the respective roles and responsibilities of different government agencies in responding to adult and child sexual and gender-based violence cases. The government must rely upon external funding and assistance to implement the protocol.
Other Harmful Traditional Practices: Virginity testing, although reportedly decreasing, continued to occur in some parts the country during the year.

Sexual Harassment: The law does not criminalize sexual harassment, but labor law prohibits the practice in the workplace. Media reported that sexual harassment was prevalent in universities, workplaces, and parliament. In October, Patrick Ndhlovu, a Zimbabwe Power Company supervisor, appeared before a Mbare magistrate’s court on charges of indecent assault after allegations that he used his position to threaten and sexually harass female subordinates. On December 5, Mbare Magistrate Zihove ruled the prosecution had failed to prove its case and acquitted Zdhlovu.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, and violence. According to the 2014 Multiple Indicator Cluster Survey (MICS) of the UN Children’s Fund (UNICEF), the contraceptive prevalence rate was 67 percent. The adolescent birth rate was estimated at 112 per 1,000 for women and girls ages 15 to 19 from 1999 to 2012. Inadequate medical facilities, an advanced HIV/AIDS epidemic, poorly trained health-care professionals, and a shortage of health professionals contributed to a high maternal mortality rate of 470 deaths per 100,000 live births in 2013. The MICS reported that maternal health improved significantly between 2010 and 2014. Antenatal care attendance and skilled birth attendance increased to 94 percent and 80 percent respectively. While antenatal care attendance was almost the same between rural and urban areas, skilled birth attendance was much lower in rural areas, 75 percent compared with 93 percent in urban areas. No information was available on whether women were equally diagnosed and treated for sexually transmitted infections.

Discrimination: The law provides for the same legal status and rights for women as for men. Despite laws aimed at enhancing women’s rights and countering certain discriminatory traditional practices, however, women remained disadvantaged in society. Economic dependency and prevailing social norms prevented rural women in particular from combating societal discrimination.

The law recognizes a woman’s right to own property, but very few women did so because of patriarchal inheritance rights under customary practice. Less than 20 percent of female farmers were official landowners or named on government lease agreements, although there was improvement in the registration of women as landowners during the year. Divorce and maintenance laws were equitable, but
many women lacked awareness of their rights. Women have the right to register their children’s births, although either the father or a male relative must be present. Discrimination with respect to women’s employment also occurred (see section 7.d.).

Women and children were adversely affected by the government’s forced evictions, demolition of homes and businesses, and takeover of commercial farms. Widows, when forced to relocate to rural areas, were sometimes “inherited” into marriages with an in-law after the deaths of their spouses.

The government gave qualified women access to training in the armed forces and national service, where they continued to occupy primarily administrative positions.

The United Kingdom Department for International Development’s 2011 Gender and Social Exclusion Analysis Report reported that women experienced extensive economic discrimination, including in access to employment, credit, pay, and owning or managing businesses. Despite being responsible for 53 percent of all economic activity in the country, including 75 percent of all agricultural labor, three-quarters of households headed by a woman were “poor” or “very poor.”

**Children**

**Birth Registration:** Citizenship is derived from birth in the country and from either parent, and all births are to be registered with the Births and Deaths Registry. According to the 2012 government-led Demographic Health Survey (DHS), 17.7 percent of children under age two had a birth certificate and 39 percent had their births registered. The numbers increased with children’s age: 40.2 percent of children between the ages of two and four had birth certificates, and 56 percent had their birth registered. Children in urban and in wealthier households were more likely to have their birth registered than were children in rural households. Children under the care of parents older than age 20 were significantly more likely to have their births registered than were children of younger parents. Many orphaned children were unable to obtain birth certificates. Children of unregistered parents were also less likely to obtain birth certificates. Lack of birth certificates impeded access to public services, such as education and health care, resulting in many children being unable to attend school and increasing their vulnerability to exploitation.
Education: Primary education is not compulsory, free, or universal. The constitution states that every citizen and permanent resident of the country has a right to a basic state-funded education but adds a caveat that the state “must take reasonable legislative and other measures, within the limits of the resources available to it.” According to the DHS, 94 percent of girls and 90 percent of boys between ages 10 and 14 attended primary school. School attendance was only slightly higher in urban than in rural areas, and enrollment for children older than 14 was in decline. Relatively high and increasing school fees were the main reason for lack of attendance after age 14, particularly affecting girls ages 17 and 18. Only 52 percent of girls age 17 attended school, compared with 64 percent of boys. Reports that schools turned away students with unpaid fees continued.

Child Abuse: Child abuse, including incest, infanticide, child abandonment, and rape, continued to be serious problems. In 2014 the NGO Childline counseled more than 16,000 children directly affected by abuse. Most of the substantive calls concerned sexual and physical abuse, generally inflicted by a relative or someone who lived with the child. Approximately twice as many girls reported abuse as boys. The ZRP stated there were reports of 1,494 juvenile rape cases between January and May 2014, and 3,297 reports of juvenile rape cases in 2013. According to the 2011 National Baseline Survey on Life Experiences of Adolescents Preliminary Report (NBSLEA), approximately 9 percent of girls and slightly less than 2 percent of boys between the ages of 13 and 17 reported experiencing sexual violence in the previous 12 months. Older adolescents reported that one-third of girls and nearly one-tenth of boys experienced sexual violence during childhood. The NBSLEA defined sexual violence as unwanted sexual touching, unwanted attempted sex, physically forced sex, and pressured sex.

It is legal for parents and schools to inflict corporal punishment on boys, but not girls. The constitution provides that “no person may be subjected to cruel, inhuman, or degrading treatment or punishment,” but the courts had not interpreted the clause and determined whether it applied to corporal punishment. The press quoted the deputy minister of primary and secondary education as stating that corporal punishment in schools was unconstitutional, but existing laws allowed for the practice.

Government efforts to combat child abuse continued to be inadequate and underfunded, but there were some improvements. In 2013 the government developed a case management protocol to guide the provision of child welfare services and began implementation of the policy during the year. In addition there were facilities that served underage victims of sexual assault and abuse.
Early and Forced Marriage: Despite legal prohibitions, families primarily among the rural population continued to force girls to marry. Families gave young women to other families in marriage to avenge spirits, as compensatory payment in interfamily disputes, or when promised to others--to provide economic protection for the family. Some families sold their daughters as brides in exchange for food, and younger daughters at times married their deceased older sister’s husband as a “replacement” bride. An NGO study published in March 2014 found that because of the cultural emphasis placed on virginity, any loss of virginity--real or perceived, consensual or forced--could result in marriage, including early or forced marriage. In some instances family members forced a girl to marry a man based on the mere suspicion that the two had had sexual intercourse. This cultural practice even applied in cases of rape, and the study found numerous instances in which families concealed rape by facilitating the marriage between rapist and victim.

The legal age for a civil marriage is 18, but girls who are 16 and 17 may marry with parental approval. Customary marriage, recognized under the law, does not require a minimum marriage age for either boys or girls. The criminal code prohibits sexual relations with persons younger than age 18, however. According to the DHS study, 21.7 percent of girls between the ages of 15 and 19 were married. According to the 2014 MICS, 5 percent of girls and women ages 15-49 were married before 15, while 33 percent of women ages 20-49 were married before 18. Child welfare NGOs reported they occasionally saw evidence of underage marriages, particularly in isolated religious communities or among HIV/AIDS orphans who had no relatives willing or able to take care of them. The constitution declares anyone under age 18 a child, but the Customary Marriages Act was not amended to reflect the constitutional change.

On January 14, two women challenged the constitutionality of laws permitting child marriage before the Constitutional Court. During the hearing the chief justice indicated that the laws permitting the practice were clearly unconstitutional, but the court reserved judgement in the case and had yet to issue a formal ruling at year’s end.

On July 31, First Lady Grace Mugabe launched the Zimbabwean chapter of the AU Campaign to End Child Marriages. She called on the minister of justice and legal affairs to align marriage laws to the constitution and suggested stricter penalties for offenders. She also urged stakeholders to develop an action plan to end child marriages.
Sexual Exploitation of Children: Statutory rape, legally defined as sexual intercourse with a child under age 12, carries a fine of $2,000, imprisonment for up to 10 years, or both. A person in possession of child pornography may be charged with public indecency and face a fine of $600, imprisonment up to six months, or both. A person procuring a child under age 16 for purposes of engaging in unlawful sexual conduct is liable to a fine up to $5,000 or imprisonment of up to 10 years, or both. Persons charged with facilitating the prostitution of a child often were also charged with statutory rape. A parent or guardian who causes or allows a child under age 18 to associate with or become a prostitute may face up to 10 years in prison. Girls from towns bordering South Africa, Zambia, and Mozambique were subjected to prostitution in brothels that catered to long-distance truck drivers.

Displaced Children: Approximately 10,000 children were displaced from the Tokwe-Mukosi dam area in Masvingo Province (see section 2.d.). The disruption of their parents’ livelihoods and health and education services affected these children negatively.

UNICEF’s 2005-10 report estimated that one-quarter of all children had lost one or both parents to HIV or other causes. The proportion of orphans in the country remained very high. The vast majority of orphans were cared for by their extended family or lived in households headed by children.

Orphaned children were more likely to be abused; not enrolled in school; suffer discrimination and social stigma; and be vulnerable to food insecurity, malnutrition, and HIV/AIDS. Some children were forced to turn to prostitution for income. Orphaned children often were unable to obtain birth certificates because they could not provide enough information about their parents. Orphans often lived in the streets.

A UNICEF report stated that government support of the poor “suffered from a severe lack of human and financial resources” and was “in urgent need of review and revival to meet the growing needs of children.”


Anti-Semitism
The Jewish community numbered approximately 150 persons. There were no known reports of anti-Semitic acts.

**Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

**Persons with Disabilities**

The constitution and law prohibit discrimination against persons with disabilities in employment, access to public places, and the provision of services, including education and health care. The constitution and law do not specifically address air travel, other transportation, or health care. They do not specify physical, sensory, mental, or intellectual disabilities. NGOs continued to lobby to include persons with albinism in the definition of “disabled” under the law. Government institutions often were uninformed and did not implement the law. The lack of resources devoted to training and education severely hampered the ability of persons with disabilities to compete for scarce jobs. The law stipulates that government buildings be accessible to persons with disabilities, but implementation was slow. Persons with disabilities faced harsh societal discrimination and exclusion, as well as poor service delivery from state bodies. For example, the National Council for the Hard of Hearing reported that access to justice in courts was compromised for persons with hearing disabilities due to a lack of sign language interpreters. Persons with disabilities living in rural settings faced even greater challenges.

Although two senators were elected to represent persons with disabilities, parliament rarely addressed problems affecting persons with disabilities. Parliament does not provide specific line items for persons with disabilities in the various social service ministry budgets.

Most persons holding traditional beliefs viewed persons with disabilities as bewitched, and in extreme cases families hid children with disabilities from visitors. According to the National Association of Societies for the Care of the Handicapped, the public considered persons with disabilities as objects of pity rather than persons with rights; they constituted a forgotten and invisible group.

There were very few government-sponsored education facilities dedicated to persons with disabilities. Educational institutions discriminated against children
with disabilities. Essential services, including sign language interpreters, Braille materials, and ramps, were not available, and prevented children with disabilities from attending school. Many schools refused to accept children with certain disabilities. Schools that accepted students with disabilities offered very little in the way of nonacademic facilities for those accepted as compared with their counterparts without disabilities. Many urban children with disabilities obtained informal education through private institutions, but these options were generally unavailable for persons with disabilities in rural areas. Government programs, such as the basic education assistance module, intended to benefit children with disabilities, failed to address adequately the root causes of their systematic exclusion. The National Association of Societies for the Care of the Handicapped reported that 75 percent of children with disabilities had no access to education.

Persons with mental disabilities also suffered from inadequate medical care and a lack of health services. There were eight centralized mental health institutions in the country with a total capacity of more than 1,300 patients, in addition to the three special institutions run by the ZPCS for long-term patients and those considered dangerous to society. Inpatients in the eight centralized institutions received cursory screening, and most waited for at least one year for a full medical review.

A shortage of drugs and adequately trained mental health professionals resulted in patients not being properly diagnosed and not receiving adequate therapy. There were four or fewer certified psychiatrists working in public and private clinics and teaching in the country. There was a 50 percent vacancy rate for psychiatric nurses. The mental institution in Bulawayo provided more than 90 percent of the available psychiatric services. NGOs reported that getting access to these services was slow and frustrating. NGOs reported that patients suffered from extremely poor living conditions due in part to shortages of food, water, clothing, and sanitation. Budgetary constraints and limited capacity at these institutions resulted in families keeping persons with mental disabilities at home, sometimes in chains and without treatment, and cared for by family.

Prison inmates in the three facilities run by the ZPCS were not necessarily convicted prisoners. Two doctors examined inmates with psychiatric conditions. The doctors were required to confirm a mental disability and recommend a patient for release or return to a mental institution. Prisoners with mental disabilities routinely waited as long as three years for evaluation.
A five-year program launched in 2009 by the National Association of Societies for the Care of the Handicapped provided civic education to persons with disabilities with the goal of encouraging greater civic participation. There were minimal legal or administrative safeguards to allow participation in the electoral processes by persons with disabilities. Administrative arrangements for voter registration at relevant government offices were burdensome, involving long queues, several hours or days of waiting, and necessary return visits, which effectively served to disenfranchise some persons with disabilities. The organizations reported that only 20 percent of eligible voters with disabilities had the identity documents required to vote. On election day in 2013, voting stations in many rural areas were in places inaccessible to persons with disabilities. The law permits blind persons to bring an individual to assist in marking their ballots, and therefore compromises ballot secrecy.

**National/Racial/Ethnic Minorities**

According to government statistics, the Shona ethnic group makes up 82 percent of the population, Ndebele 14 percent, whites and Asians less than 1 percent, and other ethnic groups 3 percent. ZANU-PF leaders often encouraged hatred against whites through public speeches and other broadcasts. This created tension between ZANU-PF supporters and whites. Historical tension between the Shona majority and the Ndebele minority resulted in marginalization of the Ndebele by the Shona-dominated government. During the 2013 elections, the mainstream MDC-T often accused Welshman Ncube of the MDC-N (an Ndebele) of campaigning on a tribal platform. In turn the smaller MDC-N complained of continued victimization and neglect of the minority Ndebele by the Shona-dominated MDC-T and ZANU-PF.

The government continued its attempts to blame the country’s economic and political problems on the white minority and western countries. Police seldom arrested ZANU-PF supporters or charged them with infringing upon minority rights, particularly the property rights of the minority white commercial farmers or wildlife conservancy owners targeted in the land redistribution program.

The government enforced few of the provisions or timelines in the 2007 indigenization law, and no businesses were forced to transfer ownership. The law defines an indigenous Zimbabwean as any person, or the descendant of such person, who before the date of the country’s independence in 1980 was disadvantaged. The official purpose of the indigenization law was to increase the participation of indigenous citizens in the economy, including at least 51 percent
indigenous ownership of all businesses. Legal experts criticized the law as unfairly discriminatory and a violation of the constitution.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The constitution does not prohibit discrimination based on sexual orientation and gender identity. According to the country’s criminal code, “any act involving physical contact between men that would be regarded by a reasonable person to be an indecent act” carries a penalty of up to one year in prison or a fine up to $5,000. Despite that, there were no known cases of prosecutions of consensual same-sex sexual activity. Common law prevents gay men and, to a lesser extent, lesbians from fully expressing their sexual orientation. In some cases it criminalizes the display of affection between men.

The president and ZANU-PF leaders publicly criticized the LGBTI community. On September 28, the president stated, “we are not gays” during his remarks at the UN General Assembly and rejected the promotion of LGBTI rights, which he said were contrary to the country’s values, norms, traditions, and beliefs.

Members of Gays and Lesbians of Zimbabwe (GALZ), the primary organization dedicated to advancing the rights of LGBTI persons, experienced harassment and discrimination. In December 2014 a group of intruders forced their way into the private year-end event of GALZ, attacking, robbing, and leaving 35 attendees injured. In contrast the Bulawayo-based Sexual Rights Center (SRC), an organization similarly dedicated to advancing the rights of “sexual minorities,” reported minimal harassment.

Religious leaders in this traditionally conservative and Christian society encouraged discrimination against LGBTI persons. In March, Walter Magaya, leader of the Healing and Deliverance Ministries, stated that gays and lesbians were “spiritually afflicted and just like all evil spirits, they need deliverance.”

LGBTI persons reported widespread societal discrimination based on sexual orientation. In response to social pressure, some families reportedly subjected their LGBTI members to “corrective” rape and forced marriages to encourage heterosexual conduct. Women in particular were subjected to rape by male family members. Victims rarely reported such crimes to police. LGBTI persons often left school at an early age due to discrimination and had higher rates of unemployment and homelessness. Many persons who identified themselves as LGBTI did not
seek medical care for sexually transmitted diseases or other health problems due to fear that health providers would shun them or report them to authorities.

**HIV and AIDS Social Stigma**

The government has a national HIV/AIDS policy that prohibits discrimination against persons with HIV/AIDS, and the law prohibits discrimination against workers with HIV/AIDS in the private sector and parastatals. Despite these provisions, societal discrimination against persons affected by HIV/AIDS remained a problem. Although there was an active information campaign to destigmatize HIV/AIDS by international and local NGOs, the Ministry of Health and Child Welfare, and the National AIDS Council, such ostracism and criticism continued.

In the 2010-11 DHS, 22 percent of women and 20 percent of men reported they held discriminatory attitudes towards those living with HIV.

**Other Societal Violence or Discrimination**

Inexplicable disappearances and killings, sometimes involving mutilation of the victim, often were attributed to customary or traditional rituals, in some cases involving a healer who requested a human body part to complete a required task. Police generally rejected the “ritual killing” explanation, despite its being commonly used in society and the press.

**Promotion of Acts of Discrimination**

Throughout the year government-controlled media continued to vilify white citizens and blame them for the country’s problems. The president was complicit in actions to vilify white citizens and urged the eviction of remaining white farmers.

**Section 7. Worker Rights**

*a. Freedom of Association and the Right to Collective Bargaining*

While the law provides for the right of private sector workers to form and join unions, conduct legal strikes, and bargain collectively, other provisions of law abrogated these rights. Public sector workers may not form or join trade unions but may form associations that bargain collectively and strike. The law prohibits
TAB
9
Human Rights Council
Working Group on the Universal Periodic Review
Twenty-sixth session
31 October-11 November 2016

Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Zimbabwe

The present report is a compilation of the information contained in reports of the treaty bodies and special procedures, including observations and comments by the State concerned, in reports of the United Nations High Commissioner for Human Rights, and in other relevant official United Nations documents. It is presented in a summarized manner owing to word-limit constraints. For the full texts, please refer to the documents referenced. The report does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review, and developments during that period.
I. Background and framework

A. Scope of international obligations

1. International human rights treaties

<table>
<thead>
<tr>
<th>Status during previous cycle</th>
<th>Action after review</th>
<th>Not ratified/not accepted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ratification, accession or succession</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CEDAW (1991)</td>
<td></td>
<td>ICRMW</td>
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<tr>
<td>CRC (1990)</td>
<td></td>
<td>ICPPED</td>
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<tr>
<td>Reservations and/or declarations</td>
<td></td>
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<tr>
<td>ICCPR (declaration, art. 41, 1993)</td>
<td>OP-CRC-AC (declaration, art. 3 (2), 18 years, 2013)</td>
<td></td>
</tr>
<tr>
<td>Complaints procedures, inquiries and urgent action</td>
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</table>

2. Other main relevant international instruments

<table>
<thead>
<tr>
<th>Status during previous cycle</th>
<th>Action after review</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Ratification, accession or succession</td>
<td></td>
<td></td>
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<tr>
<td>Convention on the Prevention and Punishment of the Crime of Genocide</td>
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<tr>
<td>-</td>
<td>-</td>
<td>Rome Statute of the International Criminal Court</td>
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<tr>
<td>-</td>
<td>-</td>
<td>1961 Convention on the Reduction of Statelessness</td>
</tr>
<tr>
<td>-</td>
<td>Palermo Protocol⁴</td>
<td>-</td>
</tr>
<tr>
<td>Conventions on refugees and stateless persons (except 1961 Convention on the Reduction of Statelessness)⁵</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-</td>
<td>-</td>
<td>Additional Protocol III to the 1949 Geneva Conventions⁷</td>
</tr>
<tr>
<td>Geneva Conventions of 12 August 1949 and Additional Protocols I and II⁶</td>
<td></td>
<td></td>
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<tr>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>ILO fundamental conventions⁸</td>
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<td>-</td>
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</tr>
<tr>
<td>Status during previous cycle</td>
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<td>------------------------------</td>
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<tr>
<td>-</td>
<td>-</td>
<td>ILO Conventions Nos. 169 and 189</td>
</tr>
<tr>
<td>Convention against Discrimination in Education</td>
<td>-</td>
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</tbody>
</table>

1. The Office of the United Nations High Commissioner for Refugees (UNHCR) recalled that, during the universal periodic review held on 10 October 2011, Zimbabwe had supported the recommendation to ratify the 1961 Convention on the Reduction of Statelessness and that it had recommended that Zimbabwe accede to the Convention.

2. In 2016, the Committee on the Rights of the Child recommended that Zimbabwe ratify CAT, ICRMW, ICPPED and OP-CRC-IC. In 2012, the Committee on the Elimination of Discrimination against Women recommended that Zimbabwe ratify OP-CEDAW.


B. Constitutional and legislative framework

4. The United Nations country team applauded Zimbabwe for adopting, in May 2013, a new Constitution founded on principles that include the rule of law and fundamental human rights. It recommended accelerating the process of reviewing and aligning the laws to the Constitution. It urged Zimbabwe to utilize the legislative alignment process as an opportunity to incorporate the ratified conventions into the domestic legal framework.

5. The Committee on the Elimination of Discrimination against Women urged Zimbabwe to give high priority to the process of fully incorporating CEDAW into its domestic legal system.

6. The Committee on the Rights of the Child welcomed the constitutional provision establishing the age of majority at 18 years, as well as the prohibition on pledging children in marriage and on forced marriage. It recommended amending all statutory and customary law to establish the minimum age of marriage at 18 years.

7. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended decriminalizing defamation in accordance with international standards.

8. In 2012, the High Commissioner for Human Rights stated that section 33 of the Criminal Code, dealing with “insulting or undermining the authority of the president”, should be repealed. Also, section 121 of the Criminal Procedure and Evidence Act, which was seriously misused by prosecutors to block the release of persons after bail had been granted, without any reason, should be amended to prevent its frequent misuse for political purposes.
C. Institutional and human rights infrastructure and policy measures

Status of national human rights institutions

<table>
<thead>
<tr>
<th>National human rights institution</th>
<th>Status during previous cycle</th>
<th>Status during present cycle</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zimbabwe Human Rights Commission</td>
<td>-</td>
<td>A (2016)</td>
</tr>
</tbody>
</table>

9. The country team stated that the Zimbabwe Human Rights Commission remained underresourced and understaffed, which negatively affected its performance. The country team recommended strengthening the independence of the Commission in carrying out its monitoring mandate, including in places of detention. The Committee on the Rights of the Child urged Zimbabwe to ensure that the Commission had the mandate and resources to monitor children’s rights and to ensure the independence of the Commission in relation to its funding, mandate, immunities and the appointment of its members, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

10. The country team encouraged Zimbabwe to accelerate efforts to ensure the full operationalization of the Zimbabwe Gender Commission.

11. The Committee on the Elimination of Discrimination against Women encouraged Zimbabwe to strengthen the Ministry of Women’s Affairs, Gender and Community Development by providing it with adequate human, financial and technical resources and to strengthen its impact assessment mechanisms so as to ensure that gender equality policies are properly monitored and evaluated and that their implementation is assessed.

12. The Committee on the Rights of the Child urged Zimbabwe to ensure the establishment of an appropriate body at a high interministerial level with a clear mandate and sufficient authority and resources to effectively coordinate all activities related to the implementation of CRC.

II. Cooperation with human rights mechanisms

13. The country team stated that Zimbabwe had prepared a midterm report on the implementation of the recommendations received during the 2011 review.

14. In 2012, the United Nations High Commissioner for Human Rights expressed the willingness of her Office to provide technical support to Zimbabwe to implement recommendations from the 2011 review. She urged Zimbabwe to reconsider those recommendations the implementation of which had not been supported, as they were of great importance to the country’s future.

A. Cooperation with treaty bodies

1. Reporting status

15. The Committee on the Rights of the Child regretted that the second periodic report had been submitted with considerable delay. The country team stated that, although progress had been made in drafting the overdue treaty body reports, delays were noted in obtaining Cabinet and Ministry approval, which had resulted in the information in the reports being outdated at the time of submission.
<table>
<thead>
<tr>
<th>Treaty body</th>
<th>Concluding observations included in previous review</th>
<th>Latest report submitted since previous review</th>
<th>Latest concluding observations</th>
<th>Reporting status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Committee on the Elimination of Racial Discrimination</td>
<td>March 2000</td>
<td>-</td>
<td>-</td>
<td>Fifth report overdue since 2000</td>
</tr>
<tr>
<td>Committee on Economic, Social and Cultural Rights</td>
<td>May 1997</td>
<td>-</td>
<td>-</td>
<td>Second report overdue since 1998</td>
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<tr>
<td>Human Rights Committee</td>
<td>April 1998</td>
<td>-</td>
<td>-</td>
<td>Second report overdue since 2002</td>
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<tr>
<td>Committee on the Rights of Persons with Disabilities</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Initial report overdue since 2015</td>
</tr>
</tbody>
</table>

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

<table>
<thead>
<tr>
<th>Treaty body</th>
<th>Due in</th>
<th>Subject matter</th>
<th>Submitted in</th>
</tr>
</thead>
<tbody>
<tr>
<td>Committee on the Elimination of Discrimination against Women</td>
<td>2014</td>
<td>Constitutional review; violence against women[66]</td>
<td>2015; follow-up dialogue ongoing</td>
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</table>

B. Cooperation with special procedures[77]

<table>
<thead>
<tr>
<th>Status during previous cycle</th>
<th>Current status</th>
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</thead>
<tbody>
<tr>
<td>Standing invitation</td>
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<tr>
<td>Visits undertaken</td>
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</tr>
<tr>
<td>Visits agreed to in principle</td>
<td>Torture</td>
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<tr>
<td></td>
<td>Violence against women</td>
</tr>
<tr>
<td>Visits requested</td>
<td>Status during previous cycle</td>
</tr>
<tr>
<td>------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>Independence of judges and lawyers</td>
<td>Human rights defenders</td>
</tr>
<tr>
<td>Human rights defenders</td>
<td>Violence against women</td>
</tr>
<tr>
<td>Freedom of expression</td>
<td>Peaceful assembly and association</td>
</tr>
<tr>
<td>Torture</td>
<td>Water and sanitation</td>
</tr>
<tr>
<td>Food</td>
<td>Extreme poverty</td>
</tr>
<tr>
<td>Mercenaries</td>
<td>Negative impact of unilateral coercive measures</td>
</tr>
<tr>
<td>Housing</td>
<td>Torture</td>
</tr>
<tr>
<td>Disappearances</td>
<td>Independence of judges and lawyers</td>
</tr>
</tbody>
</table>

Responses to letters of allegation and urgent appeals
During the period under review, 16 communications were sent. The Government replied to 6 communications.

16. The country team encouraged Zimbabwe to cooperate with the special procedures mandate holders of the Human Rights Council.38

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

17. In 2012, the United Nations High Commissioner for Human Rights visited Zimbabwe.39

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

18. The Committee on the Elimination of Discrimination against Women expressed concern about the persistence of harmful norms, practices and traditions, patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life.40 It urged Zimbabwe to put in place a comprehensive strategy to modify or eliminate patriarchal attitudes and stereotypes that discriminate against women.41

19. The Committee also expressed concern about customary and religious laws and practices that discriminated against women in the area of marriage and family relations, such as polygamy and bride price (lobola), and that were being upheld to preserve both civil and customary marital regimes.42
20. The Committee on the Rights of the Child expressed concern about forced and early marriage, polygamy, lobola and, in certain regions, virginity testing and witch hunting.43

21. The Committee on the Elimination of Discrimination against Women expressed concern about the prevalence of discriminatory customs and traditional practices that prevent rural women from inheriting or acquiring land and other property and accessing credit facilities and community services. While noting that Zimbabwe had allocated a 20 per cent quota for women under the fast-track land reform programme, the Committee expressed concern that rural women’s access to land remained limited compared to that of men.44 The Committee called upon Zimbabwe to monitor the implementation of the land reform programme to ensure that the quota would be achieved.45

22. The Committee also expressed concern about the disadvantaged position of women in rural and remote areas who experienced poverty, difficulties in accessing health and social services and lack of participation in decision-making processes at the community level.46

23. The Committee commended efforts to apply temporary special measures allowing women to access loans under the small and medium-sized enterprises policy in 2010 and encouraged strengthening those measures. It recommended setting time-bound targets and allocating sufficient resources for the implementation of strategies and measures aimed at achieving the substantive equality of women and men in all areas, in particular employment and participation in political and public life.47

24. The Committee on the Rights of the Child expressed concern about the situation of girls who suffered marginalization and gender stereotyping and who were more vulnerable to sexual violence, abuse and HIV/AIDS.48

25. The Committee also expressed concern about discriminatory legislation on guardianship that distinguished between children born within and outside marriage. It recommended aligning the laws with the non-discriminatory provisions of the Constitution, thereby giving parents equal rights and responsibilities with regard to guardianship and custody of their child, and removing any preference given to a parent prior to specific consideration of the best interests of the child. It also recommended ensuring that the children of unmarried parents have contact with their fathers when it is in the best interests of those children.49

26. The Committee remained concerned about the low number of births registered and the low rate of issuance of birth certificates, especially in rural areas and in low-income households. The failure to present a birth certificate could prevent school enrolment and children from receiving their national school examination certificates. It could also lead to a child being denied inheritance from his or her legitimate father if paternity was not proved, as required by the inheritance laws.50

27. The Committee expressed concern about reports that children born on the territory of Zimbabwe to parents of indeterminate nationality had been denied the right to have their birth registered and to acquire Zimbabwean nationality, which had impeded their access to health care, education and other social services.51

28. The Committee reiterated its concern about high levels of discrimination against certain groups of children, including children with disabilities, children in street situations, children living in rural areas, children born out of wedlock, orphans, children living in foster care, lesbian, gay, bisexual, transgender and intersex children and children infected with HIV or affected by HIV/AIDS.52
B. Right to life, liberty and security of person

29. The country team stated that little progress had been made by the authorities to establish the whereabouts of Itai Dzamara, a freelance journalist who was abducted in March 2015, despite a High Court order in that regard. It encouraged Zimbabwe to take all measures necessary to investigate his whereabouts.53

30. The Committee on the Rights of the Child urged Zimbabwe to establish child-sensitive complaints mechanisms regarding ill-treatment and torture of children in police custody and detention and ensure the independent monitoring of places where children are deprived of their liberty.54

31. The country team stated that conditions of detention remained below international standards. It encouraged Zimbabwe to take urgent steps to improve prison conditions and address prison decongestion.55 The Committee on the Rights of the Child expressed concern about reports of a serious lack of nutritious food and poor sanitary conditions for infants and children sharing prison cells with their mothers.56

32. The Committee on the Elimination of Discrimination against Women expressed concern about acts of violence perpetrated by State and non-State actors against lesbian, bisexual and transgender women.57 It urged Zimbabwe to provide effective protection against violence and discrimination for women, including lesbian, bisexual and transgender women.58

33. The Committee welcomed the enactment of the Sexual Offences Act in 2003, which recognized marital rape as an offence, and was deeply concerned that its effectiveness had been hampered owing to a lack of financial and human resources.59

34. The Committee expressed concern about the high prevalence of violence against women, in particular domestic and sexual violence, which remained, in many cases, underreported, and also about the absence of an expressed political will to give priority to eliminating violence against women.60 The Committee also expressed concerned at the failure to address politically motivated violence against women.61

35. The Committee urged Zimbabwe to provide adequate assistance and protection to women who were victims of violence by strengthening the capacity of existing shelters and establishing more shelters.62

36. The Committee on the Rights of the Child expressed concern about allegations that members of religious sects, such as apostolic churches, were involved in harmful cultural practices, in particular early marriage between girls as young as 10 years of age and older men for “spiritual guidance”.63

37. The Committee also expressed concern about the prevalence of sexual exploitation and abuse of girls, orphans, children with disabilities, child migrants and children living in poverty, and about the underreporting of such violations.64 It recommended that Zimbabwe ensure that victims have access to child-protection centres throughout the country.65

38. The Committee further expressed concern that corporal punishment remained legal and widely practised in the family, in schools and in other settings,66 and about the recourse to whipping as a disciplinary measure for boys.67

39. The Committee expressed concern about the persistence of child labour, including hazardous labour, owing to the weak enforcement of existing legislation and policies and about reports of exploitation of children, in particular from low-income households, in the agriculture, forestry, hunting and fishing sectors.68 It urged Zimbabwe to establish a list of hazardous kinds of work in which children should not be involved,69 to address the
socioeconomic factors contributing to child labour and scale up the implementation of social welfare programmes to prevent children engaging in economic activities.  

40. The Committee on the Rights of the Child welcomed the enactment of the Trafficking in Persons Act (2014) and the creation of the Interministerial Task Force on Human Trafficking. It noted persistent reports of trafficking in children in the context of the high rate of migration of unaccompanied children. The Committee on the Elimination of Discrimination against Women remained concerned at the continuing prevalence of trafficking in women and girls, as well as at the low reporting rate. That same Committee called for members of the judiciary, law enforcement officials, border guards and social workers to be trained in identifying and dealing with victims of trafficking and in the anti-trafficking legislation. 

41. The Committee on the Elimination of Discrimination against Women was concerned at the lack of shelters and counselling services for victims of trafficking and prostitution. The Committee on the Rights of the Child recommended that Zimbabwe ensure the protection of, and support services for, children who had been victims of trafficking and commercial sexual exploitation.

C. Administration of justice, including impunity, and the rule of law

42. The Committee on the Rights of the Child expressed concern about the inefficiencies and lack of resources in the justice system resulting in the extremely low conviction rate of perpetrators of sexual exploitation and abuse of children.

43. The Committee on the Elimination of Discrimination against Women urged Zimbabwe to provide mandatory training for judges and prosecutors on the strict application of legal provisions dealing with violence against women and train police officers on procedures to deal with victims of violence.

44. The country team stated that the provision of legal aid remained a challenge, as services were not decentralized, which was compounded by reports of corruption in the justice delivery sector.

45. The Committee on the Rights of the Child remained concerned about the minimum age of criminal responsibility being set at 7 years and urged Zimbabwe to increase it in accordance with international standards.

46. That same Committee commended Zimbabwe for including in its Constitution a provision stating that children are not to be detained except as a measure of last resort and welcomed the constitutional and legislative provisions guaranteeing the right to legal aid.

47. The country team stated that Zimbabwe piloted the pretrial diversion programme, which targeted children in conflict with the law, and encouraged the Government to provide funding for the roll-out of the programme nationally.

48. The Committee on the Rights of the Child urged Zimbabwe to continue the pretrial diversion programme and ensure that children have access to alternative measures to deprivation of liberty and ensure the provision of qualified and independent legal aid to children in conflict with the law by increasing the allocation of human and financial resources to the Legal Aid Directorate.

49. That same Committee urged Zimbabwe to designate and train specialized judges for children and strengthen specialized juvenile court facilities and procedures by providing adequate human, technical and financial resources.
50. The Committee recommended that Zimbabwe ensure the effective implementation of legislation recognizing the right of children to express their views in relevant legal proceedings, including by considering establishing systems and procedures for social workers and courts to monitor compliance with the principle.

D. Right to privacy, marriage and family life

51. The Committee on the Rights of the Child was concerned about the inadequate enforcement of laws protecting children’s right to privacy, in particular in relation to the publication of information by the media relating to children who were either victims of abuse or accused of committing crimes, as well as being subjected to invasive practices such as virginity testing.

52. The country team stated that three marriage regimes existed in Zimbabwe, with different consequences for women after divorce or the death of the spouse. It recommended harmonizing the laws to create one marriage regime.

53. The Committee on the Rights of the Child noted the rising number of children in residential care and recommended that Zimbabwe support and facilitate family-based care for children wherever possible and further develop the foster care system for children who cannot stay with their families.

54. The Committee was concerned about the overly restrictive interpretation of the rules of adoption and the negative views of adoption within the society.

E. Freedom of movement

55. UNHCR stated that Zimbabwe had an encampment policy requiring all refugees to stay at Tongogara Refugee Camp. Detention was used for migration-related offences, including unlawful entry, employment without an official permission to work and exiting the refugee camp without authorization.

F. Freedom of or belief, expression, association and peaceful assembly, and the right to participate in public and political life

56. The Committee on the Rights of the Child expressed concern about reports that children had been forced to participate in political activities.

57. The Committee also expressed concern about reports that the Public Order and Security Act had been invoked by the authorities to deny children permission to hold marches in commemoration of International Children’s Day.

58. The Committee on the Elimination of Discrimination against Women expressed concern that obstacles to the advancement of women remained in the areas of public and professional life, as well as in decision-making positions, including the judiciary, local government and the private sector. It called for the adoption of quotas for women throughout the public service.

59. The Committee also expressed concerned that systematic barriers impeded the equal participation of women in political life. It called on Zimbabwe to allocate adequate funds for women candidates participating in elections, including opposition candidates, in the public funding of election campaigns and to promote women’s participation in civil society organizations, political parties, trade unions and other associations, including in leadership positions.
G. **Right to work and to just and favourable conditions of work**

60. The country team stated that structural and legislative barriers existed for women in the labour market. Maternity benefits remained out of reach for women in the informal sector and in rural areas.  

61. The Committee on the Elimination of Discrimination against Women expressed concern at the continuing vertical and horizontal occupational segregation and the persistent wage gap between women and men. It urged Zimbabwe to adopt legislation guaranteeing equal pay for work of equal value and temporary special measures, such as quotas aimed at achieving de facto equality of opportunity for men and women in the labour market.  

62. The Committee expressed concern about the concentration of women in the informal sector, where there were no social security or other benefits. It urged Zimbabwe to provide a regulatory framework for the informal sector with a view to providing women with access to social security and other benefits.  

63. The country team stated that the Labour Amendment Act of 2015 prohibited children under the age of 16 years from working. It recommended that Zimbabwe implement that provision through the use of appropriately trained labour inspectors and the application of severe penalties for those who exploit children.  

64. UNESCO stated that there was a need to increase the salaries of teachers that were below the poverty datum line and improve working conditions for teachers in rural areas.  

H. **Right to social security and to an adequate standard of living**

65. The country team stated that Zimbabwe experienced significant food insecurity. Capacity should be enhanced in areas of social protection to better deliver food assistance and address malnutrition. Improved water management and a concerted effort in the rehabilitation of irrigation schemes were crucial for building resilience and reducing food insecurity.  

66. The United Nations High Commissioner for Human Rights was disturbed by reports that some humanitarian agencies were not allowed to operate in certain parts of the country, notably Mayvingo and Mashonaland, and as a consequence aid, including food aid, was not being delivered on the basis of need.  

67. The Committee on the Rights of the Child expressed concern at the persistent widespread poverty and inadequate basic services, including lack of a comprehensive social security system. It urged Zimbabwe to develop a national strategy to address poverty, social security, nutrition and health, to improve access to safe drinking water and adequate sanitation facilities and to allocate sufficient resources to ensure the implementation of the 2013 Food and Nutrition Security Policy.  

68. That same Committee expressed concern about the high number of child- and grandparent-headed households. It recommended that Zimbabwe strengthen the financial support and community structures to those households, with particular attention to families in rural areas and farming communities.  

I. **Right to health**

69. The Committee on the Rights of the Child recommended that Zimbabwe develop long-term strategies for retaining qualified health personnel and accelerate the training of health workers.
70. The Committee on the Elimination of Discrimination against Women expressed concern at the high maternal mortality rate. It urged Zimbabwe to strengthen efforts and to raise awareness of, and increase, women’s access to health-care facilities and medical assistance by trained personnel, especially in rural and remote areas.

71. The Committee on the Rights of the Child noted with concern the high rates of maternal, neonatal and child mortality, as well as of stunting and malnutrition among children under the age of 5 years, with much higher rates in rural areas. It expressed concern about the limited access to health-care services for children living in poverty and in remote and rural areas. It also expressed concern about the significant number of deaths of children under 5 years of age owing to poor hygiene, inadequate sanitation and lack of clean drinking water.

72. That same Committee expressed concern about reports that apostolic churches were barring children from seeking medical attention and regular health services, including immunization, resulting in deaths and high maternal mortality among adolescents.

73. The Committee also expressed concern that in most cases disability in children was due to preventable causes, such as diseases, inaccessibility to full immunization, lack of comprehensive care (antenatal and postnatal), malnutrition and cultural practices such as early and frequent pregnancies. The Committee recommended that Zimbabwe adopt a policy of prevention and allocate sufficient resources to ensure that children with disabilities have access to health care, including early detection and intervention programmes.

74. The Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women expressed concern about the restrictive abortion law and the lengthy procedures for authorizing abortions, which results in illegal and unsafe abortions. The Committee on the Elimination of Discrimination against Women urged Zimbabwe to provide women with access to quality services for the management of complications arising from unsafe abortions and that it consider reviewing the law with a view to removing punitive provisions imposed on women who undergo abortions for unwanted pregnancies and review the procedures for the exceptions that are allowed by law.

75. The Committee on the Elimination of Discrimination against Women expressed concern at the limited access to quality reproductive and sexual health services for women. It urged Zimbabwe to increase knowledge of and access to affordable contraceptive methods throughout the country and to ensure that women in rural and remote areas do not face barriers in accessing family-planning information and services.

76. The Committee on the Rights of the Child expressed concern about the requirement, in law, for parents or guardians to give consent for unmarried adolescents to access reproductive health services, including information on contraception and the prevention of sexually transmitted infections.

77. The Committee urged Zimbabwe to ensure that sexual and reproductive health education is part of the mandatory school curriculum and that it targets adolescent girls and boys, with a view to reducing teenage pregnancies and preventing HIV and other sexually transmitted infections.

78. The Committee expressed concern about the high rate of mother-to-child transmission of HIV and new HIV infections among girls and boys; the high number of children being orphaned by HIV and AIDS; the significant number of cases of under-5 mortality for HIV-related causes; the large percentage of infants exposed to HIV not being tested early on for HIV or not receiving the necessary medication; and the large majority of children under 15 years of age with HIV lacking access to antiretroviral treatment.
79. The country team stated that while the States signatories to the Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases had called upon countries to allocate at least 15 per cent of their gross domestic product to the health sector, Zimbabwe only allocated 9.73 per cent in 2016.127

J. Right to education

80. The Committee on the Rights of the Child remained concerned about primary education not being free owing to imposed tuition fees and hidden costs, leading to low completion rates.128

81. It also remained concerned about the high number of girls suffering sexual abuse and harassment on the way to or from school, as well as in school, by both teachers and classmates.129 The Committee on the Elimination of Discrimination against Women urged Zimbabwe to strengthen awareness-raising and training for school officials and students and to establish mechanisms to ensure that alleged perpetrators are prosecuted.130

82. The Committee on the Rights of the Child remained concerned about the difficulties faced by some children in accessing education, particularly those living in poverty and those in remote and rural areas owing to the long walking distances between home and school.131

83. The Committee urged Zimbabwe to ensure the allocation of sufficient resources to improve the quality of education by increasing the number of qualified teachers, improving school infrastructure, including sports, recreational and arts facilities, and increasing children’s access to school materials and textbooks with a view to eradicating rural-urban disparities in school enrolment and attendance.132

84. The Committee remained concerned about the high rate of girls dropping out of school, especially at the secondary and tertiary levels, owing to early marriage, teenage pregnancy, discriminatory traditional and cultural practices and poverty, and about the lack of implementation of the policy on re-entry of adolescent mothers into school after delivery.133

85. The Committee on the Elimination of Discrimination against Women expressed concern that traditional views of both students and teachers oriented female students into areas of study perceived as appropriate to their social roles and participation in public life.134 It urged Zimbabwe to increase its efforts to provide career counselling for girls that exposes them to options related to non-traditional career paths.135

K. Cultural rights

86. UNESCO encouraged Zimbabwe, as a State party, to implement the relevant provisions in the Convention concerning the Protection of the World Cultural and Natural Heritage, the Convention for the Safeguarding of the Intangible Cultural Heritage and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, all of which promote access to and participation in cultural heritage and creative expressions.136

L. Persons with disabilities

87. The country team stated that persons with disabilities remained marginalized in all areas of public discourse and continued to face challenges in access to justice and adequate specialized education facilities, as well as in access to public buildings, schools and polling stations.137
88. The Committee on the Rights of the Child urged Zimbabwe to adopt a human rights-based approach to disability and recommended that it develop an inclusive approach to education and that it train teachers specialized in providing individual support and attention to children with learning difficulties. It also recommended expediting the establishment of the public infrastructure necessary to accommodate children with disabilities.

M. Migrants, refugees and asylum seekers

89. The Committee on the Rights of the Child was concerned that the prolonged socioeconomic crisis had led to the migration of children to neighbouring countries either with parents or unaccompanied. It was particularly concerned about the exposure of children to risks along the migration routes, including sexual abuse, physical abuse, exploitation and malnutrition.

90. UNHCR stated that refugees did not have formal access to the labour market and were therefore compelled to work in the informal sector, often working under duress or in jobs presenting special hazards and risks.

N. Internally displaced persons

91. The Committee on the Rights of the Child expressed concern about the destitution faced by displaced children and their families as a result of the flooding at the Tokwe Murkosi dam and the forced resettlement operations, in particular the reported severe malnutrition and disease, incidences of abuse and sexual violence committed against children and disruption of their education. The Committee urged Zimbabwe to expedite the provision of redress to the displaced families, including prompt and adequate compensation and the ability to return to their land, while ensuring access to appropriate and quality educational, health-care and recreation facilities and the restoration of lost birth certificates.

O. Right to development, and environmental issues

92. The Committee on the Rights of the Child noted that the severe economic decline of the country had had an impact on the delivery of all services to children and that the situation was compounded by pervasive corruption. It urged Zimbabwe to take measures immediately to combat corruption and strengthen institutional capacities through the allocation of human, technical and financial resources to effectively detect and investigate corruption and bring those responsible to justice.

93. The country team stated that climate change was an increasing threat to environmental rights and encouraged Zimbabwe to pursue a low-carbon or green economy by supporting cleaner technologies.
Notes


2 The following abbreviations have been used in the present document:

- **ICERD**: International Convention on the Elimination of All Forms of Racial Discrimination
- **ICESCR**: International Covenant on Economic, Social and Cultural Rights
- **OP-ICESCR**: Optional Protocol to ICESCR
- **ICCPR**: International Covenant on Civil and Political Rights
- **ICCPR-OP 1**: Optional Protocol to ICCPR
- **ICCPR-OP 2**: Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
- **CEDAW**: Convention on the Elimination of All Forms of Discrimination against Women
- **OP-CEDAW**: Optional Protocol to CEDAW
- **CAT**: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- **OP-CAT**: Optional Protocol to CAT
- **CRC**: Convention on the Rights of the Child
- **OP-CRC**: Optional Protocol to CRC on the involvement of children in armed conflict
- **OP-CRC-AC**: Optional Protocol to CRC on the sale of children, child prostitution and child pornography
- **OP-CRC-SC**: Optional Protocol to CRC on a communications procedure
- **ICRMW**: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- **CRPD**: Convention on the Rights of Persons with Disabilities
- **OP-CRPD**: Optional Protocol to CRPD
- **ICPPED**: International Convention for the Protection of All Persons from Enforced Disappearance

3 Individual complaints: ICCPR-OP 1, art. 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and ICPPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; ICPPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; ICPPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: ICPPED, art. 30.


6 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/ihl.

7 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/ihl.
International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182).

ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169); and Domestic Workers Convention, 2011 (No. 189).

See A/HRC/19/14.

See UNHCR submission for the universal periodic review of Zimbabwe, p. 4. See also A/HRC/19/4, para. 705.

See CRC/C/ZWE/CO/2, para. 79. See also CEDAW/C/ZWE/CO/2-5, para. 42.

See CRC/C/ZWE/CO/2, para. 78.

See CEDAW/C/ZWE/CO/2-5, para. 12.

See CRC/C/ZWE/CO/2, para. 53 (c).

See country team submission, para. 3.

Ibid., paras. 4 and 6.

Ibid., para. 25.

See CEDAW/C/ZWE/CO/2-5, para. 12.

See CRC/C/ZWE/CO/2, paras. 24 and 25.

See UNESCO submission for the universal periodic review of Zimbabwe, para. 124.


According to article 5 of the rules of procedure of the Global Alliance of National Human Rights Institutions Sub-Committee on Accreditation, the classifications for accreditation used by the Sub-Committee are: A: voting member (fully in compliance with each of the Paris Principles); B: non-voting member (not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination); and C: no status (not in compliance with the Paris Principles).


See country team submission, para. 9.

Ibid., para. 11.

See CRC/C/ZWE/CO/2, para. 21.

See country team submission, para. 7.

See CEDAW/C/ZWE/CO/2-5, para. 16.

See CRC/C/ZWE/CO/2, para. 13.

See country team submission, para. 19.


See CRC/C/ZWE/CO/2, para. 2.

See country team submission, para. 21.

See CEDAW/C/ZWE/CO/2-5, para. 44.

For the titles of special procedure mandate holders, see www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx.

See country team submission, para. 22.

See www.ohchr.org/EN/NewsEvents/Pages/HRChiefendsfirstevermissiontoZimbabwebyaUNHCforHR.aspx#.

See CEDAW/C/ZWE/CO/2-5, para. 21.

Ibid., para. 22 (c).

Ibid., para. 37.

See CRC/C/ZWE/CO/2, para. 46 (a). See also CEDAW/C/ZWE/CO/2-5, para. 21.

See CEDAW/C/ZWE/CO/2-5, para. 35.
45 Ibid., para. 36 (d).
46 Ibid., para. 35.
47 Ibid., paras. 19 and 20.
49 Ibid., paras. 48 and 49.
50 Ibid., paras. 34 and 35.
51 Ibid., para. 36.
52 Ibid., paras. 26 and 27.
53 See country team submission, para. 33.
54 See CRC/C/ZWE/CO/2, para. 77 (g) and (h).
55 See country team submission, para. 31.
56 See CRC/C/ZWE/CO/2, para. 54.
57 See CEDAW/C/ZWE/CO/2-5, para. 23.
58 Ibid., para. 24 (f).
59 Ibid., para. 23.
60 Ibid., para. 23.
61 Ibid., para. 23.
62 Ibid., para. 24 (e).
63 See CRC/C/ZWE/CO/2, para. 46 (b).
64 Ibid., paras. 44 (b) and (c). See also CRC/C/ZWE/CO/2, para. 60 (a).
65 See CRC/C/ZWE/CO/2, para. 45 (a).
66 Ibid., para. 42.
67 Ibid., para. 76 (c).
68 Ibid., para. 72.
69 Ibid., para. 73 (a).
70 Ibid., para. 73 (c).
71 Ibid., para. 4 (c).
72 Ibid., para. 74.
73 Ibid., para. 74.
74 See CEDAW/C/ZWE/CO/2-5, para. 25.
75 Ibid., para. 26 (b). See also CRC/C/ZWE/CO/2, para. 75 (c).
76 See CEDAW/C/ZWE/CO/2-5, para. 25.
77 See CRC/C/ZWE/CO/2, para. 75 (e). See also CEDAW/C/ZWE/CO/2-5, para. 26 (a) and (e).
78 See CRC/C/ZWE/CO/2, para. 44 (d).
79 See CEDAW/C/ZWE/CO/2-5, para. 24 (b).
80 See country team submission, para. 36.
81 See CRC/C/ZWE/CO/2, paras. 76 (a) and 77 (a).
82 Ibid., para. 76.
83 See country team submission, para. 35.
84 See CRC/C/ZWE/CO/2, para. 77 (e) and (f).
85 Ibid., para. 77 (d).
86 Ibid., para. 33 (a).
87 Ibid., para. 40.
88 See country team submission, para. 38.
89 See CRC/C/ZWE/CO/2, paras. 50 and 51.
90 Ibid., para. 52.
91 See UNHCR submission, p. 7.
92 See CRC/C/ZWE/CO/2, para. 38.
93 Ibid.
94 See CEDAW/C/ZWE/CO/2-5, para. 27.
95 Ibid., para. 28 (a).
96 Ibid., para. 27.
97 Ibid., para. 28 (b).
98 Ibid., para. 28 (c).
99 See country team submission, para. 29.
100 See CEDAW/C/ZWE/CO/2-5, para. 31.
101 Ibid., para. 32 (a) and (c).
102 Ibid., para. 31.
103 Ibid., para. 32 (b).
104 See country team submission, paras. 45 and 46.
105 See UNESCO submission, para. 108.
106 See country team submission, paras. 47 and 50.
108 See CRC/C/ZWE/CO/2, para. 64.
109 Ibid., para. 31. See also CRC/C/ZWE/CO/2, para. 65 (b).
110 See CRC/C/ZWE/CO/2, paras. 48 and 49. See also CRC/C/ZWE/CO/2, para. 65 (a).
111 See CRC/C/ZWE/CO/2, para. 59 (c).
112 See CEDAW/C/ZWE/CO/2-5, para. 33.
113 Ibid., para. 34 (b).
114 See CRC/C/ZWE/CO/2, para. 30.
115 Ibid., para. 58 (b).
116 See also CRC/C/ZWE/CO/2, para. 58 (a), (c) and (d).
117 See CRC/C/ZWE/CO/2, para. 58 (f). See also CRC/C/ZWE/CO/2, paras. 46 (b) and 47 (d).
118 See CRC/C/ZWE/CO/2, para. 56.
119 Ibid., para. 57 (b) and (c).
120 See CRC/C/ZWE/CO/2, para. 60 (c) and CEDAW/C/ZWE/CO/2-5, para. 33.
121 See CEDAW/C/ZWE/CO/2-5, para. 34 (e). See also CRC/C/ZWE/CO/2, para. 61 (c).
122 See CEDAW/C/ZWE/CO/2-5, para. 30.
123 Ibid., para. 34 (c).
124 See CRC/C/ZWE/CO/2, para. 60 (d).
125 Ibid., para. 61 (b). See also CEDAW/C/ZWE/CO/2-5, para. 34 (d).
126 See CRC/C/ZWE/CO/2, para. 62. See also CEDAW/C/ZWE/CO/2-5, para. 33, and country team submission, paras. 53-55.
127 See country team submission, para. 51.
128 See CRC/C/ZWE/CO/2, para. 68 (a). See also country team submission, para. 56.
129 See CRC/C/ZWE/CO/2, para. 68 (e). See also CEDAW/C/ZWE/CO/2-5, para. 29.
130 See CEDAW/C/ZWE/CO/2-5, para. 30 (e). See also CRC/C/ZWE/CO/2, para. 69 (d).
131 See CRC/C/ZWE/CO/2, para. 68 (d).
132 Ibid., para. 69 (c).
133 Ibid., para. 68 (b). See also country team submission, para. 60.
134 See CEDAW/C/ZWE/CO/2-5, para. 29.
135 Ibid., para. 30 (c).
136 See UNESCO submission, para. 139.
137 See country team submission, para. 63.
138 See CRC/C/ZWE/CO/2, para. 57, in particular (d) and (e).
139 Ibid., para. 57 (f).
140 Ibid., paras. 70 and 71.
141 See UNHCR submission, p. 7.
142 See CRC/C/ZWE/CO/2, paras. 66 and 67.
143 Ibid., para. 17.
144 See country team submission, para. 72.
TAB
10
Human Rights Council
Twenty-second session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez

Addendum

Observations on communications transmitted to Governments and replies received*

* The present document is being circulated in the languages of submission only.
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Abbreviations

AL  Letter of allegation

JAL  Joint letter of allegation

JUA  Joint urgent appeal

UA  Urgent appeal
I. Introduction

1. The present document is submitted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, to the Human Rights Council, pursuant to its resolution 16/23.

2. In the present addendum, the Special Rapporteur provides observations, where considered appropriate, on communications sent to States between 1 December 2011 and 30 November 2012, as well as on responses received from States in relation to these communications until 31 January 2013. Communications sent and responses received during the reporting period are accessible electronically through hyperlinks.

3. The Special Rapporteur acknowledges the receipt of additional responses from States through to 31 January 2013 in relation to the joint study on global practices in relation to secret detention in the context of countering terrorism (A/HRC/13/42). The current report does not comment on the substance of responses received so far to the joint study on secret detention. Subject to agreement with the other mandate-holders responsible for that joint report, and after more responses are received, a special report on those contributions will be issued.

4. The Special Rapporteur is grateful to all States which have transmitted responses to communications sent. He considers response to his communications an important part of cooperation by States with his mandate. In this context, the Special Rapporteur recalls paragraph 6(a) of the Human Rights Council resolution 16/23 which urges States to “cooperate with and assist the Special Rapporteur in the performance of his or her task, to supply all necessary information requested by him or her and to fully and expeditiously respond to his or her urgent appeals, and urges those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer without further delay.”

5. The communications and the relevant replies can be accessed via the communications reports of Special Procedures A/HRC/20/30 (communications sent, 1 December 2011 to 15 March 2012; replies received, 1 February 2012 to 15 May 2012); A/HRC/21/49 (communications sent, 16 March to 31 May 2012; replies received, 16 May to 31 July 2012) and A/HRC/22/67 (communications sent, 1 June to 30 November 2012; replies received, 1 August 2012 to 31 January 2013).

II. Observations by the Special Rapporteur

Angola

(a) JAL 21/12/2011 Case No. AGO 3/2011 State reply: None to date Alleged excessive use of force by authorities during peaceful protests

6. The Special Rapporteur regrets that the Government of Angola has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged excessive use of force against peaceful protestors. The Special Rapporteur reiterates that principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, provides that, “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur finds that the rights under the UN Convention against Torture of the individuals mentioned in the
deteriorating health of Ms. Tran Thi Thuy, a human rights defender, while she is held in detention. In its reply, the Government claims that “most of the accusations . . . appear to be incorrect and misleading.” The Special Rapporteur notes the insufficiency of the Government’s reply regarding the specific allegations pertaining to Ms. Tran Thi Thuy’s detention. Moreover, the Special Rapporteur expresses grave concern regarding Ms. Tran Thi Thuy’s deteriorating health, and reminds the Government of its obligation to provide adequate medical services to all prisoners and detainees. In this context, the Special Rapporteur reiterates rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners, which provides that, “[s]ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.” Thus, the Special Rapporteur concludes that the rights of Ms. Tran Thi Thuy under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment may have been violated and calls on the Government of Vietnam to undertake a prompt and impartial investigation, leading to prosecution and punishment of the perpetrators, and to provide redress to Ms. Tran Thi Thuy. The Special Rapporteur encourages the Government to continue its engagement with the mandate.

Zimbabwe

(a) JAL 29/03/2012 Case No. ZWE 5/2012 State reply: None to date Alleged ill-treatment and torture of persons arbitrarily arrested and denial of medical treatment while in detention

161. The Special Rapporteur regrets that the Government of Zimbabwe has not responded to this communication dated 29 March 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged arbitrary detention of six activists and to the alleged use of torture for the purpose of extracting confessions. The Special Rapporteur expresses serious concern that the activists were subjected to torture and ill-treatment and denied adequate medical treatment for their injuries while in detention. In this context, the Special Rapporteur reiterates that Paragraph 7b of Human Rights Council Resolution 16/23 that urges States “[t]o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture.” In the absence of evidence to the contrary, the Special Rapporteur concludes that the six activists’ rights under international law related to torture have been violated. The Special Rapporteur stresses that any evidence obtained through means of torture shall not be used in judicial proceedings. He calls on the Government to undertake a prompt and impartial investigation of those responsible for using such methods, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victims. The Special Rapporteur calls on the Government of Zimbabwe to ensure that all sick persons in detention are provided with proper medical care and treatment.
(b) JUA 17/08/2012 Case No. ZWE 6/2012 State reply: None to date Alleged arrest, detention and ill-treatment of 44 members of Gays and Lesbians Zimbabwe

162. The Special Rapporteur regrets that the Government of Zimbabwe has not responded to this communication dated 17 August 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged arrest, detention, ill-treatment, and beating of 44 members of Gays and Lesbian Zimbabwe (GALZ) by the police. The Special Rapporteur expresses serious concerns over the physical and mental integrity of the individuals in question. In this context, the Special Rapporteur stresses that each Government has the obligation to protect the right to physical and mental integrity of all persons, which is set forth inter alia in the UDHR and the ICCPR. The Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 “condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” The Special Rapporteur also reminds the Government of Principle 5, which provides that “whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.” The Special Rapporteur calls on the Government to uphold its obligations to protect the right to physical and mental integrity of all persons and to undertake a prompt, impartial, and effective investigation of the alleged acts of excessive use of force, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims.

III. Replies received after the observations to communications report A/HRC/19/61/Add. 4 of 29 February 2012

163. With regard to the observations made in the frame of the previous observations to communications report A/HRC/19/61 Add.4 of 29 February 2012 covering communications sent to States between 1 December 2010 and 30 November 2011, as well as on responses received from States in relation to these communications until 31 January 2012, the Special Rapporteur acknowledges receipt of the late replies in relation to those communications, which have subsequently not been reflected in the previous report. However, he calls on Governments to reply to communications within the 60 days time frame.

Bangladesh

(a) JUA 21/02/2011 Case No. BGD 2/2011 State reply: 09/03/2011, 14/05/2012 Alleged detention and torture of opposition politician

164. The Special Rapporteur thanks the Government of Bangladesh for its response to this communication regarding the alleged detention and torture of Mr. Salauddin Quader Chowdhury, an opposition politician. According to the information received, following his arrest on 16 December 2010, Mr. Chowdhury was subjected to torture by the Bangladeshi security forces during interrogation at a private residence, with a physician accompanying them. Mr. Chowdhury was reportedly tortured for several hours, including by applying electrodes to his genitals, beating him, slitting his stomach with razors and twisting his
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STATE-SPONSORED HOMOPHOBIA

2019
13th Edition

LUCAS RAMÓN MENDOS
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2019
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LUCAS RAMÓN MENDOS
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ZIMBABWE

Provisions in force


**Sodomy**

_**Anal sexual intercourse** (w/ reference to indecency)_

**Section 73. Sodomy.**

(1) Any male person who, with the consent of another male person, knowingly performs with that other person anal sexual intercourse, or any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act, shall be guilty of sodomy and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding one year or both.

(2) Subject to subsection (3), both parties to the performance of an act referred to in subsection (1) may be charged with and convicted of sodomy.

Human rights situation

- Additional information on the situation in Zimbabwe is provided at the end of this entry in a “Local Perspective Essay” written by Aubrey Alessandra Bree Chacha for ILGA World.

In 2006, Zimbabwe amended its Penal Code extending the criminalisation from the simple definition of having practised anal sexual intercourse to “any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act”.2

The atmosphere of severe socio-political hostility directed at sexual and gender minorities over the past years was described in UK Home Office’s 2018 report.3 In fact, former president Robert Mugabe’s anti-gay rhetoric has been backed up by many politicians, including a member of the Zimbabwe Human Rights Commission (see below).4 Human rights defenders have strongly condemned such comments and even lodged a formal complaint with the Commission.5

In November 2017, Mugabe resigned amidst an intra-party crisis and shortly after Parliament began impeachment proceedings against him. LGBTI activists were reportedly among those who celebrated his departure, hoping the new leadership would adopt a different stance on sexual and gender minority communities.6 Unfortunately, new President Emmerson Mnangagwa made it clear he would not canvass for decriminalisation of consensual same-sex sexual acts.7

In July 2018, a Zimbabwean football referee was allegedly blackmailed on the basis of his sexual orientation and outed to his family and community. Having suffered rejection and fearing victimisation for his sexual orientation at home, he decided to

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1 Subsection 3 deals with sexual intercourse and indecent acts with minors.
apply for asylum in the UK. According to Sky Sports, he was granted an initial five-year asylum reprieve by the Home Office and will have the opportunity to apply for settlement in 2023.

That same month, the opening of five health clinics aimed at catering to the needs of men who have sex with men (MSM), and backed by the National AIDS Council, was announced. Zimbabwean society holds widespread discriminatory and violent attitude towards sexual and gender minorities in the country: for example, in late-2018 a teacher who came out during a school assembly tackling homophobic bullying was forced to resign after a huge outcry from parents.

In early-2019, it was reported that a period of political unrest had sparked off in Zimbabwe and that the human rights situation deteriorated considerably.

**Statements by public officials**

President Emmerson Mnangagwa, 2018: “In our Constitution [homosexuality] is banned and it is my duty to obey my Constitution.”

Human Rights Commissioner Petunia Chiriseri on Mugabe’s hostile statements against LGBT people, 2017: “[President Mugabe] took a firm stand against unbiblical, un-cultural, unacceptable practices which foreigners [...] seek to impose upon Africa. [...] [W]e applaud [him] for [his] courage [...], it preserved our nation and family values.”

**Existing legal challenges**

**Discrimination based on sexual orientation**

In October 2015, the country’s Labour Court (based in Bulawayo) accepted the plea of a youth worker who had been fired from the civil service because he had been arrested and paid a fine following a police raid on a party held by LGBTI NGO GALZ in 2014. This court found that the dismissal based on sexual orientation was unconstitutional (although sexual orientation is not expressly named in the Constitution document).

**Gender identity discrimination**

In July 2017, Bulawayo High Court begun hearing the case brought by a trans human rights defender who had been detained and charged with “criminal nuisance” for using a toilet comporting with her gender identity at a city hotel.

**National Human Rights Institution**

Zimbabwe has a National Human Rights Institution in accordance with the Paris Principles: the Human Rights Commission of Zimbabwe. The Commission itself does not include SOGIESC in its work.

As explained above, in 2017, Commissioner Petunia Chiriseri praised former president Mugabe’s discriminatory statements against LGBT people.

**UN voting record**

In 2011, 2014 and 2016 Zimbabwe was not a member of the Human Rights Council and, therefore, did not participate in the vote for the adoption of the SOGI resolutions.

At the session of Third Committee of the UN General Assembly held in November 2016, Zimbabwe voted against the LAC amendment to remove Operative Paragraph 2, and in favour of the African oral amendment to block the IE SOGI at the UNGA Plenary Session on 19 December 2016.
Additionally, Zimbabwe voted in favour of the amendment which tried to block financial resources allocated to the Independent Expert on SOGI.

International advocacy and supervision

Universal Periodic Review
In its 1st UPR in October 2011, Zimbabwe received only one recommendation: to repeal the 2006 law “as soon as possible” (France) – this was, unsurprisingly, rejected and the State made no reference to SOGI in its final report or in its Interactive Dialogue.19

At Zimbabwe’s 2nd UPR session in 2016, the State received 12 SOGI-related recommendations, mostly to do with decriminalisation. However, Zimbabwe rejected all of them, making no mention of SOGI issues in the State’s Interactive Dialogue.20

Zimbabwe’s 3rd UPR commences in November 2021.

Treaty Bodies
In March 2012, the Committee on the Elimination of Discrimination against Women (CEDAW) expressed its concern at the high prevalence of violence against women, especially lesbian, bisexual and transgender.21 It thus urged Zimbabwe to enact comprehensive anti-discrimination legislation that includes the prohibition of multiple forms of discrimination, launch a sensitisation campaign aimed at the general public and provide appropriate training to law enforcement officials.22

In April 2016, the Committee on the Rights of the Child (CRC) expressed concern that national legislation remained inconsistent with the non-discrimination of the Constitution, regarding, inter alia, LGBTI children.23

Special Procedures
In October 2012 and February 2014, three mandates24 received information on alleged repeated acts of harassment against leaders of two human rights associations advocating for social tolerance of sexual minorities and for the repeal of homophobic legislation reportedly operating as unregistered organisations.25

LOCAL PERSPECTIVE

The Criminalization of Same-Sex Acts and the LGBTIQ in Zimbabwe
By Aubrey Alessandra Bree Chacha.26

Being a member of the LGBTIQ community has never been easy in Zimbabwe, a country where the law does little to protect those who are persecuted.

Something that former dictator Robert Mugabe regarded as “being worse than dogs and pigs”, the gay man in Zimbabwe has been known to be “a shame” to his family, community, professional, economic and political environment. Such was the case with Takunda, a gay man who was chased away by his family and shunned by society for having consensual same-sex relations.27 This is frequently reflected in the media, where journalists report that “it is risky, if not deadly, to be gay and lesbian in Zimbabwe – a country where such relations are beyond taboo”.28

23 Concluding observations on the second periodic report of Zimbabwe, CRC/C/ZWE/CO/2, 7 March 2016.
24 Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders.
26 Aubrey Alessandra Bree Chacha (commonly known as “Bree”) is a transwoman, human rights activist, philanthropist and entrepreneur from Harare, Zimbabwe. She is the first transwoman to publicly announce her transition in Zimbabwe in 2018, a brave move amidst a transphobic environment which she felt was necessary to educate society about transgender persons, our struggle and the need for the LGBTIQ+ to receive equal respect and opportunities just like any human being. Bree is the ambassador of Transsmart Trust, an NGO which focuses on human rights, health and capacity building of trans and intersex persons as well reducing stigma, discrimination and criminalization which affects the marginalized trans community across the region. She is an aunt, an innovator, a friend but most importantly a human being just like anyone else.
27 “Worse than dogs and pigs: life as a gay man in Zimbabwe” Reuters, 4 September 2017.
Such stigma and criminalization have forced same-sex relations to be on the downlow, often increasing the spread of HIV/AIDS, depriving patients of proper medical care, since same-sex sexual acts are deemed “filthy” in the eyes of many medical practitioners in Zimbabwe. This further forces many gay men to live “double lives”, having a heterosexual marriage but a same-sex relationship or affair.

Same-sex sexual acts are criminalized, whether they are consensual or not. Despite the fact that Gays And Lesbians of Zimbabwe (GALZ) met the current President Emmerson Mnangagwa, the stigma and discrimination towards the LGBTIQ in Zimbabwe is still on the rise. President Emmerson Mnangagwa was quoted saying, “With regards to areas that we felt we would not accept, it is issues of gays and homosexuality, which is unlawful in our country. We rejected all those. There are a few countries from Europe which recommended we reconsider our position with regard to adults of same sex marrying each other that we rejected.”

Personal stories of transgender people are starting to become more visible in Zimbabwe. This helps opening local minds to diversity and helps people understand the presence and need for acceptance for the LGBTIQ community. However, life is still extremely difficult and, with no laws protecting us, it does feel like we are walking on eggshells. Never knowing who will try to hurt us, not being able to freely express our human right for non-stigma and discrimination.

This scenario is but one of many, in December 2018, two transwomen were gang raped to a point of anal fracture and near death. This heinous crime was reported to Gumisayi Bonzo from Transsmart Trust Zimbabwe. Upon reporting to health care providers, many questions were asked and it took them long to get treatment because of the stigma associated with the patient’s gender identity. This is the usual treatment for many LGBTIQ persons seeking health care services in Zimbabwe.

From experience and hearing lived in realities from other members of the LGBTIQ in Zimbabwe, our Government still has a long way to go in decriminalizing consensual same-sex sexual acts in the country. The LGBTIQ key population groups are human beings as well, deserving of the same respect and freedom just like any Zimbabwean. As the saying goes, “Let’s Leave no one behind”, thus in this new dispensation of resuscitating the country we should not leave out the human rights of the marginalized LGBTIQ community, who are also a relevant part of our country’s development.

29 “Zimbabwe says NO to homosexuality” News24, 7 November 2016.
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Human Rights Watch defends the rights of people worldwide.

We scrupulously investigate abuses, expose facts widely, and pressure those with power to respect rights and secure justice.

Human Rights Watch is an independent, international organization that works as part of a vibrant movement to uphold human dignity and advance the cause of human rights for all.

Human Rights Watch began in 1978 with the founding of its Europe and Central Asia division (then known as Helsinki Watch). Today it also includes divisions covering Africa, the Americas, Asia, Europe and Central Asia, the Middle East and North Africa, and the United States. There are thematic divisions or programs on arms; business and human rights; children's rights; disability rights; the environment and human rights; health and human rights; international justice; lesbian, gay, bisexual, and transgender rights; refugees; terrorism and counterterrorism; women’s rights; and emergencies.


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This 29th annual World Report is dedicated to the memory of our beloved colleague David Mepham OBE, UK director, who died of cancer on October 21 at age 50. David was a superb advocate, combining a piercing intellect, an extraordinary eloquence, and a deep personal commitment to the human rights cause. Colleagues around the world recall the depth and scope of his knowledge, his willingness to go the extra mile, and his determination to challenge those in power—always with unfailing courtesy. Perhaps most of all, we miss his genuine warmth, evident in his deep love for his family, and his steadfast support of colleagues and friends.
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World Report 2019 is Human Rights Watch’s 29th annual review of human rights practices. It summarizes key human rights issues in more than 90 countries and territories worldwide, drawing on events from late 2017 through November 2018.

In his keynote essay, “World’s Autocrats Face Rising Resistance,” Human Rights Watch Executive Director Kenneth Roth argues that while autocrats and rights abusers often captured headlines in 2018, rights defenders pushed back and gained strength in unexpected ways. Drawing on analysis of a series of human rights successes in international fora, often led by unlikely government coalitions, and of powerful activism by civic groups at national and regional levels, he shows that defense of rights worldwide is resilient and multifaceted. Even though many once-influential governments have been missing in action or even switched sides, effective coalitions emerged to raise the force of abuse and shift the cost-benefit calculus that convinces governments that repression pays.

The mounting resistance to autocracy, Roth argues, is not always successful in the short term. But “it remains in some ways a dark time for democracy,” he says. Rights in some places remain vulnerable. But recent events also show the promise of rights-respecting democracy — and a viable, mobilizing vision.

The rest of the volume consists of individual country entries, each of which identifies significant human rights successes. Each entry includes a brief summary of key human rights issues and a narrative that provides a detailed account of the human rights situation in the country or region. The book’s introduction considers the major human rights issues of the past year and looks at the global human rights agenda for 2019.

The book reflects extensive investigative work that Human Rights Watch staff undertook in 2018, usually in close partnership with human rights activists and groups. It also reflects the response of key international institutions, including the United Nations, the European Union, and the African Union, to human rights developments in the countries covered.

The book was edited by Danielle Haas, senior editor at Human Rights Watch, with assistance from Aditi Shetty, senior coordinator, and Delphine Starr, associate. Grace Choi, director of publications and information design, oversaw production of visual elements and layout.
World’s Autocrats Face Rising Resistance

By Kenneth Roth, Executive Director, Human Rights Watch

In some ways this is a dark time for human rights. Yet while the autocrats and rights abusers may capture the headlines, the defenders of human rights, democracy, and the rule of law are also gaining strength. The same populists who are spreading hatred and intolerance are spawning a resistance that keeps winning its share of battles. Victory in any given case is never assured, but it has occurred often enough in the past year to suggest that the excesses of autocratic rule are fueling a powerful counterattack.

Unlike traditional dictators, today’s would-be autocrats typically emerge from democratic settings. Most pursue a two-step strategy for undermining democracy: first, scapegoat and demonize vulnerable minorities to build popular support; then, weaken the checks and balances on government power needed to preserve human rights and the rule of law, such as an independent judiciary, a free media, and vigorous civic groups. Even the world’s established democracies have shown themselves vulnerable to this demagogy and manipulation.

Autocratic leaders rarely solve the problems that they cite to justify their rise to power, but they do create their own legacy of abuse. At home, the unaccountable government that they lead becomes prone to repression, corruption, and mismanagement. Some claim that autocrats are better at getting things done, but as they prioritize perpetuating their own power, the human cost can be enormous, such as the hyperinflation and economic devastation in once oil-rich Venezuela, the spree of extrajudicial killings as part of the “drug war” in the Philippines, or China’s mass detention of upwards of 1 million Turkic Muslims, primarily Uyghurs.

Because they dislike human rights scrutiny, autocratic leaders also tend to retreat from the defense of human rights beyond their borders. This retrenchment has made it easier for brutal leaders to get away with large-scale atrocities, such as Syria’s war on civilians in areas held by anti-government forces, the Saudi-led coalition’s indiscriminate bombing and blockade that are killing and starving Yemeni civilians, and the Myanmar army’s mass murder, rape, and arson against Rohingya Muslims.
The Dark Side of Autocratic Rule

Despite the mounting resistance, the forces of autocracy have been on the rise. For example, Brazil elected as president Jair Bolsonaro—a man who, at great risk to public safety, openly encourages the use of lethal force by the military and police in a country already wracked by a sky-high rate of police killings and more than 60,000 homicides per year.

Established autocrats and their admirers continued their disregard for basic rights. Turkey’s President Recep Tayyip Erdoğan and Egypt’s President Abdel Fattah al-Sisi persisted in silencing independent voices and civic groups and locking up thousands for their presumed political views. Philippines President Rodrigo Duterte encouraged more summary executions, supposedly of drug suspects, but often of people guilty of no more than being poor young men. Hungary’s Prime Minister Viktor Orbán implemented his brand of “illiberal democracy.” Poland’s de facto ruler, Jarosław Kaczyński, sought to stack his country’s courts with his preferred judges, undermining the judiciary’s independence. Italy’s interior minister and deputy prime minister, Matteo Salvini, closed ports to refugees and migrants, scuttled efforts to save migrants’ lives at sea, and stoked anti-immigrant sentiment. India’s Prime Minister Narendra Modi failed to halt the demonizing of Muslims while attacking civic groups that criticized his rights record or environmental policies. The Cambodian prime minister, Hun Sen, tightened his grip on power by holding sham elections from which the opposition party was banned. US President Donald Trump disparaged immigrants and minorities and tried to bully judges and journalists whom he deemed to stand in his way. Russia under President Vladimir Putin continued its multiyear crackdown on independent voices and political opposition. China closed off any possibility of organized opposition to the increasingly one-man rule of Xi Jinping.

Beyond the immediate victims, some of the economic costs of autocratic rule became more visible over the course of the year. Oil-rich Venezuela once enjoyed one of Latin America’s highest standards of living but today, under the autocratic rule of President Nicolás Maduro, Venezuelans suffer severe shortages of food and medicine, causing millions to flee the country. President Erdoğan, persisting with large-scale building projects that often benefited his allies, oversaw a plummeting currency and a skyrocketing cost of living in Turkey. Mozambique discovered that $2 billion in government funds had disappeared from its treasury.
China’s much-touted “One Belt, One Road” initiative to develop trade infrastructure fostered autocratic mismanagement in other countries. In keeping with Beijing’s longstanding practice, Belt and Road loans come with no visible conditions, making Beijing a preferred lender for autocrats. These unscrutinized infusions of cash made it easier for corrupt officials to pad their bank accounts while saddling their people with massive debt in the service of infrastructure projects that in several cases benefit China more than the people of the indebted nation.

In many cases, the public led the resistance in the streets. Large crowds in Budapest protested Orbán’s moves to shut Central European University, an academic bastion of liberal inquiry and thought. In the United States and dozens of companies protested Trump’s forcible separation of immigrant children from their parents.

**The Pushback**

The growing pushback against autocratic rule and the corruption it frequently fueled took various forms over the past year. Sometimes elections or public pressure were the vehicle. Malaysian voters ousted their corrupt prime minister, Najib Razak, and the ruling coalition in power for almost six decades, for a coalition running on an agenda of human rights reform. Maldives voters rejected their autocratic president, Yameen Abdulla Gayoom. In Armenia, whose government was mired in corruption, Prime Minister Serzh Sargsyan had to step down amid massive protests. Czech Prime Minister Andrej Babis faced growing protests against his alleged corruption. Ethiopia, under popular pressure, replaced a long-abusive government with a new one led by Prime Minister Abiy Ahmed, who embarked on an impressive reform agenda. US voters in the midterm elections for the House of Representatives seemed to rebuke President Trump’s divisive and rights-averse policies.

Sometimes independent institutions of government resisted the overreach of their country’s leaders. Poland’s independent judges refused to abandon their jobs in the face of Kaczyński’s efforts to purge them; the European Court of Justice later backed their refusal. Guatemala’s Constitutional Court reversed President Jimmy Morales’s attempt to bar from the country the chief investigator of a UN-backed anti-corruption body after it started probing his own alleged financial wrongdoing. US Chief Justice John Roberts, appointed by former President George W. Bush, publicly berated President Trump for disparaging “an Obama judge” who had ruled against Trump’s efforts to limit migrants’ right to seek asylum.

In many cases, the public led the resistance in the streets. Large crowds in Budapest protested Orbán’s moves to shut Central European University, an academic bastion of liberal inquiry and thought. Tens of thousands of Poles repeatedly took to the streets to demand the courts from the ruling party’s attempts to undermine their independence. People across the United States and dozens of companies protested Trump’s forcible separation of immigrant children from their parents.

**Multilateral Resistance**

New governments had to pick up the defense of human rights because several important governments faltered. President Trump preferred to embrace autocrats whom he viewed as friendly, even if parts of the US government often tried to work around the White House. The British government, worried about Brexit, appeared willing to publicly advocate for human rights mainly in countries where British trade or commercial interests were limited. French President Emmanuel Macron defended democratic values rhetorically, but too often found reasons to avoid applying those principles when they implicated efforts to curb migration, fight terrorism, or secure commercial opportunities. Germany’s Chancellor Angela Merkel spoke against anti-rights policies emanating from Moscow and Washington but was often beset by political challenges at home. China and Russia did all they could to undermine global rights enforcement, while at home they imposed the most repressive rule in decades.
A prosecutor opened a preliminary examination into the alleged deportation of Rohingya from Myanmar, using for jurisdiction the fact that the crime was committed when the Rohingya were pushed into Bangladesh, an ICC member state. With the Netherlands, Belgium, Luxembourg, Ireland, and Canada taking the lead, the Human Rights Council also rejected a heavy-handed Saudi effort to avoid scrutiny of war crimes in Yemen, such as the Saudi-led coalition’s repeated bombing and devastating blockade of Yemeni civilians that have left millions on the brink of starvation, and trying to avoid the possibility of an international investigation started last year of war crimes in Yemen by a vote of 23 to 8 with 18 abstentions.

For the first time, the Human Rights Council condemned the severe repression in Venezuela under President Maduro. A resolution, led by a group of Latin American governments to show they were addressing Venezuela as a matter of principle rather than as a tool of Washington’s ideology, won by a vote of 23 to 7 with 17 abstentions. The US government’s departure from the council, making it easier for resolution sponsors to show they were addressing Venezuela as a matter of principle rather than as a tool of Washington’s ideology.

In addition, the European Union co-presented the council’s resolution on the Rohingya along with the Organization of Islamic Cooperation (OIC), which until Myanmar’s attacks on the Rohingya had opposed all resolutions criticizing any particular country other than Israel. And in what may be an alternative route to the International Criminal Court (ICC) that does not depend on the Security Council, the ICC 7

HUMAN RIGHTS WATCH

Against this challenging backdrop, a critical mass of human rights supporters has regularly risen to the occasion. The 47-member UN Human Rights Council was an especially important venue. It proved significant even though the Trump administration ordered the United States to withdraw from it—the first country ever to do so—in a failed effort to discredit the council’s focus on Israeli policies. The US ambassador to the council, Richard Grenell, regularly took a hard line in opposing efforts to condemn human rights abuses in North Korea, Syria, Yemen, Sudan, South Sudan, Burundi, and the Democratic Republic of Congo—countries all with deeply problematic human rights records. The US government’s key foreign policy concessions to Russia—despite possible Chinese, Russian, or even American vetoes at the UN Security Council—undermined any effort to refer the International Criminal Court (ICC) for its army’s mass atrocities, including those committed against the Rohingya who fled for their lives to Bangladesh. In response, the Human Rights Council made major advances despite—and in one case arguably because of—the US absence. The council decided to open an investigation of crimes in Yemen—the first time any government has sought an ICC investigation of crimes that took place entirely outside their territory. Other governments, including France and Germany, supported the move. A group of Latin American governments led by Argentina also organized in the context of the Human Rights Council’s first joint statement, signed by 27 countries, on the worsening repression in Nicaragua, as President Daniel Ortega responded with violence to growing protests against his repressive rule.

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Zimbabwe

Relatively peaceful national elections marred by disputed results and post-election violence signified that little had changed in Zimbabwe in 2018. The declaration of Emmerson Mnangagwa as winner of the July 30 presidential race, which for the first time in 30 years did not have former President Robert Mugabe on the ballot, was followed by a military crackdown on political opponents. Mugabe’s ouster by the military in November 2017 paved the way for his erstwhile deputy, Mnangagwa, to take over the reins of power as interim president, and then as ruling ZANU-PF flagbearer in the national elections.

On August 1, soldiers shot and killed at least six people during opposition protests in the capital, Harare. Mnangagwa later established a commission of inquiry into the post-election violence, chaired by former South African President Kgalema Motlanthe. At time of writing, the commission had not published its findings.

Throughout the year, Mnangagwa and other high-level government officials made numerous promises to deliver governance reforms to mark the post-Mugabe era, but took few steps to demonstrate commitment to accountability, justice for human rights abuses, and respect for the rule of law. Mnangagwa, who has his own long record of human rights abuses, called on Zimbabweans in December 2017 “to let bygones be bygones,” paving the way for continued widespread impunity for abuses by the military and state security agents.

The administration has also struggled to revive the economy, and to effectively respond to the outbreak of cholera in August, which killed at least 50 people and infected thousands in Harare.

Freedom of Expression and Media

On October 29, state security agents briefly detained and harassed journalist Violet Gonda at State House where she was officially accredited to report on President Mnangagwa’s meeting with business leaders. On September 21, police briefly detained Pauline Chateuka, a Community Radio Harare journalist, for filming police officers as they arrested street vendors in Harare. On September 19,
police also briefly detained Gilbert Nyambavhu, editor of the online publication, New Zimbabwe, and his colleague Idah Mhetu.

On September 24, a group of publishers, editors, and journalists met with senior officials of the ruling ZANU-PF party in the Midlands city of Kwekwe to register complaints over cases of intimidation and threats issued against local journalists by some party members. ZANU-PF officials urged journalists to report any cases of intimidation involving party supporters to them.

The Mnangagwa administration failed to amend or repeal repressive laws such as the Access to Information and Protection of Privacy Act (AIPPA), the Public Order and Security Act (POSA), and the Criminal Law (Codification and Reform) Act. These laws were used under Mugabe to severely curtail basic rights through vague defamation clauses and draconian penalties. Partisan policing and prosecution worsened the impact of the repressive provisions in the AIPPA and POSA laws.

**Women’s and Girls’ Rights, Sexual Orientation, and Gender Identity**

Three years after Zimbabwe’s Constitutional Court declared child marriage unconstitutional and set 18 as the minimum marriage age, the government has not put structures in place to implement the court decision and ensure that girls under 18 are not forced into marriage. Although Zimbabwe’s 2013 constitution stipulates that “no person may be compelled to enter marriage against their will” and required authorities to ensure that children are not pledged into marriage, the government has yet to amend or repeal all other existing marriage laws that still allow child marriage.

During his State of the Nation address on September 18, Mnangagwa said that the current parliament is expected to consider the Child Justice Bill and the Marriages Bill, which seek to provide a child justice system and outlaw child marriages. The parliament has yet to consider these bills at time of writing.

Critical steps have not been taken to address the routine eviction of widows from their marital homes and confiscation of their property by in-laws with little recourse to the formal justice system, which Human Rights Watch documented in 2017. Many of the victims continue to struggle to claim rights for reasons unique to their status as widows. Few women formally own the property held during their marriage. As a result, they were unable to keep jointly held property upon the death of their husband.

Section 73 of the Criminal Law (Codification and Reform) Act, 2004 punishes consensual same-sex conduct between men with up to one year in prison or a fine or both. This restrictive legislation contributes to stigma and discrimination against lesbian, gay, bisexual, and transgender (LGBT) people. In September, a teacher at a Harare school who came out as gay resigned after he received death threats from members of the public over his sexual orientation.

Ahead of the July 2018 national elections, representatives of the LGBT community in Zimbabwe met with top ruling ZANU-PF party officials. The Gays and Lesbians of Zimbabwe (GALZ) advocacy group thanked Mnangagwa for this unprecedented meeting and for “understanding” them better than his predecessor Mugabe and the opposition parties.

**Right to Health**

The Ministry of Health on September 6 declared a cholera outbreak in Harare after confirmation of 11 cases. The government subsequently declared a national emergency after scores had died and thousands became infected. Between August 2008 and July 2009 Zimbabwe experienced Africa’s worst cholera epidemic in 15 years when more than 4,000 people died and over 100,000 were infected. The conditions that allowed the devastating epidemic to flourish in 2008 persisted in 2018: little access to potable water, inadequate sanitation services, and limited information on water quality.

**Rule of Law**

Authorities continued to ignore human rights provisions in the country’s 2013 constitution. The government did not enact new laws or amend existing legislation to bring them in line with the constitution and Zimbabwe’s international and regional human rights obligations.

The Zimbabwe Human Rights Commission on August 7 strongly condemned the use of live ammunition and excessive force against unarmed protesters in Harare in August when the military fatally shot at least six people. Security forces have
intensified a crackdown on supporters of the opposition Movement for Democratic Change Alliance (MDCA) in the aftermath of post-election protests in Harare. They also beat up and harassed scores of people in Harare as they searched for opposition party officials.

The whereabouts of pro-democracy activist and human rights defender Itai Dzamara remains unknown. He was abducted on March 9, 2015.

In October, prominent activist and director of Zimbabwe Peace Project, Jestina Mukoko, a victim of enforced disappearance and torture for three weeks by state agents in December 2008, finally received compensation after a Zimbabwe High Court ordered the state to pay her US$150,000.

**Key International Actors**

Following the November 2017 military coup, the leadership of the Southern African Development Community (SADC) called on Zimbabweans to peacefully resolve the nation’s political challenges. SADC leaders welcomed Mugabe’s decision to resign under military pressure, pledging to support future national elections. The African Union initially condemned the military takeover, but later welcomed Mugabe’s resignation.

The AU and SADC adjudged the July 2018 elections as peaceful and in accordance with the SADC Principles and Guidelines Governing Democratic Elections, which were established to promote regular free and fair, transparent, credible and peaceful democratic elections in the region.

International observer missions, including those of the European Union, the AU, SADC and the Commonwealth, issued a joint statement on August 2 appreciating the generally peaceful and orderly pre-electoral and voting day environment, but expressing grave concern about the post-election violence. They condemned vandalism and destruction of property and called on political party supporters to abide by the law. They also denounced the excessive use of force to quell protests and urged the police and army to exercise restraint.

On August 8, United States President Donald Trump signed into law the amended Zimbabwe Democracy and Economic Recovery Act, which renewed sanctions against the Mnangagwa administration.
This 29th World Report summarizes human rights conditions in more than 90 countries and territories worldwide in 2018. It reflects extensive investigative work that Human Rights Watch staff conducted during the year, often in close partnership with domestic human rights activists.
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An analysis of human rights violations against LGBTI persons in Zimbabwe
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1. Executive Summary

This report is an analysis of the trends emerging from the annual violations reports compiled by the Association of LGBTI people in Zimbabwe (GALZ) between the periods 2012 to 2017. The analysis extensively draws data from a total of 170 violations extracted from 104 actual cases compiled and categorized by GALZ into 12 types. The 12 types of violations recorded are assault, threats, outing, discrimination, police harassment, Unlawful detention, disownment, blackmail, displacement, unfair labour practice, hate speech and invasion of privacy.

In a number of the reported cases, experiencing one form of violation inevitably led to experiencing other violations as well. This analysis report traces the progression of these violations over time, placing them within the context of predisposing environmental factors that expose the Zimbabwean LGBTI persons to homo, bi, trans phobic violence.

A trend developing across all the reviewed reports shows that the most common categories of violations are assault (19%), threats (15%), blackmail (15%) and being outed (11%). It also emerged in the analysis that the government of Zimbabwe is a key actor in influencing change in terms of how issues of sexual orientation and gender identity are addressed both at state level and among the ordinary Zimbabweans. Participation of the Zimbabwe Republic Police, under the government’s Ministry of Home affairs is noted with keen interest. The police can potentially play a role in reducing violations perpetrated against LGBTI persons by simply discharging their mandate without discrimination or prejudice.

The report notes that the family is one of the most central socialising institutions for individuals and can be instrumental in promoting tolerance to a multiplicity of sexual orientations and gender identities. If the default response of families to outing is disownment, this leaves very little hope for other institutions to behave differently. Furthermore, the analysis found that in some cases, the degree to which LGBTI individuals are vulnerable is in part influenced by their own behaviour and practices. Some LGBTI persons have involuntarily outed themselves following attendance...
at public LGBTI events where pictures of them were taken and circulated in media accessible to the public resulting in their victimisation and limitation of their human rights. The analysis also found that civil society, as a key player, needs to maintain and accelerate the momentum around interventions that address the human rights of all people regardless of sexual orientation or gender identity.

Overall, the report paints a less than satisfactory picture of the LGBTI situation in the country. Clearly much more work will still need to be done to reach desired levels where LGBTI persons can live dignified lives as guaranteed by the various provisions in the constitution of Zimbabwe. The number of violations from which this analysis draws are just the tip of the iceberg in relation to the many other incidences that go unreported within the communities where LGBTI live. If the public cannot immediately embrace non-heteronormative conforming individuals, at least let there be public knowledge that simply identifying as gay, lesbian, transgender, bisexual or intersex is not a criminal offence in and of itself and cannot be prosecuted; therefore the homophobic attacks are unwarranted and needless.
2. About GALZ

GALZ: an association of LGBTI people in Zimbabwe was established in 1990 to promote, represent and protect the rights and interests of lesbians, gays, bisexuals, trans-gender and intersex (LGBTI) community in Zimbabwe. GALZ’s vision is to have a just society that promotes and protects human rights of LGBTI people as equal citizens in Zimbabwe.

The organization, through 28 years of resilience and development, at times under extremely hostile and violent circumstances has amassed considerable experience in community mobilization, advocacy, skills building and sensitization for the LGBTI cause. GALZ has shown great resilience within a homophobic environment and continues to build partnerships within civil society, traditional/religious groups, health care practitioners, journalists and policy makers, in addition to the broader society. GALZ is a member of many other consortiums and alliances locally, regionally and internationally from which it routinely draws technical support as well as encouragement to continue its mission despite external environmental challenges.

GALZ has been highly effective in providing evidence and other information around the needs, challenges and violations of the LGBTI community in Zimbabwe to a number of allies and stakeholders for improved advocacy and program outcomes. GALZ has been able to reach out to the LGBTI community in Zimbabwe and provide support to this community over the years. As a result of this relationship GALZ has been able to mobilize the community to report violations and seek legal support from the organization and other partners such as the Zimbabwe Lawyers for Human Rights with whom GALZ has worked with closely addressing reported cases.

GALZ has documented violations directly from individuals and indirectly from other sources such as newspapers, online platforms and other whistleblowers. GALZ verifies the information given in the reports and does an assessment to determine the best response for every case. Each case is recorded separately and compiled into the violations report annually.
8. Emerging key trends from recorded violations

8.1 Summary statistics of recorded violations from 2012 to 2017

<table>
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<td>Discrimination</td>
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<td>Unfair Labour Practice</td>
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<td>Hate Speech</td>
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<tr>
<td>Assault</td>
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<tr>
<td><strong>Total</strong></td>
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Table 1: Distribution of violations by year of occurrence

Shown above is a summary of the total recorded violations against LGBTI persons over a period covering five years. In total, 170 violations were recorded and categorized as given in the table above. The violations recorded were drawn from a total of 108 cases that were reported in the GALZ’s violations reports of the years 2012, 2013, 2014, 2015 and 2017. The differences in the number of cases versus the number of violations, resulted from the fact that often one violation was associated with other violations against the same individuals. The trend developing across the reviewed reports shows that the most common categories of violations are assault (19%), threats (15%), blackmail (15%) and being outed (11%). Zimbabwe being a generally homophobic country - the trend building from the analysis of the reports indeed points to the picture obtaining on the ground as corroborated by other researches.
Distribution of cases by gender identity

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<tr>
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<td>6</td>
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<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Hate Speech</td>
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<td>0</td>
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<td>2</td>
<td>27</td>
<td>1</td>
<td>5</td>
<td>170</td>
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</tbody>
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Table 2: Category of violation vs gender identity

Figure 1. Distribution of recorded violations (2012-17)
There is an interesting result around the gender identities of the victims of the reported cases. Individuals who identify as gay have the highest number of recorded cases, with a 61% share of all the recorded cases, followed by those of lesbian identity with a 19% share. Coming in lowest at 1% each are individuals identifying as bisexual or intersex. It is difficult to confirm, with certainty, the reason for this distribution, though it is generally believed that gays and lesbians represent the greatest proportion of the LGBTI community in Zimbabwe. At the same time, it also plausible to conclude that this could be the function of vulnerability on the part of these particular LGBTI subgroups.
Assault & Threats
8.2 Prevalence of assault on LGBTI persons

Assault has been the most prevalent category of violations of LGBTI persons, recorded over the period under review. About 20% of all the cases documented in the five reports have some form of assault. It is worrying that many of the cases have gone unreported and the perpetrators have not been brought to account for their actions. The reluctance to report cases of assault to law enforcement is generally influenced by other categories of violations discussed later in this analysis, which are Police Harassment and Detention. It was noted in some cases that, when an LGBTI person attempts to report assault to the police, often the focus would shift from the assault as the reported case to the sexual orientation or gender identity of the complainant. This discouraged many LGBTI persons from reporting assault, fearing stigmatization, humiliation and in some cases arrest and detention themselves.

Assault on LGBTI people took place in different contexts, though mostly in public spaces such as bars, commuter taxi ranks or gatherings. It would appear that vulnerability to assault was greatest where LGBTI are in the presence of a crowd, which would depend on the strength of the large numbers to initiate an attack. GALZ events were also targeted by homophobic mobs, who would most likely be acting on a tip off by either the venue staff or a member of the association attending the event.

A notable number of assault incidents also took place in the neighborhoods of the LGBTI persons, wherein following a tip off, mobs would gather out side the houses of the LGBTI persons and attack, more often than not resulting in eviction orders from the landlords. Another trend observed, involves police officers taking the law into their own hands and verbally and physically attacking LGBTI persons. Such occurrences were recorded as happening at police stations while the complainants were in custody and in public spaces.
8.3 Threats to LGBTI Persons

Threats to LGBTI persons came in many forms. Threat in the context of the analysis refers to situations where some form of punitive action is promised for non-compliance to a request. The range of threats against LGBTI persons spans almost across all the other violations. Individuals and groups of LGBTI persons have been threatened with being outed, arrest, detention, disownment, displacement as well as assault. There is a discernable link between the other forms of violations and the threats that were identified from the recorded cases. Specifically, blackmail as a violation hinged on threats of one form or another. Individuals would either be threatened with outing, assault, arrest etc, if they did not comply with the perpetrator’s request, usually for money.

Year on year figures of recorded cases of threats show a steady rise between 2012 and 2014 and slump in the succeeding two years, 2015 to 2017. Gay men fell victim the most to threats, though however this is also proportionate to their larger numbers of recorded cases relative to other gender identities. On the other hand, transgender men and women - though with fewer recorded cases in the period under review - were victim to the second highest number on threats.

Threats recorded over the period have emanated mainly from close family members and law enforcement authorities, serving mainly to sustain blackmail or extortion or trying to force a conversion to a hetero normative identity. The most striking kinds of threats were found in cases of LGBTI person threatening another mainly with outing. These cases were generally associated with a motive for blackmail or extortion.
Disownment
8.4 Disownment by family on the basis of sexual orientation or gender identity

Disownment, which is typically associated with a family deciding to cut all relational ties with a member who has been outed, accounted for 7% percent of all recorded violations. This form of violation was generally associated with displacement in situations where the complainant was living under the care of parents or guardians and did not own or have entitlements to the residence. As with the two other trends discussed above, gay men represent the greatest number of individuals that suffered from disownment by their families.

The common thread running in a majority of the cases of disownment was a singular focus of families disassociating themselves with a member outed as an LGBTI person. For example, in the case of Godknows*, a 25-year-old gay man, his family not only disowned him, but confiscated all his travel and identity documents as punishment for ‘embarrassing’ the family. In another unique case recorded in 2014, a gay man is believed to have committed suicide following a sustained dispute and possibly disownment by his family.

GALZ has over the years supported LGBTI persons disowned by their families as a result of their sexual orientation. The organization has worked with other partners to secure reunification of LGBTI persons alienated from their families or alternatively negotiating for them to be taken in by relatives. Securing homes for disowned and displaced LGBTI persons is critical as life on the streets would likely present a double challenge for them, especially if they are minors and not able to fend for themselves. In such cases, individuals may be forced into commercial sex work, where they would be even more vulnerable to abuse.
Invasion of Privacy
8.5 Invasion of Privacy

In a homophobic society, LGBTI persons are forced to live private lives by protecting their sexual orientation and gender identity from becoming public knowledge. More often than not, breach of this privacy inevitably leads to being outed in one form or the other, opening the flood gates for other violations to take place. In the context of this report, invasion of privacy refers to intrusion into the personal life or private affairs of an individual without just cause. This may include public disclosure of private information that may be considered embarrassing.\(^\text{18}\)

In a majority of the cases recorded on invasion of privacy, failure to adequately secure mobile phones and online accounts was the key weakness, leading to other people gaining access to private and confidential information. Such breaches resulted in unauthorised access to potentially damaging information about the LGBTI complainants. In three of the recorded cases, complainants had their digital mobile devices confiscated as the perpetrators argued that the devices contained pornographic material that could be used as incriminating evidence.

The convenience brought about by information communication technologies and social networking platforms also comes with vulnerabilities to some LGBTI persons, who may unwittingly expose themselves through over sharing information or neglecting to log out of online accounts ordinarily visible only to a select limited group of people.

Poor on-line security behaviour was identified in previous violation reports as a gap contributing to the vulnerability of LGBTI persons. Recommendations were made to facilitate training on digital security. During one of such trainings in 2015 at a local hotel, a consultant brought in by GALZ to lead the process was arrested by plain clothes police
who stormed the meeting following a tip-off and detained at Harare central police for 4hrs before being released without charge. During the detention the consultant was harangued by the arresting police detail and accused of ‘promoting homosexuality’ in the country.
TAB

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Foreword

*World Report 2018* is Human Rights Watch’s 28th annual review of human rights practices around the globe. It summarizes key human rights issues in more than 90 countries and territories worldwide, drawing on events from late 2016 through November 2017.

In his keynote essay, “The Pushback Against the Populist Challenge,” Human Rights Watch Executive Director Kenneth Roth says that the surge of authoritarian populists appears less inevitable than it did a year ago. Then, there seemed no stopping a series of politicians around the globe who claimed to speak for “the people” but built followings by demonizing unpopular minorities, attacking human rights principles, and fueling distrust of democratic institutions. Today, a popular reaction in a broad range of countries, bolstered by some political leaders with the courage to stand up for human rights, has left the fate of many of these populist agendas more uncertain. “Where the pushback is strong, populist advances have been limited,” Roth explains, “but where capitulation meets their message of hate and exclusion, the populists flourish.”

Preoccupied with the internal domestic struggle over the populist agenda, many of the world’s democracies, including the United States and the United Kingdom, have been less willing than before to promote human rights abroad. China and Russia have sought to fill that leadership void by advancing an anti-rights agenda. But several small and medium-sized governments, often backed by galvanized publics, have also stepped into the breach. They include France, the Netherlands, Canada, Belgium, Ireland, and even tiny Liechtenstein. Though lacking the clout of the major powers, they have succeeded in building coalitions that exert serious pressure on the anti-rights agenda and in trumpeting the advantages of governments that are accountable to their people rather than to their officials’ empowerment and enrichment.

However, where other priorities stand in the way of a strong defense of human rights, the populists and autocrats have flourished. Roth cites Egypt, Turkey, Saudi Arabia, and Burma as examples of countries where a lack of international pressure has enabled governments to crush domestic dissent and, at times, to commit large-scale atrocities. “A fair assessment of global prospects for human rights,” Roth concludes, “should induce concern rather than surrender—a call to action rather than a cry of despair.” The populist surge is hardly inevitable and can be reversed if governments and the public are willing to make the effort.
The rest of the volume consists of individual country entries, each of which identifies significant human rights abuses, examines the freedom of local human rights defenders to conduct their work, and surveys the response of key international actors, such as the United Nations, European Union, African Union, United States, China, and various regional and international organizations and institutions.

The book reflects extensive investigative work that Human Rights Watch staff undertook in 2017, usually in close partnership with human rights activists and groups in the country in question. It also reflects the work of our advocacy team, which monitors policy developments and strives to persuade governments and international institutions to curb abuses and promote human rights. Human Rights Watch publications, issued throughout the year, contain more detailed accounts of many of the issues addressed in the brief summaries in this volume. They can be found on the Human Rights Watch website, www.hrw.org.

As in past years, this report does not include a chapter on every country where Human Rights Watch works, nor does it discuss every issue of importance. The absence of a particular country or issue often simply reflects staffing or resource limitations and should not be taken as commentary on the significance of the problem. There are many serious human rights violations that Human Rights Watch simply lacks the capacity to address.

The factors we considered in determining the focus of our work in 2017 (and hence the content of this volume) include the number of people affected and the severity of abuse, access to the country and the availability of information about it, the susceptibility of abusive forces to influence, and the importance of addressing certain thematic concerns and of reinforcing the work of local rights organizations.

The World Report does not have separate chapters addressing our thematic work but instead incorporates such material directly into the country entries. Please consult the Human Rights Watch website for more detailed treatment of our work on children’s rights; women’s rights; arms and military issues; business and human rights; health and human rights; disability rights; the environment and human rights; international justice; terrorism and counterterrorism; refugees and displaced people; and lesbian, gay, bisexual, and transgender people’s rights; and for information about our international film festivals.
The Pushback Against the Populist Challenge

By Kenneth Roth, Executive Director

The surge of authoritarian populists appears less inevitable than it did a year ago. Then, there seemed no stopping a series of politicians around the globe who claimed to speak for “the people” but built followings by demonizing unpopular minorities, attacking human rights principles, and fueling distrust of democratic institutions. Today, a popular reaction in a broad range of countries, bolstered in some cases by political leaders with the courage to stand up for human rights, has left the fate of many of these populist agendas more uncertain. Where the pushback is strong, populist advances have been limited. But where capitulation meets their message of hate and exclusion, the populists flourish.

The playing out of this struggle has made many Western powers in particular more inwardly oriented, leaving an increasingly fragmented world. With the United States led by a president who displays a disturbing fondness for rights-trampling strongmen, and the United Kingdom preoccupied by Brexit, two traditional if flawed defenders of human rights globally are often missing in action.

Buffeted by racist and anti-refugee political forces at home, Germany, France, and their European Union partners have not always been willing to pick up the slack. Democracies such as Australia, Brazil, Indonesia, Japan, and South Africa have been heard actively defending human rights rarely, at best.

China and Russia have sought to take advantage of this vacuum. While focused on quelling any possibility of domestic mass protest against slowing economies and widespread official corruption, Presidents Xi Jinping and Vladimir Putin have aggressively asserted an anti-rights agenda in multinational forums and forged stronger alliances with repressive governments. Their avoidance of public oversight has attracted the admiration of Western populists and autocrats around the world.

The retreat of many governments that might have championed human rights has left an open field for murderous leaders and their enablers. Mass atrocities have proliferated with near impunity in countries such as Yemen, Syria, Burma, and South Sudan. International standards designed to prevent the most horrendous abuses, and emerging institutions of judicial response such as the International Criminal Court (ICC), are being challenged.
In this hostile environment, a number of small and medium-sized countries have begun to assume greater leadership roles. By building broad coalitions, they have shown themselves capable of exerting serious pressure in defense of human rights. In some cases, they have been backed by an increasingly mobilized public. They cannot wholly substitute for the powers that have withdrawn, but their emergence shows that the drive to defend human rights is alive and well.

**Responding to Populism**

Real issues lie behind the surge of populism in many parts of the world: economic dislocation and inequality caused by globalization, automation, and technological change; feared cultural shifts as the ease of transportation and communication fuels migration from war, repression, poverty, and climate change; societal divisions between cosmopolitan elites who welcome and benefit from many of these changes and those who feel their lives have become more precarious; and the traumatic drumbeat of terrorist attacks that demagogues use to fuel xenophobia and Islamophobia.

Addressing these issues is not simple, but populists tend to respond less by proposing genuine solutions than by scapegoating vulnerable minorities and disfavored segments of society. The result has been a frontal assault on the values of inclusivity, tolerance, and respect that lie at the heart of human rights. Indeed, certain populists seem to relish breaking the taboos that embody these values. Invoking their self-serving interpretation of the majority's desires, these populists seek to replace democratic rule—elected government limited by rights and the rule of law—with unfettered majoritarianism.

Responding to this populist challenge requires not only addressing the legitimate grievances that underlie it but also reaffirming the human rights principles that populists reject. It requires trumpeting the advantages of governments that are accountable to their people rather than to their officials’ empowerment and enrichment. It requires demonstrating that all of our rights are at risk if we allow governments to select which people deserve respect for their rights. It requires reminding ordinary people that they need human rights as much as dissidents and vulnerable groups.
The willingness of democratic leaders to take on this challenge and champion human rights has fluctuated. A year ago, as the populists seemed to have the wind at their backs, few dared. But in the past year, that has begun to change, to visible effect.

**Defending Rights**

**France**

France provided the most prominent turning point. In other European countries—Austria and the Netherlands, foremost—centrist and center-right politicians competed with populists by adopting many of their nativist positions. They hoped to pre-empt the populists’ appeal but ended up reinforcing the populists’ message.

Emmanuel Macron took a different approach during his presidential campaign. He openly embraced democratic principles, firmly rejecting the National Front’s efforts to foment hatred against Muslims and immigrants. His resulting victory and his party’s success in parliamentary elections showed that French voters overwhelmingly reject the National Front’s divisive policies.

It remains to be seen how Macron governs. His move to make permanent many troubling aspects of France’s emergency law was a disturbing early step. In foreign policy, he has shown leadership standing up to autocratic rule in Russia, Turkey, and Venezuela, and a willingness to support stronger collective European Union action against Poland’s and Hungary’s assault on rights. But he has been reluctant to confront widespread abuses in China, Egypt, and Saudi Arabia. Despite this mixed record, he showed during his campaign that a vigorous defense of democratic principles can attract broad public support.

**United States**

In reaction to the election of Donald Trump, the United States saw a broad reaffirmation of human rights from many quarters. Trump won the presidency with a campaign of hatred against Mexican immigrants, Muslim refugees, and other racial and ethnic minorities, and an evident disdain for women. A powerful response came from civic groups, journalists, lawyers, judges, many members of the public, and sometimes even elected members of Trump’s own party.

Trump was still able to take regressive steps by executive action—deporting many people without regard to their deep ties to the United States, reviving a
cruel and discredited policy of mass incarceration of criminal offenders, easing oversight against police abuse, and restricting global funding for women’s reproductive health.

But the resistance limited the harm that might have been done, most notably his efforts to discriminate against Muslims seeking to visit or obtain asylum in the United States, to undermine the right to health care in the US, to expel transgender people from the military, and even, in some cases, to deport long-term resident immigrants.

Secretary of State Rex Tillerson largely rejected the promotion of human rights as an element of US foreign policy while more broadly reducing the role of the US abroad by presiding over an unprecedented dismantling of the State Department. He refused to fill many senior posts, dismissed several veteran diplomats, slashed the budget, and let the department drift. Many career diplomats and mid-level officials resigned in despair.

But as Trump embraced one autocrat after another, some of the remaining State Department officials, at times with Congressional support, did what they could to prevent a complete abandonment of the human rights principles that have played at least some role in guiding US foreign policy for four decades. They made it possible for Washington to still occasionally play a useful role, such as threatening targeted sanctions against the Burmese military officials behind the ethnic cleansing of the Rohingya minority.

**Germany**

Germany over the past year made headlines when the Alternative for Germany (AfD) became the first far-right party to enter its parliament in decades. That ascent cut into support for the ruling coalition including Chancellor Angela Merkel’s Christian Democratic Union (CDU) party and complicated her task of forming a new governing coalition. Merkel’s preoccupation with domestic politics, and her ongoing defense of her courageous 2015 decision to admit large numbers of asylum seekers to Germany, have ironically deprived Europe of a strong voice for the rights of refugees and immigrants—the most contentious issue on the continent today. That also left Macron without his most obvious European partner for resisting authoritarian populism.
Yet the German election also presented a lesson in how to address the far right. Beyond the economically depressed eastern parts of the country where widespread racism and xenophobia has not been tackled since the fall of the Berlin Wall, the AfD gained the most votes in wealthy Bavaria, where Merkel’s governing partner, the Christian Social Union, adopted far more of the AfD’s nativist positions than did Merkel’s CDU. Principled confrontation rather than calculated emulation turned out to be the more effective response.

**Poland and Hungary**

Central Europe has become especially fertile ground for populists, as certain leaders use fear of migration elsewhere in Europe to undermine checks and balances on their power at home. But there, too, the populists encountered resistance.

In Poland, amid large public protests and strong international criticism including from EU institutions, President Andrzej Duda vetoed the Polish government’s initial attempt to undermine judicial independence and the rule of law, although the alternative he then advanced still fell short.

In Hungary, the threat of EU legal action—as well as international condemnation, including from the United States—impeded the government’s plans to close Central European University, a bastion of independent thought that stood in opposition to the “illiberal democracy” championed by Prime Minister Viktor Orban. In the case of Poland at least, there is growing recognition in EU institutions and some member states that its assaults on democratic rule pose a threat to the EU itself. And given Poland’s and Hungary’s position as major beneficiaries of EU funding, a debate is beginning on whether that aid should be linked to upholding the EU’s basic values.

**Venezuela**

In Latin America, President Nicolás Maduro continued to eviscerate Venezuela’s democracy and economy under the guise of standing up for the little people and against those whom he calls the imperialists. But as his rule became more brutal and autocratic, his corrupt and incompetent management of the economy became painfully apparent. This potentially wealthy nation was left destitute de-
spite its vast oil reserves, with many people desperately searching for food and medicine amid raging hyperinflation.

People took to the streets in large numbers to protest. Some officials defected from his government. An unprecedented number of Latin American countries shed their traditional reluctance to criticize a neighbor’s repression. Others followed, including the EU.

Maduro managed to stay in office, due largely to the violent repression he was willing to deploy. Taking advantage of a subservient Supreme Court and the Constituent Assembly that he created to take over legislative powers from the opposition-controlled National Assembly, he carried out a brutal crackdown on dissent. But as the Venezuelan people continue their descent into poverty and misery, it is unclear how long they will let Maduro cling to power.

A Struggle Deserving Support

None of these examples of resistance to populist leaders is guaranteed success. Once in office, populists have the considerable advantage of being able to harness the power of the state. But the resistance shows that there is a struggle underway, that many people will not sit quietly as autocrats attack their basic rights and freedoms.

Populists and Autocrats Fill a Vacuum

By contrast, where domestic resistance was suppressed and international concern lacking, the populists and other anti-rights forces prospered. President Recep Tayyip Erdoğan, for example, decimated Turkey’s democratic system with impunity, as the EU shifted its focus to enlisting his help to halt the flight of refugees to Europe. President Abdel Fattah al-Sisi crushed public dissent in Egypt with little interference from the US or the EU. They bought into his narrative of combatting terrorism and ensuring stability, even though his ruthless suppression of any Islamic option in the country’s political process was exactly what militant Islamists wanted.

With a seeming green light from Western allies, Saudi Arabia’s new crown prince, Mohamed bin Salman, led a coalition of Arab states in a war against Houthi rebels and their allies in Yemen that involved bombing and blockading
civilians, greatly aggravating the world’s largest humanitarian crisis. Concern with stopping boat migration via Libya led the EU—particularly Italy—to train, fund, and guide Libyan coast guards to do what no European ships could legally do: forcibly return desperate migrants and refugees to hellish conditions of forced labor, rape, and brutal mistreatment.

Putin’s efforts to repress opposition to his lengthening rule met little resistance from foreign governments more focused on his conduct in Ukraine and Syria than within Russia. Xi Jinping got away with little resistance to his imposition of the most intense crackdown since the brutal smothering of the 1989 Tiananmen Square democracy movement because other nations were afraid to jeopardize lucrative Chinese contracts by standing up for the rights of the Chinese people.

Indeed, when there was little international pushback to their behavior at home, repressive governments felt emboldened to manipulate and obstruct the international institutions that can defend rights.

China detained its citizens who hoped to engage with United Nations bodies on its rights abuse. Russia cast no less than 11 vetoes to block any attempt by the UN Security Council to address Syrian government war crimes. Russia also threatened to withdraw from a key European oversight body on human rights if it maintained sanctions for the occupation of Crimea, while Azerbaijan bribed some members of that body, and Turkey threatened to withhold its budgetary contribution. Burundi threatened UN rights investigators themselves with retaliation.

Burma and the Rohingya

The cost of not standing up to populist attacks on human rights was perhaps starkest in Burma. Vitiolic nationalist rhetoric increasingly propagated by Buddhist extremists, senior members of the Burmese military, and some members of the civilian-led government helped to precipitate an ethnic cleansing campaign against Rohingya Muslims, following a militant group’s attacks on security outposts. An army-led campaign of massacres, widespread rape, and mass arson in at least 340 villages sent more than 640,000 Rohingya refugees fleeing for their lives to neighboring Bangladesh. These are the very crimes that the international community had pledged never again to tolerate.
Yet the Western nations that had long taken an active interest in Burma were reluctant to act, even by imposing targeted financial and travel sanctions on the army generals behind these crimes against humanity. In part, that reticence was because of geopolitical competition with China for the Burmese government’s favor.

Also playing a part was the undue deference given to Aung San Suu Kyi, Burma’s de facto civilian leader, even though she has no real control over the military and showed no willingness to pay the political price of defending an unpopular minority. The result was the fastest forced mass flight of people since the Rwandan genocide, with little immediate hope of the Rohingyas’ safe and voluntary return, or of bringing to justice the people behind the atrocities that sent them fleeing.

Ultimately, nations of the Organization of Islamic Cooperation (OIC) called for a special session of the UN Human Rights Council where they supported a resolution condemning Burma’s crimes against humanity. The effort was notable because it represented a rare instance in which OIC members backed a resolution criticizing a particular country.

**Pushing Back Can Work**

**Africa and the ICC**

One of the most encouraging responses to anti-rights autocrats could be found in Africa. The year was already notable for the toppling of two long-time tyrants. Gambia’s President Yahya Jammeh lost a free and fair election to Adama Barrow, and when he refused to accept the results, was eased out of office by the threat of West African troops.

Zimbabwe’s President Robert Mugabe was ousted in a coup, though replaced by his former deputy, Emmerson Mnangagwa, a military leader with his own long record of abuse. Both countries saw large public protests against the long-serving tyrants.

Yet the African defense of rights was most impressive in response to populist attacks on international justice. As recently as a year ago, many African leaders, some with blood on their hands and fearing prosecution, were plotting a mass exodus of their countries from membership in the International Criminal Court.
Using populist rhetoric against what they claimed was neo-colonialism, they sought to portray the ICC as anti-African because, having taken seriously crimes against African people, it had concentrated its attention on the responsible African leaders. (Its reach was also limited by the refusal of some governments to ratify the ICC’s treaty and by the UN Security Council’s reluctance to refer other situations for investigation).

But the mass exodus became a mass fizzle when only Burundi withdrew, in an ultimately unsuccessful effort to halt ICC investigation of alleged crimes against humanity committed under Pierre Nkurunziza as he violently extended his term as president. Gambia reversed its announced withdrawal after President Barrow took office. And the South African courts at least temporarily blocked President Jacob Zuma’s attempt to withdraw after he was embarrassed for flouting a court order to prevent Sudanese President Omar al-Bashir, facing ICC warrants, from fleeing South Africa during a visit to avoid arrest.

An outpouring of popular support for the ICC by civic groups across Africa helped to persuade most African governments to continue to stand behind the court. The ICC prosecutor also sought to extend the court’s reach by asking its judges for permission to investigate crimes by all sides in Afghanistan, including torture committed there by US soldiers and intelligence agents with impunity.

**The Big Role of Small States**

The past year saw an impressive willingness by small and medium-sized states to step into leadership roles when the major powers fell silent in the face of mass atrocities or even obstructed efforts to address them.

This is hardly the first time that smaller states have taken the lead on rights issues. The ICC, the Mine Ban Treaty, the Convention on Cluster Munitions, the Optional Protocol on Child Soldiers, and the International Convention against Enforced Disappearance were all secured largely by global coalitions of small and medium-sized states operating without or despite the major powers. Yet the willingness of these alternative voices to take center stage was particularly important in the past year as major powers largely walked off the stage or even tried to upend it.
Yemen

The effort at the UN Human Rights Council to open an independent international investigation of abuses in Yemen was illustrative. A coalition of Arab states led by Saudi Arabia pummeled Yemeni civilians; conducted airstrikes on homes, markets and hospitals; and blockaded urgently needed humanitarian aid and other goods. As a result, 7 million people faced starvation, and the country had nearly 1 million suspected cases of cholera.

Opposing Houthi forces and their allies also used landmines, recruited child soldiers, and blocked aid. Despite this grave situation, the idea of an investigation received at best lukewarm support from the United States, the United Kingdom, and France, all major sellers of arms to Saudi Arabia. None was eager to take a public stand. In that void, the Netherlands stepped in and took the lead, ultimately joined by Canada, Belgium, Ireland, and Luxembourg.

The task was not easy. Saudi Arabia threatened to cut diplomatic and economic ties with any nation that supported the investigation. Yet in part because of that threat, and its implicit message that the wealthy should stand above scrutiny for their atrocities, Saudi Arabia was forced to capitulate to a UN investigation once it became clear it would most likely lose a contested vote. The hope now is that a group of investigators looking over the shoulders of the combatants in Yemen will compel better behavior.

Syria

In the case of Syria, Russia’s repeated vetoes and veto threats at the UN Security Council, sometimes joined by China, barred the only immediately available route to the International Criminal Court. Despite a growing international effort to discourage use of the veto in situations of mass atrocities, Russia and China, as well as the United States, have not signed on to these initiatives.

To break that stalemate, the idea was floated to circumvent the Security Council’s veto system by seeking action in the UN General Assembly, where no state has veto power. Leadership in this effort came from the tiny nation of Liechtenstein, which built a broad coalition of governments. With their support, the General Assembly ended up voting 105 to 15 to establish a mechanism to collect evidence and build cases for prosecution when venues ultimately become available—an important commitment to see justice done. It also opens the door to
the General Assembly possibly creating a special tribunal for Syria should Russia continue to block a path to justice at the ICC.

The importance of this accountability was illustrated by the Syrian government’s ongoing use of banned nerve agents such as sarin despite having supposedly relinquished all chemical weapons after its notorious August 2013 use of sarin in Eastern Ghouta. Russia offered a cover story for an April 2017 episode in the northwestern Syrian town of Khan Sheikhoun—that a Syrian conventional bomb supposedly hit a rebel cache of sarin—but that theory was conclusively disproved, so Russia responded by vetoing continuation of a UN investigation.

When a permanent member of the Security Council is willing to use its power to cover the atrocities of an ally—in this case, while also providing military support—it is particularly important to explore alternative avenues for upholding the most basic rights.

**The Philippines**

The Philippines presented an especially brazen and deadly example of a populist challenge to human rights. As he had done previously as mayor of Davao City, President Rodrigo Duterte took office encouraging the police to kill drug suspects. The resulting epidemic of police shootings—often portrayed as “shootouts” but repeatedly shown to be summary executions—had left more than 12,000 people killed in the roughly year and a half since Duterte took office. The vast majority of victims were young men from the slums of major cities—people who elicited little sympathy among many Filipinos.

The ongoing territorial dispute among China, the United States, and the Philippines over the South China Sea left little room for concern about executions. Donald Trump, as he has elsewhere, seemed mainly to admire Duterte’s “strongman” qualities.

Instead, a major source of pressure to stop the slaughter came from a collection of states led by Iceland that issued statements at the UN Human Rights Council. Duterte tried to disparage these “bleeding hearts” but ended up, under pressure, transferring authority to combat drugs, at least for a while, from the murderous police to a far more law-respecting drug agency. When the police were withdrawn from anti-drug operations, executions dropped precipitously.
Women’s Rights

Several of today’s populists display a misogynist slant. In the past year, Russia decriminalized certain acts of domestic violence. Poland, already possessing one of the most restrictive abortion laws in Europe, is now limiting access to emergency contraception.

Under Trump, the US government reintroduced an expanded “Global Gag Rule” that vastly reduces funding for essential health care for women and girls abroad.

Yet there were rising voices in response. The Women’s March, convened initially as an American response to the election of Trump, morphed into a global phenomenon, with millions gathering in support of women’s human rights.

Canadian Prime Minister Justin Trudeau and French President Macron both identified themselves as feminists, with Canada making the pursuit of gender equality a central part of its aid programs and France announcing new measures to combat gender-based violence and sexual harassment. The Dutch, Belgian, and Scandinavian governments led efforts to establish an international reproductive rights fund to replace US funding lost through the Global Gag Rule, and Sweden pursued a “feminist foreign policy” that prioritizes the rights of women and girls in places such as Saudi Arabia.

Responding in large part to the campaigning of women’s rights activists, three Middle Eastern and North African states—Tunisia, Jordan, and Lebanon—repealed provisions in their penal codes that allowed rapists to escape punishment by marrying their victims.

LGBT Rights

Sexual and gender minorities were a common target of governments seeking to rally conservative backers, often as a diversion from governance failures. Whether Putin in Russia, al-Sisi in Egypt, or Mugabe in Zimbabwe, leaders tried to stoke moral panic for their own political gain against lesbian, gay, bisexual, and transgender (LGBT) people. Police in Indonesia, Tanzania, and Azerbaijan targeted LGBT people in public and raided private spaces with impunity.

Regardless of its form, heightened persecution of LGBT people is a good indication that the government is failing to deliver on public expectations. Yet the assumption that persecution of LGBT people would inevitably meet with approval is becoming less certain.
Most Latin American countries have moved squarely into the pro-LGBT rights camp in international forums, joining Japan along with many North American and European countries. Mozambique, Belize, Nauru and the Seychelles have in recent years all decriminalized same-sex conduct.

This pushback manifested itself even in Russia. The detention, torture, enforced disappearance and murder of gay men by forces under Chechen President Ramzan Kadyrov met such widespread outrage that Putin was compelled to rein in his brutal ally, ending the purge in this southern Russian republic. Yet elsewhere other priorities still sometimes got in the way, as in the response to anti-LGBT crackdowns in Egypt, where donors seemed reluctant to raise the issue for fear of offending a counterterrorism ally.

**Time to Act, Not Despair**

The central lesson of the past year is that despite the considerable headwinds, the defense of human rights can succeed if the proper efforts are made. Populists offer superficial answers to complex problems, but broad swaths of the public, when reminded of the human rights principles at stake, can be convinced to reject the populists’ scapegoating of unpopular minorities and their efforts to undermine checks and balances against government abuse.

The inward orientation of Western powers wrought by the struggle over populism has led to an increasingly fragmented world where mass atrocities are too often left unchecked. Still, principled small and medium-sized countries can make a difference when they join forces and act strategically.

A fair assessment of global prospects for human rights should induce concern rather than surrender—a call to action rather than a cry of despair. As we enter the 70th anniversary year of the Universal Declaration of Human Rights, the challenge is to seize the considerable opportunities that remain to push back against those who would reverse hard-fought progress.

Human rights standards provide guidance but become operational only with champions among governments and ordinary people. Each of us has a part to play. The past year shows that rights can be protected from populist assaults. The challenge now is to strengthen that defense and reverse the populist surge.
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Effective law and policy on gender equality and protection from sexual and gender-based violence in disasters

Zimbabwe Country Case Study
The International Federation of Red Cross and Red Crescent Societies (IFRC) is the world’s largest volunteer-based humanitarian network. Together with our 189 member National Red Cross and Red Crescent Societies worldwide, we reach 97 million people annually through long-term services and development programmes as well as 85 million people through disaster response and early recovery programmes. We act before, during and after disasters and health emergencies to meet the needs and improve the lives of vulnerable people. We do so with impartiality as to nationality, race, gender, religious beliefs, class and political opinions.

Guided by Strategy 2020 – our collective plan of action to tackle the major humanitarian and development challenges of this decade – we are committed to ‘saving lives and changing minds’.

Our strength lies in our volunteer network, our community based expertise and our independence and neutrality. We work to improve humanitarian standards, as partners in development and in response to disasters. We persuade decision-makers to act at all times in the interests of vulnerable people.

The result: we enable healthy and safe communities, reduce vulnerabilities, strengthen resilience and foster a culture of peace around the world.
Zimbabwe Country Case Study

Effective law and policy on gender equality and protection from sexual and gender-based violence in disasters
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- Child marriage
3.3 Contribution of the laws to prevention and response to SGBV

## Part 4
**Legal framework for disaster management (civil protection)**

## Part 5
**Implementation of the Civil Protection law**
Acknowledgments

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The project partners wish to thank all those who participated in interviews and focus group discussions in Zimbabwe, as their input was invaluable in understanding implementation of the legal and policy frameworks, and in providing insights into the nature of sexual and gender-based violence as it occurs in Zimbabwe, both in normal times and in disaster contexts.

This research was made possible with support from the Swedish Red Cross, to which the IFRC expresses its gratitude.
### Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>CEDAW</td>
<td>Committee on the Elimination of All Forms of Discrimination Against Women</td>
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<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination Against Women</td>
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<tr>
<td>COMESA</td>
<td>Common Market for Eastern &amp; Southern Africa</td>
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<td>CPRA</td>
<td>Child Protection Rapid Assessment (CPRA)</td>
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<td>CSO</td>
<td>Civil Society Organisation</td>
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<td>DCP</td>
<td>Department of Civil Protection</td>
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<td>DM</td>
<td>Disaster Management</td>
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<td>DRM</td>
<td>Disaster Risk Management</td>
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<td>DVA</td>
<td>Domestic Violence Act</td>
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<td>GBV</td>
<td>Gender Based Violence</td>
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<td>GBVNCG</td>
<td>GBV National Coordination Group, under HRP Protection Sector</td>
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<td>GWEN</td>
<td>Girls and Women Empowerment Network</td>
</tr>
<tr>
<td>HIV</td>
<td>Human Immunodeficiency Virus</td>
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<tr>
<td>HRP</td>
<td>Humanitarian Response Plan (HRP Protection Sector)</td>
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<tr>
<td>IFRC</td>
<td>International Federation of Red Cross and Red Crescent Societies</td>
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<td>IOM</td>
<td>International Organization for Migration</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organizations</td>
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<td>SADC</td>
<td>Southern African Development Community</td>
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<tr>
<td>SGBV</td>
<td>Sexual and Gender-Based Violence</td>
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<tr>
<td>UNFPA</td>
<td>United Nations Population Fund</td>
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<tr>
<td>VFU</td>
<td>Victim Friendly Unit (of Police)</td>
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<tr>
<td>ZRCS</td>
<td>Zimbabwe Red Cross Society</td>
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<tr>
<td>ZWLA</td>
<td>Zimbabwe Women Lawyers’ Association</td>
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Executive Summary

This report outlines the results of a country case study undertaken during December 2016 in Zimbabwe. It is part of a global IFRC initiative on ‘Effective law and policy for addressing gender in disaster risk management and sexual and gender-based violence in disasters’.

The country case study was conducted in order to contribute to:

- Implementing Resolution 3 of the International Conference of the Red Cross and Red Crescent on ‘Sexual and gender-based violence: Joint action on prevention and response’ (32IC/15/3); and
- Filling a knowledge gap on gender equality in disaster risk management laws, policies and their implementation, that was identified in the IFRC and UNDP 2014 study, Effective Law and Regulation to Support Disaster Risk Reduction: A Multi-Country Report.

The case study was undertaken as a desk review of national laws, policies and secondary resources, followed by interviews with key informants in Harare and focus group discussions with women in rural communities in the Muzarabani district of Zimbabwe, to address the issues around implementation. This district, on the Zambezi river flood plain in northern Zimbabwe, experiences both floods and drought, and at the time of the study was affected by a two-year drought.

This was a pilot case study, the first of three country studies, and lessons learned from this methodology were then used to adapt the terms of reference for the companion case studies in Ecuador and Nepal.

The case study looks at both gender equality and sexual and gender-based violence in times of disaster. The definition of SGBV used in the report recognises that SGBV mainly affects women and girls, but can also affect boys and men. However, it is also noted that the policy and public discourse on these issues in Zimbabwe is focused almost entirely on women’s equality and prevention of violence against women.

Although informants have indicated there is an increase in SGBV incidence and complaints during disasters, there is no data available to quantify the extent of this. In slow-onset disasters, such as the community impoverishment triggered by a two-year drought, it was also difficult to make a distinction between SGBV issues related to the disaster (loss of family income and livelihoods, insufficient food) or those related to broader cultural attitudes (toleration towards some types of SGBV).

The report identifies two frameworks of law and policy that are relevant to gender equality in disaster risk management (DRM) and to addressing sexual and gender-based violence (SGBV) in disasters:
There is an extensive legal framework related to gender equality, criminalisation and prevention of violence against women in normal times (outside the context of disasters). This is also intended to operate during disasters. The report focuses on the Domestic Violence Act, which creates offences and establishes a system for protection orders and survivor support, and also on the Sexual Offences Act 2002, now part of the Criminal Law. Police Victim Friendly Units are also part of this framework. Consultations for the case study indicated that there are social and economic barriers to sanctioning SGBV as unacceptable, and to women accessing support services and the justice system, even outside the disaster context. The institutional frameworks for SGBV protection and legal aid are also under-resourced, and are additionally stressed by disasters and emergencies: and

The Civil Protection Act essentially establishes an institutional structure for disaster preparedness and response, but does not include or mandate policy content on priorities in disaster management, and is silent on questions of gender and SGBV protection in disasters.

There is currently no formal connection between the framework to deal with SGBV in normal times, and the civil protection system that is engaged during disasters. There are also no specific provisions for disaster-resilience of SGBV support services, and no mechanism for coordination with the civil protection system on SGBV during disasters.

The report finds that, although there is a legal framework for SGBV support, during normal times and during disasters, implementation is a challenge due to (a) lack of institutional resources, (b) insufficient legal aid for SGBV survivors, and (c) community attitudes of tolerance towards SGBV within families that create social barriers to accessing support services and the justice system. The additional strain placed on this framework during disasters magnifies the existing challenges, and there is no specific mechanism in place to ensure the framework is disaster-resilient.

The report also notes two existing good practice structures with potential for improving coordination on gender equality and SGBV during disasters, both slow-onset and rapid-onset. These are the national Anti-Domestic Violence Council under the Domestic Violence Act, and the GBV National Coordination Group (GBVNCG) established under the humanitarian cluster system in Zimbabwe.

The report recommends that:

1. The Government uses its legislative discretion under the Domestic Violence Act, to expand the membership of the Anti-Domestic Violence Council, to increase awareness of the need for family support services for SGBV prevention and access to justice during disasters, including slow-onset disasters triggered by drought. The DVA already specifies that the Council includes representation from the ZRP, Council of Chiefs, and Ministry of Justice, and makes provision for further representation from churches, CSOs engaged on the issue and any other body or organisation
the Minister considers relevant. If the Civil Protection Department, ZRCS and NGOs engaged in SGBV protection were to be invited to join this Council, it could be a useful vehicle for them to support a focus on SGBV in disasters and emergencies;

2. In the medium to long term, the Government includes in an eventual revision of the Civil Protection Law, both an institutional mandate and provision for resources to address gender equality in disaster risk management, including for participation of women and SGBV prevention and protection.

3. In the short to medium term, the Government proceeds, through administrative and policy-making mechanisms, to improve coordination on gender equality and SGBV protection within the disaster management system by:

   a. Ensuring significant representation of women on all committees and councils within the disaster management system at national and local levels, moving progressively to at least 30% women (consistent with the gender equality provisions in the 2013 Constitution, the National Gender Policy and SADC regional targets of women in governance);

   b. Including in key advisory bodies within the disaster management system, representation of the Gender Commission, the Women’s Ministry, ZRCS, relevant NGOs, and women’s legal organisations and experts, to increase the focus and understanding on gender equality and SGBV protection in disaster preparedness and response;

   c. Formalising the role of the Protection Cluster, and especially the Gender Based Violence (GBV) National Coordination Group (Sub-cluster of the Humanitarian Response Planning (HRP) Protection Sector Cluster), as a key forum for Government agencies – especially the ZRP Victim Friendly Unit - ZRCS and NGOs to participate actively with UN Agencies in (i) preparedness for SGBV prevention and protection during disasters, and (ii) coordination on SGBV during disaster response and recovery operations.

4. Government agencies, including the Women’s Ministry, health and welfare services, and the ZRP Victim Friendly Unit, along with ZRCS, NGOs and UN Agencies, make a higher priority of community awareness-raising and support services on SGBV during normal times, to create a more solid community base for SGBV prevention and protection during disasters and disaster recovery. This should also extend to building capacity amongst traditional leaders and local police. Given the reported wide tolerance of domestic violence and child marriage, and the increase in both during disasters, this strategy would help to address the cultural barriers to accessing support and justice on SGBV, focusing on prevention through working with communities, especially in rural areas.
Part 1
Introduction and Background

1.1 Introduction

This report outlines the results of research carried out during December 2016 in Zimbabwe. The research was conducted in Harare and Muzarabani district in northern Zimbabwe. This Country Case Study was conducted as part of a global initiative on ‘Effective law and policy for addressing gender in disaster risk management and sexual and gender-based violence in disasters’. It was the pilot case study in a group of three country case studies on the national legal and policy frameworks addressing gender equality in disaster risk management and protection from sexual and gender-based violence (SGBV) in disasters, including their implementation. Lessons learned from this methodology were then used to adapt the terms of reference for the companion case studies in Ecuador and Nepal.

The country case study was conducted in order to contribute to:

- Implementation of Resolution 3 of the International Conference of the Red Cross and Red Crescent on ‘Sexual and gender-based violence: Joint action on prevention and response’ (32IC/15/3), and to address the specific issue of how sexual and gender-based violence is considered within legal frameworks. Resolution 3 "encourages the International Federation, in collaboration with National Societies and other relevant partners, to continue its research and consultations with a view to formulating relevant recommendations to prevent and respond to sexual and gender-based violence in disasters and other emergencies" (OP 30); and

- Filling a knowledge gap on gender equality in disaster risk management laws, policies and their implementation that was identified in the IFRC and UNDP 2014 study, Effective Law and Regulation to Support Disaster Risk Reduction: A Multi-Country Report.

The country case study was intended to contribute to an increased understanding of the landscape on the inclusion of gender, the participation of women, and the prevention and response to SGBV within law and policy related to disaster risk management, and its implementation. This will support the Zimbabwe Red Cross Society (ZRCS) in its dialogue with relevant authorities, and the IFRC in its global engagement and advocacy. It has also contributed to the findings of the global review. The ultimate goal of the research is to inform law, regulation, programming and operational planning on disaster risk management, to produce better outcomes for SGBV survivors, women, children and affected communities as a whole.
Terminology

The term ‘sexual and gender-based violence’ as used in this report, reflects the terminology in the above 2015 resolution of the International Conference of the Red Cross and Red Crescent. While different actors employ various definitions of the overlapping terms "sexual violence" and "gender-based violence," the term SGBV is based on two working definitions of the Movement which, although not formally adopted, are reproduced here to explain how the term SGBV is used in the report. SGBV combines:

‘Sexual violence’: Acts of a sexual nature committed against any person by force, threat of force or coercion. Coercion can be caused by circumstances such as fear of violence, duress, detention, psychological oppression or abuse of power. The force, threat of force or coercion can also be directed against another person. Sexual violence also comprises acts of a sexual nature committed by taking advantage of a coercive environment or a person’s incapacity to give genuine consent. It furthermore includes acts of a sexual nature a person is caused to engage in by force, threat of force or coercion, against that person or another person, or by taking advantage of a coercive environment or the person’s incapacity to give genuine consent. Sexual violence encompasses acts such as rape, sexual slavery, enforced prostitution, forced pregnancy or enforced sterilization; and

‘Gender-Based Violence’: An umbrella term for any harmful act that results in, or is likely to result in, physical, sexual or psychological harm or suffering to a woman, man, girl or boy on the basis of their gender. Gender-based violence is a result of gender inequality and abuse of power. Gender-based violence includes but is not limited to sexual violence, domestic violence, trafficking, forced or early marriage, forced prostitution and sexual exploitation and abuse.¹

Methodology

The research addresses four main questions:

- What is the extent of law and policy frameworks for gender and SGBV protection in normal times, and how disaster-resilient are these?
- To what degree are gender and SGBV issues incorporated in the national disaster risk management laws and policies in Zimbabwe?
- How effective is implementation of these legal / policy provisions in practice?
- How could the existing legal and policy frameworks in Zimbabwe and/ or their implementation, be strengthened to better address gender (including participation of women) and prevention of and response to sexual and gender-based violence, in disasters?

To answer these questions a qualitative research methodology was adopted. Thus, the research was based on a review of literature, analysis of existing laws, policies and plans, a review of practitioner reports, and focus group

discussions with women in disaster affected communities in Muzarabani district, northern Zimbabwe.

The desk review focused on the legislation that governs issues of sexual and gender-based violence within Zimbabwe as well as those that govern disaster management (the term used in national law and policy is ‘civil protection’).

The following are the principal national legislative and policy frameworks consulted:

- Constitution – 2013 Constitution of Zimbabwe
- Gender equality and protection from sexual and gender based violence. The analysis focuses on the Domestic Violence Act (2007) and the Sexual Offences Act 2002, now part of the Criminal Law (Codification and Reform) Act of 2006. The review also looks at relevant national reports and policies, including the National Gender Policy, and the Zimbabwe Demographics Health Survey.
- Civil protection – Civil Protection Act (Chapter 10.06), National Civil Protection Plan, and Disaster Risk Management Bill.

In addition, the desk review considered relevant international and African regional treaty and policy frameworks in which Zimbabwe participates.

The researcher consulted key informants through structured interviews. These included: Zimbabwe Red Cross; government departments (Department of Social Welfare and Department of Civil Protection); three UN agencies (IOM, UNFPA and UN Women); and two local civil society organizations, the Zimbabwe Women Lawyers Association, and Girls and Women Empowerment Network (GWEN) Trust. These were identified by the consultant as the main stakeholders to contact as a matter of priority, although it was not possible to obtain interviews with all key stakeholders within the timeframe of the study. A list of those interviewed is annexed to the report.

Two focus group discussions were held with a total number of 30 women, in Muzarabani district. Group 1 were women community leaders identified and invited by ZRCS from a number of villages in Dambakurima Ward (wards being the most local government area). Group 2 were local women volunteers in the ZRCS ‘Community Based Health and First Aid Programme’ working throughout the Muzarabani District.

The Muzarabani District, in northern Zimbabwe on the flood plain of the Zambezi River, was chosen because it is an area frequently affected by natural hazards, experiencing either seasonal floods or droughts most years. At the time the case study was undertaken the communities had been experiencing a severe drought for more than two years, resulting in food insecurity and loss of agriculture-based livelihoods.
Zimbabwe Red Cross Society Initiatives

This project was a partnership between IFRC and Zimbabwe Red Cross Society (ZRCS). ZRCS is a key disaster responder in Zimbabwe, working as an auxiliary to Government in providing humanitarian relief during emergencies, such as floods. ZRCS runs various programmes with partner national societies from within the Red Cross and Red Crescent Movement, including drought-related food distribution, and more recently cash transfers, to relieve food insecurity in selected communities. From its strong base of local members and volunteers, ZRCS works extensively with communities to build their resilience, and to develop their capacities through initiatives such as the ‘Community Based Health and First Aid Programme.’ It also has a long-term programme of guardianship of AIDS orphans, enabling them to continue living in their communities, under the guardianship of responsible adults appointed to safeguard their welfare until adulthood.

In recent years, ZRCS has increased its focus on gender and diversity. Much of this effort is based around implementing the 2015 International Conference resolution on SGBV, and the IFRC 'Minimum standard commitments to gender and diversity in emergency programming'. It has a designated focal point on these issues and participated in IFRC regional conferences on SGBV, in Kenya, in both 2015 and 2016.

1.2 Country Background

Disaster Risk in Zimbabwe

According to the National Contingency Plan, in recent years Zimbabwe has experienced an increase in hazardous events, including disease outbreaks, floods, droughts and storms. These hazards, which are of both natural and human-induced origins, often trigger food, nutrition and health insecurity, and environmental degradation. Infrastructure including roads, public buildings and homes are also damaged. On the micro level, this has resulted in more fragile and less resilient family units, while on the macro level there is the opportunity cost of diverting resources to respond to these emergencies. Evidence continues to show that disasters are likely to increase in Zimbabwe, particularly those that are weather-related, due to climate change, with a projected overall temperature increase, and more extreme dry and wet periods, resulting in more droughts as well as more floods.

Incidence of Sexual and Gender-Based Violence in Zimbabwe

In Zimbabwe, the working definition of GBV (the term used in Government policy) is drawn from the General Recommendation Number 19 of the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW), which defines gender-based violence as "violence that is directed against a woman because she is a woman or that affects women disproportionately. This includes any act or threat to inflict physical, sexual or psychological harm. This working definition, also reflected in the laws,
substantially equates ‘gender’ with sex, so the main focus is on violence against women. This is narrower than the scope of SGBV as described by the Red Cross and Red Crescent Movement, which recognises more overtly that, while SGBV mainly affects women and girls, it can also include violence against men and boys based on gender roles.\(^3\) By contrast, in Zimbabwe, “gender-based violence” is often used interchangeably with “sexual violence” and “violence against women”.\(^4\)

In Zimbabwe, SGBV arises from social, cultural and religious practices that subordinate women, and may also make it unacceptable for men or women, girls or boys, to step outside socially assigned gender roles (including people who identify as lesbian, gay, bisexual, transsexual or intersex). It thrives in communities where violence is acceptable as a form of conflict resolution. It is facilitated by patriarchal (male controlled) social hierarchies, by acceptance of violence as a mode of social interaction and political interface, and by socioeconomic inequality and a breakdown in norms and social structures.\(^5\)

In Zimbabwe, SGBV is seen particularly in acts of domestic violence related to gender roles. Spousal abuse is the most common form of SGBV.\(^6\) As a result of the patriarchal nature of Zimbabwean society, women are affected more by SGBV than men. Women face sexual violence, physical violence, emotional and psychological violence and also socio-economic violence in their homes, as well as violence outside the home.

Some of the contributing factors to SGBV in Zimbabwe include: societal norms on sexual rights and manhood; commercialization of ‘lobola’ or bride price; socialization processes that condone abuse; economic factors such as poverty, exploitation, access to and control over resources (e.g. land); variance between the modern and traditional/religious concepts of love by men and women; harmful traditional practices (e.g. girl child pledging for purposes of appeasing avenging spirits, forced marriage, child marriage, forced virginity testing and forced wife-inheritance); infidelity and polygamy; and limited participation of women in decision-making.\(^7\)

Despite the enactment of laws to protect women, SGBV remains high. The Zimbabwe Demographic Health Survey of 2015 indicates that more than 1 in 3 women have experienced physical violence since the age of 15. The percentage of women who experienced violence was at 14.5% in 2015; at the same time, there is an increase in the percentage of women who report having experienced violence in their lifetime (from 29.9% in 2010 to 34.8% in 2015). The most commonly reported perpetrator is the current or former husband or partner. Also, it is notable that one in two women without an education has experienced spousal violence,\(^8\) which may also be related to child marriage of girls before they finish school, a phenomenon that also reportedly increases during the economic stress caused by disasters. It

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6 Ibid.


8 Zimbabwe Demographic and Health Survey 2015: Key Indicators. Rockville, Maryland, USA: Zimbabwe National Statistics Agency (ZIMSTAT) and ICF International.
is also more common for women to have lower education levels in rural communities, and as these are the areas most affected by floods and droughts, these existing vulnerabilities to SGBV are likely compounded by disasters.

Some current strategies for addressing SGBV in Zimbabwe include improving awareness of the laws, and discussing with communities the social norms that may condone SGBV. Awareness campaigns face particular challenges in resource-poor rural areas where, for most women, there is little or no access to safe shelters, counselling services, or the judicial system, and in this context, engagement with community organisations and local leaders is used. Some successful awareness-raising campaigns have used film, and extended focus group work in communities to address beliefs and change attitudes on issues such as economic abuse, physical violence, rape in marriage and psychological abuse.

Other successful strategies have brought issues of gender equality and SGBV into the education system, including for professionals such as police. For example, the University of Zimbabwe hosts the Southern & Eastern African Regional Centre for Women’s Law (SEARCWL), and some 20% of its postgraduate students are men. It offers courses that examine the ways gender roles are socially constructed in legal contexts. Some Zambian police who had studied at SEARCWL reported that, as a result, they had changed and improved their police station’s procedures and practice for handling reports of SGBV.

Key informants and community focus group participants in the study reported that SGBV incidence and complaints increase during disasters, including the slow-onset disaster of food insecurity arising from drought. According to a UNICEF report on the humanitarian situation, a Child Protection Rapid Assessment (CPRA) conducted in July 2016 found that the 2016 drought contributed to increased teenage pregnancies, child marriages and psychological distress of children. However, the CPRA itself was not published and the summary report does not cite cases or statistics, so this remains a commonly reported phenomenon that has apparently not been further researched or measured.

Aside from understanding the social environment, and community perceptions of an increase during disasters, the lack of data-gathering on this issue means it is not possible to draw more definitive conclusions on the impact of disasters on SGBV. Such information-gathering is also particularly challenging in situations such as slow-onset food insecurity triggered by drought, where there is no clear start date, and where many different social and policy factors have an impact. However, given the high incidence of domestic violence, the success of some awareness-raising efforts suggest that an effective approach may be to focus on SGBV as part of community safety and resilience-building, both during slow-onset disasters and outside the context of disasters.

10 ibid.
12 FRC informant.
On 16 January 2014 a transgender activist was arrested in Bulawayo after entering a female toilet. At the police station she was forced to strip and examined by medical doctors to verify her gender. After spending two nights in a holding cell, she was charged with criminal nuisance. The criminal charge was later withdrawn. The civil trial on unlawful arrest and malicious prosecution took place from 25 to 27 July 2017. SALC and the Sexual Rights Centre is providing support in this case.
Zimbabwe: Challenging unlawful arrest of transgender woman – Southern Africa Litigation Centre

04 Dec 2019
INTERNATIONAL CRIMINAL JUSTICE, RULE OF LAW, CRIMINAL JUSTICE
SOUTH AFRICA
SALC : STAFF WRITER

REVOCATION OF VISA TO A CONVICTED DUTCH WAR CRIMINAL: AUGUSTINUS MARIA KOUWENHOVEN
READ MORE (HTTPS://WWW.SOUTHERNAFRICALITIGATIONCENTRE.ORG/2019/12/04/REVOCATION-OF-VISA-TO-A-CONVICTED-DUTCH-WAR-CRIMINAL-AUGUSTINUS-MARIA-KOUWENHOVEN/)

27 Nov 2019
HUMAN RIGHTS AND THE RULE OF LAW
ZIMBABWE
SALC : AMANDA SHIVAMBA

STATEMENT CONDEMNING THE ACTIONS OF THE ZIMBABWE REPUBLIC POLICE FOR THE ASSAULT ON DOUGLAS COLTART

26 Nov 2019
RIGHTS OF LGBTI PERSONS
ZIMBABWE
SALC : STAFF WRITER

HIGH COURT DECISION AFFIRMS HUMAN RIGHTS OF TRANSGENDER PEOPLE IN ZIMBABWE
International Women’s Day 2017 was celebrated in both Harare and Bulawayo. The management of GALZ decided to honor and host women within the organization and those from other partners’ organizations such as Trans Smart and Pakasipiti in Harare and VOVO in Bulawayo. The events saw a total of 86 participants with 64% being either, lesbian, bisexual women or transgender men. Transgender women and gender non-conforming individuals constituted 16.3% of the guests, the remainder were other invited community members.

It was an opportunity for the women and women membership to raise awareness of issues within the lesbian, bisexual and transgender (LBT) community.

In Bulawayo, the quorum discussed the opportunities available for women within the organization.

Guests shared stories of their lives especially around gender and sexuality. The stories included the day to day challenges that women face and issues they have to deal with in the community (both mainstream and LGBTI). They also had a chance to share their narratives using art. They painted and drew representations of themselves and women in general. Some of the issues that came out of the depictions were:

• The heteronormative nature of mainstream society makes it difficult for LBT women as they are a target by virtue of their gender and sexual orientation
• Patriarchy manifests itself within the LGBTI community as well as there is a bias towards gay and bisexual men and as a result women have limited voice or platform to speak on their issues.
• There is still need to advance the rights of women as women face violence in public spaces and in their homes and for LBT women it is especially difficult to get justice as fear of being outed is a barrier to reporting abuse.
• The common factor that linked group members was that they identify as women but some of their struggles were different as a result of differences in age, sexual orientation, gender identity, language, religion, family structure, financial standing, etc.

While in Harare, it was highlighted that there is an increase of correctional rape or sexual abuse cases. Men within society are raping lesbian women to 'correct' that which they view is wrong. These cases and many more in which members are being violated, discriminated and verbally abused because of their choice in dressing and because of their body language are the tips of the iceberg. LBT women are compounded by societal expectations. Discussing possible opportunities within the organization, the women suggested capacity building, skills for life and SRHR services as part of the package that could assist members in knowing what to do in instances of abuse.

As part of the celebrations, the women are running a campaign called the Sanitary Ware Drive to help each other in light of the further worsening economic crunch.

Overall the events brought with them lessons for both men and women within the organization. There is still work to be done to ensure equal opportunities for men and women.
Rainbow 263 Film Training & Festival

ALZ in partnership with the Beijing Gender Health Education Institute (BJQU) hosted the first Queer University Video Capacity Building Training in Africa. The training was held from the 3rd – 9th of March 2017 in Harare, Zimbabwe. International acclaimed filmmakers Kit Hung and Xiaogang Wei were part of the trainers together with Collen Magobeya and Time Baluwa from Zimbabwe.

46 applications were received, out of which 9 were selected to take part in the training. The selection criteria included competence of the English language and computer basics, a background in multimedia, photography, journalism and filmmaking were an added advantage. Links to previous works were required for those with the aforementioned qualities. Geographical location was considered to allow those in marginal areas who do not often get opportunities to advance their skills to participate. Participants were from Harare, Mutoko, Masvingo, Bulawayo and Norton participated.

The program, which was mainly based in Asia focused on important elements of filmmaking for LGBTI groups. The training explored lighting and composure, online video/video news production, filming practice, video editing, documentary theory and production, contemporary works and the history of queer films and their purpose in the modern day.

Trainees were shown works that were created by previous participants of the Queer University training in Asia and other international works created over the years dating back as far as the 1960s. To further inspire participants Xiaogang shared with the participants his experience running Queer Comrades in China. He also went on to talk about their LGBTQ webcast and the Chinese LGBT movement and its development.

Participants were asked to produce a human size drawing on how they see their body then come up with questions based on their drawing. In pairs, they took turns to interview each other on camera and produce a 2 minutes video clip. A total of 13 videos were produced during the training, with the assistance of trainers. Participants were able to come up with ideas, scripting, filming and editing. All videos were screened and analysed by the trainers and trainees for the purposes of feedback and sharing of techniques.

The training offered 3 trainees the opportunity to direct and produce their own documentaries. Through a 5-minute pitching contest, the 3 were selected and will be provided with technical and financial support. Out of the 3, 2 outstanding trainees will be selected to attend the Chinese Film Festival in Beijing.

The Rainbow 263 Film Training concluded with a 2-day Film Festival that was held in Harare. Over 80 people attended the festival over the 2 days. The Film Festival showcased international films and local documentary films produced for the LGBTI community. The highlight features of the festival were the award-winning best picture film Moonlight and Kit Hung’s Soundless Wind chime.

Young Matters

My struggle with sex and sexuality as a young gay teen

Growing up in Zimbabwe, as a young person with a different sexual orientation was very difficult and still is as an adult. But I can handle the life stressors better than in my teens. When I look back those years I was going through puberty and dealing with the dilemmas of being a teenager, I get all teary. I still get emotional about it, experience sharp pains in my chest and tense up.

My teen years were dark years filled with uncertainty, clouded by suicidal thoughts and fear. Behind closed doors and under the blankets I used to wonder how my future would be as an adult gay man. The future looked bleak, lonely, coated by isolation and possible incarceration. I knew back then, that if I give in to my feelings, emotions and thoughts, I was doomed.

As a churchgoer I knew the bible had condemned me to death and I had no hope of being with the angels in the afterlife. Something a lot of young children or teens fantasy about.

The laws of the country had labeled boys or men like me criminals. I had read in the local Sunday paper that anyone who was attracted to people of the same sex was labeled a sodomite and must be put in prison. In the Sunday mass, the priest said we were sodomites, given our hearts to perversion and will burn in hell. I used to wonder why me? I used to wonder if it was a punishment for what my parents might have done? I also wondered if it was because I had stolen sugar from the mother’s jar or the peanut butter I scooped from the grandmother’s tin while she was not looking?

I would wake up in the morning at home or in the school dormitory with a heavy heart. Facing another day was hard full fear of what I might become in my older years. No one knew about my fears or my story back then until later years in my last years of high school. I also knew being gay man in Zimbabwe was nothing compared to being in hell as preached by the priest.

There was no one to share my feelings, fears and thoughts with. My parents had never discussed about sex or sexual feelings with my siblings or me. They were highly educated professionals with good jobs. The schools I attend only taught us about puberty stages and abstinence. Being Christian schools, the idea of sex was governed by fear of ending up in purgatory. To be continued...
Upcoming events and occasions

Occasions:
- April 14 - 17 2017: Easter
- April 18 2017: Independence Day

Harare Activities:
- LBT: Site visits, Proposal writing workshop
- Youth: IDAHOT Art workshop
- Membership: Site visits, Social Saturday April 29, 2017

Bulawayo activities:
- SRHR workshop Social Saturday

Applications:
- IAS Educational Fund scholarship on HIV science
- African Leadership Centre Peace, Security and Development fellowship for African Scholars
- The Allard Prize Photography: Contest 6 photos of human Rights Issues and Anti-corruption efforts

For more information contact:
Harare: +263 772 210 836
Bulawayo: +263 773 196 744

Trans* Day of Visibility

Globally, the trans* community is highly discriminated against and stigmatised. This results in the community members suffering a myriad of issues related to well-being such as poor mental and physical health. The International Trans* Day of Visibility seeks to remedy this by encouraging the trans* community and its allies to promote and celebrate trans* identities.

GALZ and TIRZ collaborated to celebrate this day through a film screening and discussion. The event brought together 10 members of the trans* community from around Harare, along with 14 allies from various organisations, to hear and discuss trans* realities in Zimbabwe, and map a way forward as to how to empower the trans* movement in the country.

The major commitment made by nearly all participants was that they would evaluate and correct any negative behaviours or ideas that they had towards or about the trans* community. Another major commitment was to advocate for trans* rights in their spaces. Trans* community members also committed to not stigmatising each other.

5 lessons from pain

There is something about the past that is so addictive, it could be familiarity that breeds comfort or replaying scenes over and over again to find answers, yet most of the exhaustive process leads to the mind being entangled in a web of confusion and echoes of should have, could have.

We all have our own habits, whether good or bad. Mine is stocking up every little piece of paper or notebook that I have scribbled something in. On the rare occasions when I do decide to clear my bookcases to make space, I find myself, looking for an excuse for keeping every piece of paper and notebook, then end up restocking them again, even adding more to the piles with the hope that these will come handy at some point. Emotional baggage...

I am trying so hard not to fall into that temptation of dwelling on the past, but then I get the inner voice arguing that, if you don't go back to look for answers how can you move forward. Deep down I know it's my mind just giving me excuses to pile negative emotions again.

To find peace with myself for my own well-being I'm slowly coming to terms with the fact that although messy, scary, painful, and unsettling, with change comes growth. I am getting rid of the papers no matter how precious they might have seemed at some point, I am letting go, the same applies to memories, places and people that no longer contribute to my growth and well-being.

Despite all the pain, fears, regrets and mistakes, I now choose to focus instead on what these experiences have taught me. Below are some of the important lessons, which are helping me to pick myself, hope they save you too.

1. Learning to let go should be learned before learning to get. —Ray Bradbury

2. It ain't about how hard you are hit. It is about how hard you can get hit and keep moving forward. How much you can take and keep moving forward. That is how winning is done! - Rocky Balboa

3. Choose all weather company, people who not only celebrate you but also inspire and motivate you. Be they virtual or physical, be sure to be with people who do not dampen your spirits. Misery loves company, be with positive people who uplift you, shut does for people who belittle you, or make you feel hopeless and worthless, you don't need that type of energy.

4. The two most important days in our lives, the day you are born and the day you find out why. - Mark Twain. Find your purpose; follow your passion you have nothing to regret but regret.

5. The biggest mistake is not making a mistake, because you will never learn. Life is a big game, no one has the secret, live, make mistakes, learn and keep playing don't be so hard on yourself. Negative self-talk and worry will not contribute to your wellbeing and success.

- Miles Tanhira (AFRICTRANs Wordpress Blog)
Why did you volunteer to represent women?

Women make my heart sing and it has always been my dream to heal, champion and inspire other women to be who they really want to become. A woman must prevail against her guilt (women going outside the ‘norm’ are perceived as guilty or generally blamed if anything goes wrong within the family) and be willing to suffer it as a price she must pay for her freedom. I see myself as a soft but radical feminist willing to reclaim her life and the lives of other women moment by moment.

As an LBT woman what has been the most fulfilling thing about the work?

As a lesbian woman listening to understand other women’s stories has been most fulfilling. Listening to the fears, challenges and successes really reflects on the transformation of the greater realm and seeing wholeness manifesting into the lives of individual women.

What do you hope your legacy will be?

The legacy I aspire for is to keep to my integrity and love. To fulfil the thoughts that will eventually become actions and at the end of the day women will say YOU did your best in every single transaction.

Where do you see the women’s movement?

There is a saying that says; “Never doubt that a small group of thoughtful, committed people can change the world.” The movements have always been there and its time women take charge and be bold enough to stand for their rights otherwise the rights will remain unprotested. I stand with other women in the women movement in making things happen and breaking new grounds. The unspeakable will be spoken and the voiceless will be voiced.
TAB

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Human Rights Watch defends the rights of people worldwide.

We scrupulously investigate abuses, expose the facts widely, and pressure those with power to respect rights and secure justice.

Human Rights Watch is an independent, international organization that works as part of a vibrant movement to uphold human dignity and advance the cause of human rights for all.

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Zimbabwe

Zimbabwean President Robert Mugabe consolidated his grip on power and failed to introduce any meaningful human rights reforms in 2015. In December 2014, Mugabe fired reformist Vice President Joyce Mujuru, apparently because he considered her disloyal, and replaced her with two co-vice presidents, Emmerson Mnangagwa and Phelekezela Mphoko. Both are implicated in serious past human rights abuses.

Mugabe secured the endorsement of the ruling ZANU-PF party to be the 2018 presidential candidate (when he will be 94), appointed his wife to head the party’s women’s wing, and amended the party constitution to allow him to make all senior party appointments.

The government faced severe socioeconomic challenges and did not invest in desperately needed public services such as water, education, health, and sanitation. About 82 percent of the national budget was allocated to civil service salaries, much of which appears to have disappeared through corruption. The International Monetary Fund (IMF) estimated that Zimbabwe’s external debt obligations were over 80 percent of the country’s gross domestic product.

Those who criticized Mugabe or his government, including human rights defenders, civil society activists, political opponents, and outspoken street vendors, were harassed, threatened, or arbitrarily arrested by police and state security agents. The authorities disparaged lesbian, gay, bisexual, and transgender (LGBT) people. There was no progress toward justice for past human rights violations and political violence.

Attacks on Human Rights Defenders

Itai Dzamara, a pro-democracy activist and human rights defender, was forcibly disappeared on March 9, 2015. Dzamara, the leader of Occupy Africa Unity Square—a small protest group modelled after the Arab Spring uprisings—had led a number of peaceful protests concerning the deteriorating political and economic environment in Zimbabwe in 2014 and 2015. He had petitioned Mugabe to resign and for reforms to the electoral system. Police ZANU-PF supporters assaulted him on several occasions, including during a peaceful protest in Novem-
ber 2014, when about 20 uniformed police handcuffed and hit him with batons until he lost consciousness. When Kennedy Masiye, his lawyer, tried to inter-vene, the police beat him up, breaking his arm.

Zimbabwe authorities denied any involvement in Dzamara’s abduction, but state authorities have not conducted any meaningful investigation. When Dzamara’s wife, Sheffra Dzamara, approached the high court in Harare to compel state authorities to search for her husband, government officials failed to comply with the court order to report on the investigation’s progress.

On April 25, activists organized a car procession to raise awareness about Dzamara’s case. Police arrested 11 activists and detained them for six hours, then released them without charge.

On January 27, 2015, five community leaders representing 20,000 Tokwe-Mukorsi dam flood victims (see below) were sentenced to five years in prison for public violence after they organized a demonstration to protest the government’s failure to compensate them for the loss of their land and the dire conditions in which they lived. Authorities had arrested the community leaders in August 2014, including Mike Mudyanembwa, the chair of the victims’ Chingwizi Camp Committee, who did not participate in the demonstration. Their lawyers alleged that they were tortured in prison.

On July 24, police wrongfully arrested three activists—Edgar Gweshe, Charles Nyoni, and Don Makuwaza—who they said had taken photographs at Harare Remand Prison, which is prohibited under the Protected Places and Areas Act. On July 25, police arrested three more activists—Mundo Millo, Nixon Nyikadzino, and Dirk Frey—on trumped-up charges of organizing a meeting outside Harare Remand Prison in violation of the Public Order and Security Act (POSA).

**Government Opponents and Other Critics**

Police and state security agents targeted perceived government opponents and critics. They threatened, kept under surveillance, and arbitrarily arrested supporters of former Vice President Joyce Mujuru after she was removed from her post and considered forming an opposition party.

In November 2014, police arrested and detained former leader of the war veterans and key Mujuru supporter, Jabulani Sibanda, on charges of undermining Mu-gabe’s authority. Sibanda was released on bail after five days in detention. He said he received death threats from state security agents after he was released from detention. In February, April, and June 2015, police arrested and briefly detained Temba Mliswa, another expelled senior ZANU-PF official, on spurious charges.

On July 14, police beat and arrested 16 street vendors, including Sten Zvorwadza, Samuel Wadzanai Mangoma, and Lucy Makunde, leaders of the National Ven-
dors Union of Zimbabwe (NAVUZ), and brought trumped-up charges of inciting public violence against them. The arrests were part of a violent crackdown on unlicensed street vendors—mostly women living in extreme poverty—in the capital, Harare, during a government “clean-up” campaign. The crackdown was marked by beatings, destruction of goods, and arbitrary arrests.

**Internally Displaced Persons**

The government ignored the plight of the 20,000 people who fled their homes because of massive flooding at Zimbabwe’s Tokwe-Mukorsi dam in February 2014. It coerced the flood victims to resettle onto one-hectare plots at a farm with close links to the ZANU-PF party, without paying them fair compensation. The flood victims lacked adequate shelter, safe drinking water, and access to sanitation and health services.

According to the governmental Zimbabwe Human Rights Commission (ZHRC), the flooding “was not natural, but [a] man-made disaster” and could have been avoided. It urged the government to protect the basic rights of all the flood vic-
tims. In July 2015, the flood victims sent a desperate plea to Mugabe to provide them with basic services, adequate compensation for the loss of their land, and full consultations about their future resettlement. He did not respond.

**Rule of Law**

Mugabe’s government continued to ignore human rights provisions in the country’s 2013 constitution, neither enacting laws to put the constitution into effect nor amending existing laws to bring them in line with the constitution and Zimbabwe’s international and regional human rights obligations. The government has yet to repeal or amend the Access to Information and Protection of Privacy
Act (AIPPA) and the Public Order and Security Act, among others, whose provisions severely restrict basic rights and are contrary to the constitution.

The government lacked comprehensive strategies to curb the rising practice of child marriage. The United Nations Children's Fund (UNICEF) said nearly one-third of girls in Zimbabwe marry before their 18th birthday and 4 percent marry before they turn 15. In June, the prosecutor general said girls as young as 12 can marry if they give their consent, undermining efforts to curb the harmful practice. He later denied making the statement. Two former child brides launched a legal appeal at the Constitutional Court of Zimbabwe in January to declare child marriage illegal and unconstitutional. The court was still considering the case at time of writing.

There was no progress on establishing the constitutionally mandated National Peace and Reconciliation Commission (NPRC) for post-conflict justice, healing, and reconciliation. To date, no independent mechanism has addressed serious past human rights crimes, including widespread election-related violence and the massacre of an estimated 20,000 people in the Matebeleland and Midlands provinces in the 1980s.

Sexual Orientation and Gender Identity

Authorities continued to violate rights of LGBT people. A Zimbabwe Human Rights Commission report published in July showed continued hostility and systematic discrimination by police and politicians against LGBT people, driving many underground.

Police did not conduct serious investigations or arrest any suspects in the December 2014 attack at a Christmas party organized by the activist group Gays and Lesbians of Zimbabwe (GALZ), during which 12 armed men invaded the private party and seriously injured 35 people with chains, sjamboks, and long sticks.

Key International Actors

In February, the European Union announced it would resume development aid to Zimbabwe after 12 years of sanctions with an aid package of €237 million (US$252.37 million) over five years. EU officials said they would closely monitor the funds to ensure they were not misused.

In April, the European Parliament issued a resolution strongly condemning Itai Dzamara's forced disappearance and calling for his immediate and unconditional release. The EU urged Zimbabwean authorities to take all necessary measures to find Dzamara and bring those responsible to justice. In July, the United States issued statements registering deep concern over the government's failure to properly investigate his forced disappearance.

The UN resident and humanitarian coordinator told Human Rights Watch that UN agencies and their partners supported the government in providing humanitarian assistance to Tokwe-Mukorsi flood victims. The aid included basic healthcare, food, shelter, water, and emergency sanitation facilities. He said UN assistance was guided by humanitarian principles premised on accountability to beneficiaries by providing humanitarian response in a humane, impartial, neutral, and independent manner.

In August, Mugabe concluded his one-year tenure as chairperson of the Southern African Development Community (SADC); his tenure as president of the African Union will end in January 2016. Neither institution criticized or engaged with his government on human rights violations.
HUMAN RIGHTS WATCH
350 Fifth Avenue
New York, NY 10118-3299
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This 26th annual World Report summarizes human rights conditions in more than 90 countries and territories worldwide in 2015. It reflects extensive investigative work that Human Rights Watch staff conducted during the year, often in close partnership with domestic human rights activists.

Front cover: Asylum seekers and migrants disembark from a large fishing vessel that transported them from Turkey to the Greek island of Lesbos. © 2015 ZALMAI for Human Rights Watch

Back cover: Thirteen-year-old Sifola in the home she shares with her husband and in-laws in Bangladesh. Sifola’s parents, struggling with poverty, took her out of school and arranged for her marriage so that the money saved could pay for her brothers’ schooling. © 2015 Omi for Human Rights Watch

Cover Design by Rafael Jiménez
In Zimbabwe, tolerance crosses ethnic, religious, national – but not sexual – lines

Afrobarometer Dispatch No. 124 | Richman Kokera and Stephen Ndoma

Summary

Given Zimbabwe’s diversity of ethnic, religious, national, political, and social backgrounds, peace and stability would be unthinkable without some degree of tolerance for those who are different. On some fronts, the country has struggled with intolerance. One example is political intolerance, played out in inter- and intra-party conflict turning neighbours against each other. Another is intolerance of sexual difference, with President Robert Mugabe leading a sometimes vicious chorus against lesbian, gay, bisexual, and transgender (LGBT) individuals.

How tolerant are Zimbabweans? Afrobarometer Round 6 survey findings may serve as a baseline for efforts aimed at bringing people together and fostering a culture of tolerance where diversity is celebrated.

The findings show that large majorities of Zimbabweans express tolerant attitudes toward people of different religions and ethnic groups, and somewhat less enthusiastically for people living with HIV/AIDS and immigrants. But most are intolerant of homosexuals.

Afrobarometer survey

Afrobarometer is a pan-African, non-partisan research network that conducts public attitude surveys on democracy, governance, economic conditions, and related issues across more than 30 countries in Africa. After five rounds of surveys between 1999 and 2013, results of Round 6 surveys (2014/2015) are currently being published. Afrobarometer conducts face-to-face interviews in the language of the respondent’s choice with nationally representative samples of 1,200 or 2,400 respondents.

The Afrobarometer team in Zimbabwe, led by Mass Public Opinion Institute, interviewed 2,400 adult Zimbabweans in November 2014. A sample of this size yields country-level results with a margin of error of +/-2% at a 95% confidence level. Previous surveys have been conducted in Zimbabwe in 1999, 2004, 2005, 2009, 2010, and 2012.

Key findings

- Overwhelming majorities of Zimbabweans say they would “strongly like,” “somewhat like,” or “not care” about living as neighbours of people of different religions (93%) and different ethnic groups (94%).
- Majorities also express tolerant attitudes toward people living with HIV/AIDS (94%) and immigrants or foreign workers (87%), although large proportions of “would not care”
responses suggest that tolerance for these groups is less enthusiastic than for people of different religious and ethnic backgrounds.

- Nearly nine of 10 Zimbabweans (89%) say they would “somewhat dislike” or “strongly dislike” having homosexuals as neighbours. Younger, urban, and more educated citizens are somewhat less intolerant of homosexuality than older, rural, and less educated respondents.

Tolerance for other religions and ethnicities

Afrobarometer assesses citizens’ levels of tolerance by asking them whether they would like, dislike, or not care about having people from various groups as neighbours. On the whole, Zimbabweans exhibit good neighbourliness for other religious and ethnic groups. More than nine of 10 respondents express tolerant attitudes toward people of different religions (93%) and different ethnicities (94%). This includes majorities who say they would “somewhat like” or “strongly like” living next to people of different religions (53%) and different ethnicities (52%), while an additional four in 10 say they “would not care” (Figure 1).

Figure 1: Tolerance for other religious and ethnic groups | Zimbabwe | 2014

Respondents were asked: For each of the following types of people, please tell me whether you would like having people from this group as neighbours, dislike it, or not care: People of a different religion? People from other ethnic groups?

Due to rounding, combined category totals may appear to differ by 1 percentage point from the sum of sub-categories.

1 Due to rounding, combined category totals may appear to differ by 1 percentage point from the sum of sub-categories.
Tolerance for other religious and ethnic groups is strong regardless of respondents’ gender, age, or urban vs. rural location. It is also strong among supporters of both major political parties, although Movement for Democratic Change-Tsvangirai (MDC-T) adherents are more likely than Zimbabwe African Union-Patriotic Front (ZANU-PF) supporters to say they “would not care” (47% vs. 37%) rather than would like/strongly like having such people as neighbours.

**Tolerance for immigrants and foreign workers**

Despite Zimbabwe’s economic difficulties and high levels of unemployment, a large majority of citizens say they would “somewhat” or “strongly” like it (40%) or would not care (47%) if their neighbours were immigrants or foreign workers (Figure 2). While this is a welcome finding in light of xenophobic attacks in South Africa, the proportion expressing positive feelings (somewhat/strongly like) is smaller for immigrants (40%) than for people of other religions (53%) and ethnic groups (52%), while the proportion expressing dislike is almost double (13%, compared to 7% for other religions and ethnic groups).

Objections to living next to immigrants and foreign workers are more common among rural residents (15%) than urban dwellers (9%) and among ZANU-PF supporters (17%) than MDC-T supporters (11%) (Figure 3).

The idea of having immigrants or foreign workers as neighbours is viewed somewhat differently in different provinces (Table 1). The most welcoming provinces are Matabeleland South (where 63% say they would somewhat/strongly like living next to immigrants), Mashonaland West (55%), Mashonaland Central (48%), and Harare (48%). Least welcoming are Masvingo (22% somewhat/strongly dislike), Mashonaland Central (22%), and Mashonaland East (16%). “Would not care” is the majority response in Matabeleland North (71%), Bulawayo (56%), Midlands (56%), Manicaland (55%), and Mashonaland East (55%).

![Figure 2: Tolerance for immigrants](image)

**Figure 2: Tolerance for immigrants | Zimbabwe | 2014**

**Respondents were asked:** For each of the following types of people, please tell me whether you would like having people from this group as neighbours, dislike it, or not care: Immigrants or foreign workers?

---

2 Political-party affiliation is determined by responses to the questions “Do you feel close to any particular political party?” and, if yes, “Which party is that?”
Figure 3: Tolerance for immigrants or foreign workers | by rural-urban residence, age, gender, education and political-party affiliation | Zimbabwe | 2014

Respondents were asked: For each of the following types of people, please tell me whether you would like having people from this group as neighbours, dislike it, or not care: Immigrants or foreign workers?

Respondents were asked: For each of the following types of people, please tell me whether you would like having people from this group as neighbours, dislike it, or not care: Immigrants or foreign workers?
Table 1: Tolerance for immigrants or foreign workers | by province | Zimbabwe | 2014

<table>
<thead>
<tr>
<th>Province</th>
<th>Somewhat/Strongly like</th>
<th>Would not care</th>
<th>Somewhat/Strongly dislike</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matabeleland South</td>
<td>63%</td>
<td>29%</td>
<td>8%</td>
</tr>
<tr>
<td>Mashonaland West</td>
<td>55%</td>
<td>38%</td>
<td>7%</td>
</tr>
<tr>
<td>Harare</td>
<td>48%</td>
<td>42%</td>
<td>10%</td>
</tr>
<tr>
<td>Mashonaland Central</td>
<td>48%</td>
<td>30%</td>
<td>22%</td>
</tr>
<tr>
<td>Masvingo</td>
<td>39%</td>
<td>40%</td>
<td>22%</td>
</tr>
<tr>
<td>Manicaland</td>
<td>33%</td>
<td>55%</td>
<td>12%</td>
</tr>
<tr>
<td>Bulawayo</td>
<td>32%</td>
<td>56%</td>
<td>13%</td>
</tr>
<tr>
<td>Midlands</td>
<td>31%</td>
<td>56%</td>
<td>12%</td>
</tr>
<tr>
<td>Mashonaland East</td>
<td>29%</td>
<td>55%</td>
<td>16%</td>
</tr>
<tr>
<td>Matabeleland North</td>
<td>21%</td>
<td>71%</td>
<td>8%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>40%</strong></td>
<td><strong>47%</strong></td>
<td><strong>13%</strong></td>
</tr>
</tbody>
</table>

Respondents were asked: For each of the following types of people, please tell me whether you would like having people from this group as neighbours, dislike it, or not care: Immigrants or foreign workers?

Tolerance for people living with HIV/AIDS

As with their attitudes toward immigrants, most Zimbabweans (94%) express tolerance for people living with HIV/AIDS, but this tolerance is more likely to be expressed as indifference (50% “would not care”) than as welcome (44% somewhat/strongly like) (Figure 4).

Feelings about living next to people with HIV/AIDS are quite similar across different sociodemographic groups. Objections to having HIV-positive neighbours are slightly less prevalent than average among respondents with post-secondary education (3%) and respondents in the middle age range (40-64 years) (4%).

Among Zimbabwe’s 10 provinces, the most welcoming to people living with HIV/AIDS is Mashonaland West (57% would somewhat/strongly like), Matabeleland South (55%), and Mashonaland Central (51%) (Table 2). Least welcoming is Masvingo, where 13% say they would “somewhat” or “strongly” dislike having people with HIV/AIDS as neighbours.
**Figure 4: Tolerance for people living with HIV/AIDS** | by urban-rural residence, gender, age, and location | Zimbabwe | 2014

Respondents were asked: For each of the following types of people, please tell me whether you would like having people from this group as neighbours, dislike it, or not care: People who have HIV/AIDS?

<table>
<thead>
<tr>
<th>Education</th>
<th>0%</th>
<th>20%</th>
<th>40%</th>
<th>60%</th>
</tr>
</thead>
<tbody>
<tr>
<td>No formal</td>
<td>7%</td>
<td>8%</td>
<td>45%</td>
<td>48%</td>
</tr>
<tr>
<td>Primary</td>
<td>8%</td>
<td>4%</td>
<td>44%</td>
<td>48%</td>
</tr>
<tr>
<td>Secondary</td>
<td>6%</td>
<td>4%</td>
<td>43%</td>
<td>51%</td>
</tr>
<tr>
<td>Post-secondary</td>
<td>3%</td>
<td>4%</td>
<td>43%</td>
<td>54%</td>
</tr>
<tr>
<td>Education</td>
<td>0%</td>
<td>20%</td>
<td>40%</td>
<td>60%</td>
</tr>
<tr>
<td>Age</td>
<td>0%</td>
<td>20%</td>
<td>40%</td>
<td>60%</td>
</tr>
<tr>
<td>18-39 years</td>
<td>7%</td>
<td>4%</td>
<td>41%</td>
<td>52%</td>
</tr>
<tr>
<td>40-64 years</td>
<td>4%</td>
<td>8%</td>
<td>48%</td>
<td>49%</td>
</tr>
<tr>
<td>65+ years</td>
<td>8%</td>
<td>7%</td>
<td>45%</td>
<td>47%</td>
</tr>
<tr>
<td>Gender</td>
<td>0%</td>
<td>20%</td>
<td>40%</td>
<td>60%</td>
</tr>
<tr>
<td>Male</td>
<td>7%</td>
<td>5%</td>
<td>42%</td>
<td>52%</td>
</tr>
<tr>
<td>Female</td>
<td>6%</td>
<td>5%</td>
<td>45%</td>
<td>49%</td>
</tr>
<tr>
<td>Location</td>
<td>0%</td>
<td>20%</td>
<td>40%</td>
<td>60%</td>
</tr>
<tr>
<td>Rural</td>
<td>7%</td>
<td>5%</td>
<td>44%</td>
<td>49%</td>
</tr>
<tr>
<td>Urban</td>
<td>5%</td>
<td>7%</td>
<td>42%</td>
<td>53%</td>
</tr>
<tr>
<td>Total</td>
<td>6%</td>
<td>4%</td>
<td>44%</td>
<td>50%</td>
</tr>
</tbody>
</table>
Table 2: Tolerance for people living with HIV/AIDS | by province | Zimbabwe | 2014

<table>
<thead>
<tr>
<th>Province</th>
<th>Somewhat/Strongly like</th>
<th>Would not care</th>
<th>Somewhat/Strongly dislike</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mashonaland West</td>
<td>57%</td>
<td>38%</td>
<td>5%</td>
</tr>
<tr>
<td>Matabeleland South</td>
<td>55%</td>
<td>39%</td>
<td>6%</td>
</tr>
<tr>
<td>Mashonaland Central</td>
<td>51%</td>
<td>39%</td>
<td>10%</td>
</tr>
<tr>
<td>Midlands</td>
<td>48%</td>
<td>46%</td>
<td>6%</td>
</tr>
<tr>
<td>Masvingo</td>
<td>46%</td>
<td>41%</td>
<td>13%</td>
</tr>
<tr>
<td>Harare</td>
<td>45%</td>
<td>49%</td>
<td>6%</td>
</tr>
<tr>
<td>Mashonaland East</td>
<td>38%</td>
<td>58%</td>
<td>4%</td>
</tr>
<tr>
<td>Bulawayo</td>
<td>36%</td>
<td>62%</td>
<td>2%</td>
</tr>
<tr>
<td>Manicaland</td>
<td>30%</td>
<td>64%</td>
<td>7%</td>
</tr>
<tr>
<td>Matabeleland North</td>
<td>20%</td>
<td>78%</td>
<td>2%</td>
</tr>
<tr>
<td>Total</td>
<td>43%</td>
<td>50%</td>
<td>6%</td>
</tr>
</tbody>
</table>

Respondents were asked: For each of the following types of people, please tell me whether you would like having people from this group as neighbours, dislike it, or not care: People who have HIV/AIDS?

Tolerance for homosexuals

Zimbabwe’s new Constitution, adopted in May 2013, explicitly forbids marriage officers to preside over same-sex marriages, and many politicians, traditional leaders, and religious leaders have been vehement in their rejection of homosexuality.

Public attitudes reflect this widespread intolerance: Nine in 10 Zimbabweans (89%) say they would “somewhat dislike” (6%) or “strongly dislike” (83%) having LGBT persons as neighbours (Figure 5).

Figure 5: Tolerance for homosexuals | Zimbabwe | 2014

Respondents were asked: For each of the following types of people, please tell me whether you would like having people from this group as neighbours, dislike it, or not care: Homosexuals?
Intolerance for homosexuals cuts across all walks of life, but some demographic sub-groups are somewhat more tolerant than others (Figure 6). Tolerance levels (strongly like/somewhat like/would not care) are somewhat higher among urban residents (13%) than among rural residents (9%). Education seems to affect levels of tolerance: Citizens with post-secondary education are more likely to express tolerant attitudes toward homosexuals (17%) than respondents with secondary (10%), primary (7%), or no formal education (8%).

Similarly, younger respondents are more likely to say they would like or not care about having LGBT neighbours: 13% of 18- to 39-year-olds vs. 10% of 40- to 64-year-olds and 7% of those aged 65 and older.

MDC-T supporters are more likely to express tolerance toward homosexuals (16%) than ZANU-PF adherents (6%).

**Figure 6: Tolerance for homosexuals | by gender, urban-rural residence, age, education, and party affiliation | Zimbabwe | 2014**

<table>
<thead>
<tr>
<th>Gender</th>
<th>Female</th>
<th>Male</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2%</td>
<td>1%</td>
</tr>
<tr>
<td>Location</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rural</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>Urban</td>
<td>2%</td>
<td>2%</td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td></td>
</tr>
<tr>
<td>65+ years</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>40-64 years</td>
<td>1%</td>
<td>2%</td>
</tr>
<tr>
<td>18-39 years</td>
<td>2%</td>
<td>2%</td>
</tr>
<tr>
<td>Education</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Post-secondary</td>
<td>2%</td>
<td>2%</td>
</tr>
<tr>
<td>Secondary</td>
<td>2%</td>
<td>2%</td>
</tr>
<tr>
<td>Primary</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>No formal</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>Party affiliation</td>
<td>MDC-T</td>
<td>2%</td>
</tr>
<tr>
<td></td>
<td>ZANU-PF</td>
<td>1%</td>
</tr>
</tbody>
</table>

Respondents were asked: For each of the following types of people, please tell me whether you would like having people from this group as neighbours, dislike it, or not care: Homosexuals?
The least intolerant provinces are Bulawayo and Midlands, where 25% and 24%, respectively, say they would like or not mind having LGBT neighbours, whereas in Masvingo and Mashonaland Central, only one in 50 respondents express such tolerance (Figure 7).

Figure 7: Tolerance for homosexuals | by age, education, gender, urban-rural residence, and part affiliation | Zimbabwe | 2014

Respondents were asked: For each of the following types of people, please tell me whether you would like having people from this group as neighbours, dislike it, or not care: Homosexuals?

**Conclusion**

Most Zimbabweans express tolerance for people of different religions and ethnic groups. Tolerance for immigrants and for people living with HIV/AIDS is high, though somewhat less enthusiastic. A major exception to tolerant attitudes in Zimbabwe concerns the LGBT community, which faces overwhelming rejection. Younger, urban, and more educated citizens are somewhat less intolerant of homosexuality, suggesting the possibility of greater openness in the future.
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Stephen Ndoma is principal researcher for Mass Public Opinion Institute. Email: stephen@mpoi.org.zw.

Afrobarometer is produced collaboratively by social scientists from more than 30 African countries. Coordination is provided by the Center for Democratic Development (CDD) in Ghana, the Institute for Justice and Reconciliation (IJR) in South Africa, the Institute for Development Studies (IDS) at the University of Nairobi in Kenya, and the Institute for Empirical Research in Political Economy (IREEP) in Benin. Michigan State University (MSU) and the University of Cape Town (UCT) provide technical support to the network.

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Donations help the Afrobarometer Project give voice to African citizens. Please consider making a contribution (at www.afrobarometer.org) or contact Aba Kittoe (akittoe@afrobarometer.org) to discuss institutional funding.

For more information, please visit www.afrobarometer.org.

Afrobarometer Dispatch No. 124 | 1 November 2016
(1)-In 2013, Zimbabwe approved a new constitution through referendum, which in accordance with accepted principles of international human rights law, guarantees that “[a]ll persons are equal before the law and have the right to equal protection and benefit of the law,” and that “e]very person has the right not to be treated in an unfairly discriminatory manner on such grounds as their… sex, gender,…or social status…”1 By joining the International Covenant on Civil and Political Rights (“ICCPR”) and the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), and by ratifying or signing onto the other core international human rights treaties, Zimbabwe has also contracted with the international community that Zimbabwe will secure and maintain the rights set forth in those conventions for all those within their jurisdiction without discrimination based on these same grounds.

(2)-However, Zimbabwe’s treatment of its LGBTI community directly contradicts its commitment to the preservation of equal rights and principles of non-discrimination. While Zimbabwe’s Constitution guarantees equality of its citizens and freedom from unfair discrimination, in reality it fails to prohibit discrimination on the basis of sexual orientation and gender identity.2 Homophobia permeates Zimbabwean society unchecked and manifests itself in different forms, ranging from verbal and physical assault, to discrimination of LGBTI people on the basis of their sexual orientation or gender identity. The refusal by duty bearers and policy makers to engage with and rectify Zimbabwe’s flagrantly negative approach to basic human

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1 Zimbabwe Constitution para. 56 (2013).
2 Simplified Version of the Declaration of Rights, Constitution of Zimbabwe Amendment (No. 20) Act of 2013, Equality and non-discrimination (listing nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, political affiliation, opinion, custom, culture, sex, gender and marital, economic or social status, disability, age, pregnancy or whether born in or out of wedlock as protected classes).
rights for LGBTI individuals causes public intolerance to become deeply ingrained in Zimbabwean community and reinforces the general stigmatization of sexual minorities in society.

(3)- Zimbabwe has failed to protect LGBTI individuals from numerous human rights abuses within its jurisdiction. By directly curtailing fundamental rights through state action, allowing others to abuse the fundamental rights of the LGBTI community with impunity, and by not protecting sexual minorities from discrimination or guaranteeing their equal protection under law, Zimbabwe is in direct violation of both its own constitution and its international human rights treaty obligations.

- **Human Rights Violations of LGBTI Persons in Zimbabwe**

1. **Criminalization of Same Sex Activity**

(4)-Zimbabwe’s criminalization of same sex activity is in direct violation of its treaty obligations under the ICCPR to not subject individuals to arbitrary or unlawful interference with their privacy; not to arbitrarily detain; and to guarantee equal protection of law for everyone within its jurisdiction. The ICCPR’s Human Rights Committee (“H.R. Comm.”) has found that the ICCPR’s reference to sex in its equal protection provisions is to be taken as including sexual orientation. The Committee has also stated that the right to privacy encompasses consensual

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3 See ICCPR Art. 17.
4 See id at Art. 9.
5 See id at Art. 26.
sexual activity in private, regardless of the sex of the participants; that laws criminalizing same
sex activity are in direct violation of the ICCPR; and that adult sodomy laws and their
counterparts continuously and directly interfere with individuals’ privacy and there is no
reasonable or proportionate justification for the maintenance of such laws.7

(5)-In 2006, Zimbabwean Parliament quietly amended its criminal code to proscribe any same
sex activity (including sodomy), calling it “sexual deviancy” and noting that a “reasonable
person” would regard it to be “an indecent act.”8 Previously, Zimbabwe’s criminal code only
included proscriptions of sodomy; however, the 2006 amendments which created the current
law— Criminal Law (Codification and Reform) Act (Effective 8 July 2006)—specifically,
Section 73, added to the already strict sodomy laws, including the more expansive prohibition
and criminalization of any activity perceived as homosexual in nature.9 The current sexual
deviancy laws carry a penalty of up to one year imprisonment and a fine of up to $5,000.10

(6)-There are documented cases of arrests based directly on Section 73—both under charges of
sodomy and under charges of indecent aggravated assault.11 However, aside from arrests and/or

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7 See id.
8 See “Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity,”
Zimbabwe, available at http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper. See also ILGA;
Zimbabwe 2004, Art. 73; Zimbabwe’s Criminal Law (Codification and Reform) Act.
10 See “Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity,”
11 Section 73. Sodomy
(1) Any male person who, with the consent of another male person, knowingly performs with that other person
anal sexual intercourse, or any act involving physical contact other than anal sexual intercourse that would be
regarded by a reasonable person to be an indecent act, shall be guilty of sodomy and liable to a fine up to or
exceeding level fourteen or imprisonment for a period not exceeding one year or both.
detention based explicitly off of Section 73, many LGBTI individuals also experience arbitrary
detention by authorities at a disproportionate rate simply due to their identity as sexual
minorities. While some examples of detention may not be a result of laws directly criminalizing
same sex activity, many other instances of Zimbabwe’s arbitrary detention of LGBTI individuals
are a result of the adverse consequence of the highly stigmatized and discriminatory environment
which these laws create. LGBTI individuals are often detained ultimately simply for not
conforming with hetero- or cis-normative ideals.\(^\text{12}\)

(7)- Furthermore, at police stations and detention facilities, LGBTI individuals are intimidated
and physically assaulted by police officers.\(^\text{13}\) LGBTI individuals in Zimbabwe are often detained
for hours at a time, without access to judicial recourse.\(^\text{14}\) LGBTI individuals are frequently
beaten, mocked, and forced to pay bribes in order to escape custody.\(^\text{15}\)

\(^\text{12} Id. (The issue of nonconformity typically arises in the bar or club social scene, where the police are brought to the
attention of an individual who does not display heteronormative ideals).\)

\(^\text{13} See GALZ 2012-2013 Violations Report, p. 33; GALZ 2014 Violations Report, p. 30.\)

\(^\text{14} ICCPR, Art. 9, para. 3 (“anyone arrested or detained on a criminal charge shall be brought promptly before a
judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a
reasonable time or to release.”); General Comment 35 (“more precise time limits are fixed by law in most States
parties and, in the view of the Committee, delays must not exceed a few days”).\)

\(^\text{15} See GALZ 2012-2013 Violations Report, p. 31; GALZ 2014 Violations Report, p. 44-47.\)
The actual motivation for the criminalization of same-sex activity is also unclear. President Robert Mugabe has waged a vitriolic campaign against homosexuality, claiming it is a colonial import. It has been suggested that sodomy laws have been used by the government in power to build popular support, distract from other instances of corruption, and punish or sideline political adversaries; for example, just after Zimbabwe first banned homosexual acts in 1995, a court found Mugabe’s predecessor, Canaan Banana, guilty of eleven counts of sodomy.

Whatever the reason, such treatment of LGBTI individuals directly contravenes Zimbabwe's treaty obligations under the ICCPR to protect the right of privacy and to not subject individuals to arbitrary arrest or detention; the Committee on the Convention Against Torture (“CAT”)—the object and purpose of which Zimbabwe must comply as a signatory—has also stated that the discriminatory treatment of LGBTI individuals in arrest and detention is inconsistent with CAT treaty provisions.

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18 ICCPR, Art. 9, para. 1 (Under the ICCPR, “no one shall be subjected to arbitrary arrest or detention”).

19 CAT, Art. 10, para. 1 (“[E]ach State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.”); see also CAT, Art. 11 (“[E]ach state party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction…”).
2. Violence against LGBTI Persons

(10)-International law, regardless of sexual orientation or gender identity, calls for states to protect every individual's right to security of the person and to protection against violence or bodily harm from both state and non-state actors. Article 9 of the ICCPR explicitly grants every individual the right to security of the person. The H.R. Comm. interpreted this article to ensure people's freedom from injury to the body and the mind as well as bodily and mental integrity. The committee further interpreted this right to explain that the word “everyone” in this article refers to girls, boys, persons with disabilities, lesbian, gay, bisexual, and transgender persons as well as other distinct categories. Article 9 requires States parties to take appropriate measures to protect individuals from threats to life or bodily integrity from any governmental or private actors.

(11)-Additionally, Article 7 of the ICCPR prohibits the use of torture or cruel, inhuman, or degrading treatment or punishment against any individual. The aim of this article is to once again protect an individual’s dignity as well as physical and mental integrity. The Committee interpreted this right to require states to provide legislative and other measures necessary to protect this right and imposes a special protection of particularly vulnerable persons. Additionally, this right is not subject to derogation, and there is no justification or extenuating circumstances that can be invoked to excuse a violation of this article. Furthermore, CAT’s

20 Human Rights Committee, ICCPR General Comment 35 para. 3.
21 See id at para. 3.
22 See id at 35 para. 7.
23 Human Rights Committee, ICCPR General Comment 20 para. 2.
24 See id at para. 2,11.
25 See id at para 3.
Article 4 requires states to ensure that all acts of torture are criminalized under state law and Article 5 calls on states to take necessary measures to establish its jurisdiction over Article 4 offenses.

(12) In Zimbabwe, there have been a number of reports citing incidents of violence against LGBTI persons. In many cases, the violence in question is perpetrated directly by state actors. Just in the last few years, there have been multiple reported instances where LGBTI individuals in Zimbabwe have been physically assaulted by police officers while in police custody.26 Furthermore, there have been a number of instances where the state has also directly committed acts of violence towards individuals who were not detained for criminal matters.27 The state also allows violence to occur against LGBTI individuals with impunity. Since Zimbabwe’s last UPR cycle, a number of violent incidents have occurred against LGBTI individuals either in social settings, such as neighborhood bars, or after having their sexual orientation revealed to family members or neighbors—and in none of these reported cases have perpetrators been brought to justice.28

3. Extortion

(13) According to the Zimbabwean Criminal Law, an individual is liable to a fine or twice the value of the property obtained as a result of the committed act of extortion, whichever is greater;

26 See GALZ 2014 Violations Report, p. 24. In December 2014 a transgender woman reported that she was physically assaulted by 3 police officers while in police custody after being arrested for defamation of character.
27 See GALZ 2012-2013 Violations Report, p. 31. In December 2013, police officers attached 15 GALZ members at an end of the year party for wearing t-shirts with “same love” in rainbow colors written on it.
28 See GALZ 2014 Violations Report, p. 20. In January 2014, a 20-year-old lesbian fell victim to a physical assault by her partner’s husband when he attacked her with a golf club after finding out about their relationship. In February 2014, a transgender women was attacked by security personnel and other patrons at a bar after arriving dressed in drag.
or imprisonment for a period not exceeding fifteen years. Yet extortion with impunity against LGBTI individuals in Zimbabwe has been documented on both a state-based and privatized level. Extortion has taken the form of demands for money, personal belongings, or other valuables in order to keep the blackmailer silent. LGBTI individuals often succumb to such extortions due to a fear of being discriminated against, being disowned by their family, or being faced with the possibility of criminal charges due to Section 73 or other relevant laws which discriminate against LGBTI people. By allowing such flagrant extortion to occur without bringing perpetrators to justice, Zimbabwe is denying LGBTI individuals equal protection of the law in direct contravention of its own laws and its obligations under the ICCPR.

(14) - Compounding this problem, when members of the community do not give in to the extortionist’s demands and are subsequently outing, many of these LGBTI individuals then must face a plethora of physical and mental hardships, which sometimes even include spiritual cleansing and/or eviction or disownment. In some cases, outing individuals have even been subjected to illegal “corrective measures” such as forced marriages or forced rape, also perpetrated without consequences from the state.

29 Zimbabwean Criminal Law Act 6, Section 134.
33 Id.
34 Id.
4. Restrictions of Economic, Social, and Cultural Rights

(15) LGBTI individuals in Zimbabwe are also experiencing violations of their economic, social, and cultural rights in contravention of the many protections afforded under the ICESCR and other relevant conventions. For example, ICESCR Article 12 recognizes the right of everyone to enjoy the highest standard of physical and mental health, and the Committee on Economic, Social, and Cultural Rights (“CESCR”) has called on States parties to take a number of necessary steps to achieve full realization of this right, including the creation of conditions which would assure appropriate medical services. In Zimbabwe, many LGBTI individuals have found themselves treated poorly when visiting public health institutions, therefore making it difficult for them to seek out and receive healthcare at the same level as heterosexual and cisgender individuals.35

(16) Similarly, ICESCR Article 6 requires States parties to take appropriate measures to protect every individual’s right to work. CESCR states that this right is essential for realizing other human rights and is an inherent part of human dignity.36 The Committee interprets this right to include the right to freely choose and accept work, including the right not to be deprived of work unfairly.37 Yet, since the last UPR reporting cycle, numerous LGBTI individuals have reported having their employment discontinued after supervisors and colleagues discovered their sexual

35 See GALZ 2014 Violations Report, p.32. In December of 2014, a 28-year-old gay man reported that he was chastised by a health professional at a public health institution about his same sex activities from a public health institution after seeking treatment for an STI. GALZ 2012-2013 Violations Report, p. 37. In August 2013, two gay men reported negative attitudes from a receptionist while seeking Sexual and Reproductive Health services at a local health clinic.
36 CESCR, ICESCR General Comment 18 para. 1.
37 See id at para. 4.
orientation.\(^{38}\) Outing has resulted in a number of instances where LGBTI individuals have been fired once their employers became aware of their status, and Zimbabwe has provided no means for reinstatement or other remedy.\(^{39}\)

(17)- ICESCR Article 11 recognizes the right of everyone to an adequate standard of living which includes housing. Article 11 requires states to take appropriate actions to ensure the full realization of this right. The committee has interpreted this right to also protect against unlawful forced evictions.\(^{40}\) However, the LGBTI population in Zimbabwe has reported high rates of eviction and homelessness.\(^{41}\) In some cases, state officers forcibly evict individuals from their homes and intimidate them with violence or threats of violence.\(^{42}\)

(18)- ICESCR Article 13 secures the right of everyone to education and recognizes that education enables all persons to effectively participate in a free society. The Committee has interpreted this right to explain that educational institutions must be accessible to all persons, especially vulnerable groups, in law and fact, without discrimination.\(^{43}\) LGBTI persons in Zimbabwe have reported expulsions due to their sexual orientation or gender identity at both secondary and tertiary education levels; even without expulsion, many LGBTI individuals withdraw from school at an early age due to the effects of discrimination.\(^{44}\)

\(^{38}\) See GALZ 2014 Violations Report, p. 50. In September of 2014, a 24-year-old gay man was fired from his job at a local accounting firm after his colleagues learnt about his relationship with another man.

\(^{39}\) See GALZ 2014 Violations Report, p. 32. In July, a 33-year old gay man was unfairly dismissed by his employer after he was publicly outed in a local newspaper.

\(^{40}\) CESCR, ICESCR General Comment 7 para. 1.

\(^{41}\) Zimbabwe 2014 State Report, p. 51-52.

\(^{42}\) See GALZ 2012-2013 Violations Report, p. 20.

\(^{43}\) CESCR, ICESCR General Comment 13 para. 6(b).

\(^{44}\) Zimbabwe 2014 State Report, p. 51.
5. Violations of Freedom of Expression, Association, and Assembly

(19)-Zimbabwe’s violations of freedom of expression, association and assembly are in direct violation of related ICCPR’s Articles 19, 21, and 22. The H.R. Committee has clearly stated that derogations from protecting freedom of expression must not only be written in law, but must also be for a specific enumerated purpose, and must be necessary, proportional, and most narrowly tailored. Zimbabwe’s government has persistently obstructed human rights organizations from standing up for the rights of LGBTI individuals.

(20)-Zimbabwe severely restricts freedom of expression and press. For example, Zimbabwe’s Censorship and Entertainments Control Act prohibits the dissemination of “undesirable” publications, which is defined as “indecent or obscene or is offensive or harmful to public morals or is likely to be contrary to public health.” These laws have routinely been used to harass Zimbabwe’s LGBTI population.

(21)-In 2002, Zimbabwe also passed the Access to Information and Protection of Privacy Act, which requires journalists and media companies to register with a government commission. The Act gives the government the power to deny people to work as journalists and allows authorities to prosecute journalists and newspapers that oppose the government or that are

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45 See ICCPR Arts. 19, 21, 22.
independent.\textsuperscript{48} As a part of President Mugabe’s campaign against homosexuality, state media sources consistently report unfavorably about same sex relationships; Mugabe has also threatened to expel foreign diplomats who “promote” homosexuality.\textsuperscript{49} As such, local media outlets also often cover LGBTI issues negatively.\textsuperscript{50} Zimbabwe’s \textit{Censorship Act} has also been invoked to confiscate materials intended for use or addressed to LGBTI human rights organizations.

(22)- Freedoms of association and assembly have also been severely restricted by the Zimbabwean government in recent years. NGOs must comply with strict registration and funding requirements in order to operate in the country. In 2004, the Zimbabwean Parliament passed the \textit{Non-Governmental Organizations Act}, which bars the registration of foreign NGOs engaged in “issues of governance,” including human rights organizations, and bars domestic “governance” NGOs from receiving foreign funding.\textsuperscript{51} This impacts the work of LGBTI rights organizations. The government also uses the state-controlled media to threaten NGOs, which it believes to be aligned with the political opposition or with Western interests such as the


\textsuperscript{50} GALZ 2014 Violations Report, p. 52. Some news headlines from 2014 include “Gay Shemale causes stir in court,” “Protruding manhood exposes gay activity,” and “Rally behind President in fight against homosexuality.” Id. (listing news articles from January 21, 2014 from the Chronicle, January 22, 2014 from the Chronicle, and March 9, 2016 from the Sunday Mail).

protection of sexual minorities.\textsuperscript{52} Members of NGOs perceived as such are routinely arrested, imprisoned, and assaulted.\textsuperscript{53}

(23) Zimbabwe’s \textit{2002 Public Order and Security Act} also severely restricts freedom of assembly.\textsuperscript{54} The Act forces organizers to notify the police prior to any public meeting and failure to do so may result in both criminal and civil charges.\textsuperscript{55} Security forces in the country often use the Act to declare demonstrations illegal, arrest or detain demonstrators, or curtail citizens’ freedom of assembly and expression.\textsuperscript{56} GALZ has experienced significant harassment and discrimination as a result of Zimbabwe’s discriminatory policies.\textsuperscript{57} In 2012, the police raided GALZ’s offices several time and arrested GALZ members, charging them, including its

\begin{itemize}
\item \textsuperscript{52} \textit{Id.}
\item \textsuperscript{53} \textit{Id.} For example, in 2014, one transgender female board members of the Bulawayo-based Sexual Rights Center, an organization dedicated to advancing the rights of sexual minorities, was arrested and subjected to degrading treatment, including a nonconsensual medical examination. \textit{See “Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity,” Bureau of Democracy, Human Rights, and Labor: Country Reports on Human Rights Practices for 2014: Zimbabwe, available at} http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper.
\item \textsuperscript{55} \textit{Id.}
\item \textsuperscript{56} \textit{Id.}
\end{itemize}
chairperson, with running an unregistered organization.\footnote{58}{See “Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity,” Bureau of Democracy, Human Rights, and Labor: Country Reports on Human Rights Practices for 2014: Zimbabwe, available at http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#/wrapper. The foundation for the charges was an alleged violation of the Public Order and Security Act; however, a local magistrate ruled in favor of GALZ’s chairperson, citing the High Court’s order that the law did not oblige GALZ to register under the law; \textit{Id.} During one of the raids, the police confiscated property, including computers and documents, belonging to GALZ. Following prolonged trials, the High Court ruled the raid to be illegal and ordered the Ministry of Home Affairs to return the illegally confiscated property to GALZ. Additionally, a magistrate judge ruled in favor of Tholanah, holding that GALZ was not obligated to register the organization.} Another attack on the GALZ offices occurred in 2013.\footnote{59}{While a meeting was in progress, five men violently forced their entry into the GALZ office. The five men gathered all of the GALZ staff and board members and locked them up. While the staff was detained, the men vandalized and robbed the GALZ office, collecting personal items, such as cell phones, laptops, and others. As of the 2013 GALZ violations report, GALZ’s attorneys are following up on the situation.}

\textbf{Summary}

(24)-Zimbabwe is violating many of the fundamental human rights of LGBTI individuals within its jurisdiction. Furthermore, since the last UPR cycle, Zimbabwe has made virtually no effort to improve the lives of LGBTI citizens and has continued to systematically persecute them through discriminatory laws and practices, including allowing others to also violate the rights of the LGBTI community with impunity. State actors continue to arbitrarily arrest and detain sexual minorities. Various acts of violence are committed by both state actors and others the state allows to act with impunity. The state refuses to address extortion of LGBTI individuals. Rights to health, work, housing, and education are consistently abridged. Freedom of expression, association, and assembly are constantly curtailed. And most egregiously, Zimbabwe continues to criminalize same sex activity—which provides direct and indirect justification for all of the other rights violations.
Recommendations

1. Repeal the crime of sodomy as fully described under section 73 Criminal Code and Reform Act, 2006, (Chapter 9:23), to ensure that same-sex activity between consenting adults is not subject to criminal sanctions.

2. Sensitize law enforcement agents and other government actors about the rights and needs of LGBTI individuals.

3. Condemn human rights violations based on sexual orientation, gender identity and expression and take measures to ensure protection of human rights for marginalized people.

4. End the use of hate speech by government officials that promotes violence or discrimination against LGBTI community members.

5. Prosecute perpetrators of extortion/assault of LGBTI individuals.

6. Create measures to protect the economic, social and cultural rights of the LGBTI community, including access to healthcare, employment, housing, and education.

7. Repeal POSA and AAIPA to protect freedom of expression, association, and assembly by discontinuing restrictions on LGBTI advocacy.

8. Revise polices that hinder LGBTI individuals from accessing their rights.

9. Enter into dialogues with LGBTI advocacy groups concerning the way in which the many challenges facing LGBTI people in Zimbabwe can be resolved.
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Universal Periodic Review of Zimbabwe
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Joint submission by:

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Key Words: transgender, sex work, LGBT, law enforcement, health services, hate speech

Executive Summary (1-2 paragraphs, max.)

1. Summarize issues discussed in this report, identify main challenges

Progress and gaps in the implementation of recommendation from 1st cycle of UPR (2-3 paragraphs)

During Zimbabwe’s first UPR in 2011, several stakeholder reports noted that the criminalization of consensual sexual intercourse and other physical sexual acts between males of a consenting age regarded as indecent by a reasonable person constituted a violation of lesbian, bisexual, and gay individuals’ rights. France subsequently issued a recommendation that Zimbabwe decriminalize consensual same-sex relations between males of a consenting age, which Zimbabwe rejected.

Since Zimbabwe’s last UPR, the human rights situation of LGBT individuals and sex workers have not improved significantly. Criminalization, in conjunction with state-sponsored hate speech, has meant that sex workers and LGBT individuals are highly stigmatized, discriminated against when accessing health care services, and at risk of arbitrary detention, police raids, torture, and state-sanctioned violence. In addition, the Constitution of Zimbabwe, which was gazetted as a law on the 22nd of May 2013 explicitly prohibits same-sex marriages in terms of section 78 (3). Transgender individuals lack access to both basic and trans-specific healthcare services, are unable to have their gender identity legally recognized, and are subject to arbitrary arrests and detention, cruel, inhumane or degrading treatment, and torture. Trans women can be charged with sodomy despite their gender identity. This hostile political climate contributes to the stigmatization and isolation of LGBT individuals and sex workers within society, as family and community members exert physical, sexual, and verbal abuse towards these individuals. Further, these forms of marginalization are compounded for individuals whose gender, HIV status, race, age, and ability are also marginalized, as well as for individuals in rural settings.

We invite the Government of Zimbabwe to condemn human rights violations committed against persons because of their real or imputed sexual orientation, gender identity and expression, or real or imputed sex work status, and ensure adequate protection for LGBT persons and sex workers. Further, the Government of Zimbabwe should conduct swift, impartial and effective investigations into the unlawful use of profiling, intimidation, violence, torture, and verbal/emotional abuse against LGBT individuals and sex workers by law enforcement officials. We call on the government to implement measures to enable transgender individuals to have their gender identity legally recognized in government issued documents without infringement on other rights and adopt various measures to ensure access to comprehensive sexual and reproductive health and rights services, by giving priority to sex workers and LGBT persons. We condemn acts of pledging of females and other types of arranged or forced marriages through legislative reform and call on the state to repeal laws criminalizing soliciting and leaving off or facilitating “prostitution” and repeal the crime of sodomy to ensure that same-sex activity between consenting adults is not subject to criminal sanctions.
Background (2-3 paragraphs, max.)

2. Relevant background, as it relates specifically to the issues discussed in this report

Legal context: In July 2006, Zimbabwe’s legislature expanded the common law definition of “sodomy”, which is the performance of anal sexual intercourse between consenting male persons to include any consensual act involving physical contact other than anal sexual intercourse between males that would be regarded by a reasonable person to be an indecent act. The LGBT community in Zimbabwe is not explicitly protected in the Constitution. These challenges are compounded by the homophobic environment created by the country’s leadership and by state-sponsored media, both of which frequently degrade sexual minorities and sex workers and have, on several occasions, promoted violence against these groups. While the actual act of engaging in extra marital sexual intercourse or other sexual conduct for money or reward is not a crime, sex work is suppressed through laws that criminalize publicly soliciting for the purposes of “prostitution” and living off or facilitating “prostitution”.

Until the Constitutional Court of Zimbabwe ordered that the arrests of street based sex workers without just cause was unlawful on the 27th of May 2015, sex workers were subjected to egregious violation of their rights to personal liberty as a result of arbitrary arrests, more often accompanied by physical and sexual violence by police officers. Nonetheless, sex workers still suffer from multifarious and systematic violations of human rights and their dignity, including police abuse and violence, lack of access to justice, exposure to unsafe working conditions as a result of being driven to the periphery and lack of access to basic healthcare. There has been insignificant change in smaller towns in relation to arbitrary arrests of sex workers. Though the constitutional ruling is progressive, nothing has changed in the laws suppressing sex work since 1st July 2006, the police were only ordered to act within the current laws, and they can ignore the court order as per previous occurrences.

Transgender individuals are unable to change key identification documents to reflect their gender identity, which creates substantive, daily barriers in transgendered persons’ ability to travel, have bank accounts, seek employment, and otherwise live with dignity. Further, transgender individuals’ gender identity is not recognized in court proceedings or law enforcement, which can result in dehumanizing and unfair treatment under the law, leaving transgender women likely to be prosecuted under the “sodomy” law.

Policy context: Law enforcement officials, healthcare service providers, and other institutions are reluctant to work with sexual minorities and sex workers as a result of criminalization and prejudice. There is very limited training, sensitization or appreciation of the issues affecting sexual minorities and sex workers. Further, sex workers and sexual minorities have little access to recourse when they are subjected to violence, rape, torture, or other forms of mistreatment and abuse at the hands of service providers and law enforcement officials.

Social context: Societal stigma and discrimination, perpetuated by the political leadership, has resulted in the violations of many of the rights of the LGBT community and of sex workers. In addition to harassment, invasions of privacy, employment discrimination, and social isolation, sex workers and LGBTI individuals face disproportionately high risks of rape, sexual violence, and physical violence.
Problem identification

3. Analysis of priority sexual rights issues requiring further attention

As Zimbabwe enters its second UPR, this report seeks to deepen earlier analysis regarding how sexual minorities experience human rights violations, and to also illustrate how sex workers face distinct but overlapping kinds of human rights violations that must also be addressed. It is our understanding that several organizations may be putting forward written UPR submissions during this second UPR that acknowledge LGBT human rights, and we welcome this development as an example of the growing diversity and capacity of LGBT activists and organizations. We felt it best to submit a separate UPR submission in order to complement those of other organizations in several ways. First, our submissions seeks to illustrate how sex workers face a range of pressing and under-profiled human rights violations, many of which relate to those violations faced by the LGBT community. Second, our submission seeks to amplify the voices of transgender individuals as well as LBT women, who face disproportionate levels of violence and whose experiences are often under-profiled. Third, this report draws primarily on findings that speak to the experiences of LGBT individuals and sex workers in the Matabeleland regions, where the Sexual Rights Centre is based.

The findings from this report have been formulated based on the SRC’s eight years of research and programming in legal advocacy, consultation with key stakeholders, and documentation of human rights violations. Additionally, these findings were corroborated and supplemented through focus group discussions with sex workers, gay/bisexual men, lesbian/bisexual women, and transgender individuals. Finally, staff members from the signatory organizations and collectives provided feedback and guidance based on their work in advancing sexual rights in Bulawayo and its environs.

a) Human rights violations related to law enforcement

During focus group discussions, sexual minorities and sex workers consistently highlighted how law enforcement officials violated their rights to security of the person, bodily integrity, freedom from torture and cruel, inhumane and degrading treatment, and their right to privacy as a result of arbitrary detentions, violence, and police raids. In the majority of cases, the grounds for arresting sexual minorities and sex workers are unlawful and arbitrary. For example, whereas the Criminal Law (Codification and Reform Act, 2006) only penalizes consensual sexual intercourse between male persons and other related conduct of a sexual nature, most sexual minorities reported being detained on grounds of gender expression or gender identity (e.g. the manner in which they, as lesbian, gay, bisexual, and/or trans individuals, chose to dress), which is in no way criminally sanctioned.

Sex workers experience verbal, physical and sexual abuse at the hands of law enforcement officials. Many sex workers have been detained and forced to engage in sexual activities with officers to ensure their release. Police officers offer protection for free sex. The numbers of incidences of police raping sex workers is very high, although cases are never reported for fear of repercussions. The experiences shared by sex workers range from being picked up by police and dumped far out of town at night, being raped by plain clothes officers at their place of work, being arrested and raped by multiple officers, being detained in cells with police dogs and other places that expose them to all forms of weather within police stations e.g. cages and being tortured and treated inhumanely. Police officers repeatedly do not act on criminal reports by sex workers against fellow police officers and clients, denying them access to justice.
LGBTI individuals, and in particular, transgender women and men, highlighted how arbitrary detention and torture at the hands of law enforcement officials were frequent and harmful. In one case, a transgender woman, who had been arbitrarily detained for three days for having used a female bathroom, was stripped in front of four police officers, verbally mocked and degraded, and paraded around for the amusement of the police officers on duty. A number of LGBTI individuals have reported cases of police abuse, including being doused in cold water, verbally abused, and threatened with arms.

“At the police station, they tortured me a bit because one of them knocked on my head with a gun. Although the torture wasn’t physical but the fact that they kept showing me weapons and threatening me, that was emotional torture and it affected me mentally.”

Lesbian/bisexual focus group participant

“During the two nights and three days that I was detained, I was paraded for each police officer to have a look and ridicule. The verbal, mental, cruelty, and indignity was just as intense as if I had been physically violated and abused. I think that if I were to have resisted I would have been beaten up.”

Transgender focus group participant

“For the police, masculinity becomes something they want to correct out of you. For me, after I was beaten up and detained, I had hemorrhages in both of my eyes and was driven to a secluded police house, where this person was clearly trying to make advances. The lucky thing is that a friend had made a report from another police station, so these people got a call that I was being looked for; that’s when the threat dissolved... but this person clearly wanted to prove a point.”

Transgender focus group participant

LGBTI individuals also reported a number of violations of the right to privacy at the hands of law enforcement officials, as the quotations below illustrate:

“Two years ago, the police entered our home without permission, they searched our house without permission, they seized our phones without permission ... they took my sisters who were visiting and had committed no crime and they spent the day locked up.”

Lesbian/bisexual focus group participant

“I feel once a person is known to be associated with whichever organization then the right to privacy is gone automatically because they can access your phone any time, they can hack your phone, they monitor your messages, they can hack your email, your Facebook. This has happened to many people in our community and there isn’t really much you can do about it, they just feel they have that power button to our lives in terms of security and privacy on social media.”

Lesbian/bisexual focus group participant

Additionally, both LGBTI individuals and sex workers reported incidents in which their right to privacy was violated by law enforcement officers who disclosed their identities in public with the intention to ridicule and demean these individuals.

Sex workers and LGBTI individuals also reported a number of incidents in which law enforcement officials violated their right to remedies and redress on the basis of an individual’s profession, sexual orientation,
and/or gender identity. Criminalization and stigmatization has meant that sexual minorities and sex workers are not only at much higher risk of experiencing violence within society; the perpetrators of violence and crimes against these individuals act with impunity. Therefore, sex workers and sexual minorities are reluctant to report cases, abuses and violations with the police and are unlikely to be taken seriously if they do. Lack of redress is particularly pressing for sex workers and for LBTI women who are at extremely high risk of sexual violence at the hands of clients, family members, intimate partners, and others.

“If someone does something bad to me and I go to the police you find that they wouldn’t even deal with my case. As long as someone goes and says this person is a lesbian my case will never be taken into consideration. So I think the right to be protected by the law... we need protection from the law.”

Lesbian/bisexual focus group participant

“I was not able to take legal recourse for injustices against me for corrective rape and ill treatment at a health-care institution where I had been admitted for one month ... I was scared of being targeted...And now it affects me because every day when I’m sleeping at home I’m thinking of those people who got admitted today and how many people are going through that.”

Lesbian/bisexual focus group participant

“If you go to the police station, even if it’s for something totally unrelated to sex work, once they know that you are a sex worker they don’t take you seriously ... They say they don’t want to attend to sex workers cases because sex workers are problematic, they say we are liars and claim to have been robbed when we have not been robbed. Or if you go to report that you have been raped, they ask how a sex worker can be raped because that is what we go out looking for when we stand on the streets at night. Like if you go to report that a client stole from you, they will take up the case but not with the same kind of urgency as they would if a client goes to report having been robbed by a sex worker. If you are accused of robbing the client, you will get arrested there and then but if the client robs from you, they don’t get arrested.”

Sex worker focus group participant

“Sex workers’ cases should be treated the same way that client’s cases are treated. If the client reports that they were robbed, the sex worker is tracked down and arrested or the police harass all sex workers on the street but if a sex worker reports a case of being robbed by a client, she is not taken seriously and the case dies a silent death. For example, there is the case of the sex worker who was murdered by the client in her house a few months ago and now the case is silent and I doubt anything is being done”

Sex worker focus group participant

“When cases are reported to the police, they should be taken seriously because usually the person pays a bribe and is let off and that puts us at risk because the client can come back for revenge for getting him arrested.”

Sex worker focus group participant
b) Human rights violations related to healthcare access

In addition to issues of violence, which increases sex workers and LGBT individuals’ vulnerability to HIV, there are numerous barriers that prevent sex workers and sexual minorities from accessing healthcare services. Many sex workers report problems in seeking health services from government hospitals because the medical personnel refuse to treat sex workers unless they bring their partner for treatment. The refusal of treatment to sex workers on the basis of mandatory STI partner notification is a violation of the rights of sex workers. Contrary to the Ministry of Health and Child Welfare, AIDS and TB Unit Management of Sexually Transmitted Infections and Reproductive Tract Infections in Zimbabwe guidelines, partner notification is not mandatory. LGBTI individuals have reported being threatened, ridiculed, and driven out of health institutions upon disclosing that they have engaged in same-sex relations. This stigmatization prevents sex workers and LGBTI individuals from full disclosure about their specific health needs.

In addition to constituting a violation of these groups’ human rights, the lack of access to healthcare services presents a substantive public health problem in light of these individuals’ disproportionate risk of exposure to HIV/AIDS. LGBTI women are not perceived to be at increased risk of contracting HIV or other STIs through same-sex sexual relations, however they are prone to exposure as a result of sexual violence and corrective rape.

“When you tell the nurse that you are not feeling well, they begin to ask a lot of questions about where you work and once you disclose to them that you are a sex worker, they no longer take you seriously or treat you as they treat other patients. They look down on you.”

Sex worker focus group participant

“When you go to the clinic with an STI and they suspect that you are a sex worker, they make you a laughing stock. They nurses call each other to show one another your STI and there is no privacy there.”

Sex worker focus group participant

“With sexual reproductive health and rights … there’s no comprehensive information and services at local health care centers, especially for the LBTI community, and it goes as far as the Zimbabwe National AIDS Strategic Plan. They only say MSM are a key population. Healthcare places and service providers are not really trained extensively, there’s still homophobia.”

Lesbian/bisexual focus group participant

Transgender individuals are disproportionately affected by inadequate access to healthcare services. There is a lack of access to gender affirming services including access to hormones, medical equipment such as binders, and to medical procedures such as surgery. Many transgender individuals resort to seeking these procedures or services through informal and unsafe means, putting them at high risk of medical complications.

“Access feels non-existent, because I think we’ve been pushed to a point where, especially for a lot of young trans men and women, everybody just dreams of leaving and finding a place where they can have access to those service. Medical officials have no knowledge of trans issues. It seems too far from reality. A lot of people are then also tempted to start a lot of procedures underground – you just go across the border and try to get hormones just without any medical sort of assistance as to how you’re supposed to go through whatever process it also puts people at risk health-wise.”

Transgender focus group participant
“For trans-women, we have no access to estrogen so a lot of the trans women here are on the female contraceptive pill; but it’s not controlled, monitored, or administered by a qualified physician. The effects on their organs are not known; whether HIV+ trans-women should combine this with ARVs is unclear. Access to medical services is one of our major issues. I went on hormones only because I travel and I was fortunate in that respect. But it’s very expensive, and it’s not covered by medical aid.”

Transgender focus group participant

LGBT individuals and sex workers’ access to psychosocial support services are limited by the country’s inadequate mental health services, and by the stigma and risk associated with being a sex worker or being LGBTI. For example, survivors of corrective rape are unlikely to access adequate treatment or support, since healthcare providers may side with the rapists and/or may condemn, report, and/or humiliate the individual for being suspected of being a lesbian or bisexual. Transgender individuals are also disproportionately at risk of mental illness in light of body dysphoria, widespread societal disapproval and ignorance, and the disproportionate rates of violence and humiliation that transgender individuals face on the part of the law enforcement officials and mainstream society.

c) Human rights violations linked to lack of legal documentation for trans individuals

For Zimbabwe’s transgender population, a lack of legal recognition and inability to change gender markers on government documentation significantly impedes individuals’ right to participate in policy decisions and public life, right to privacy, and right to personal autonomy and recognition before the law. An inability to change government identification to reflect one’s gender identity means that transgendered individuals face discrimination, ridicule, and/or a denial of services in contexts in which their government-issued identification is required. Consequently, many transgender individuals encounter difficulty in traveling, seeking employment, or owning a bank account.

Moreover, this lack of legal documentation further compounds transgender individuals’ right to health care, right to accountability and redress, and right to education and information by putting transgender persons at risk of ridicule, harassment, arbitrary detention, and/or violence during their interactions with legal, health, and law enforcement institutions.

d) Criminalization, state-sponsored hate speech, and societal persecution

Criminalization of consensual sexual intercourse and related conduct between male persons and state-sponsored hate speech targeting LGBT individuals (and sex workers) contributes to the high levels of societal isolation, persecution, and discrimination of sexual minorities. Political leaders and state-sponsored media regularly incite hatred towards gays and lesbians by depicting same-sex relations as immoral and by suggesting that “gay gangsters” are seeking to undermine Zimbabwe’s economic and political welfare. In doing so, the state diverts attention from more pressing political issues while also fomenting hatred against already stigmatized and marginalized groups.

Criminalization of sex work through laws that prohibit publicly soliciting for the purposes of “prostitution” and living off or facilitating “prostitution” i.e. criminalizing brothel owners, lead to complex human rights
violations of sex workers which impair their dignity. These laws expose sex workers to arbitrary arrests and detentions, breach of the right to personal security, exposure to dangerous working conditions and lack of access to basic healthcare and justice.

The state-sponsored stigmatization and persecution of sex workers and sexual minorities contributes to a social atmosphere in which these groups experience high levels of stigmatization, with implications related to mental health, housing, employment, and general well-being:

“If your landlord finds out that you are a sex worker, they tell anybody and everybody who is willing to listen and in the end you have a difficult time living in that area. At times you are even forced to move away.”

Sex worker focus group participant

“Sometimes, if you are just walking in town and meet up with a police officer who knows you, you hear them whisper to their friends that they are with that you are a sex worker and they begin to discuss you so that everyone around them can hear what they are saying.”

Sex worker focus group participant

“I’ve seen that mostly the media puts us in danger, they out us more than anyone ... The media lies”

Lesbian/bisexual focus group participant

“Let’s say you wanted to work at a certain place but maybe because of the way you dress they start questioning you, even because of the way you carry yourself then it becomes a cause of suspicion. You find you do not have the equal rights of opportunities.”

Lesbian/bisexual focus group participant

As was briefly discussed in Section A (regarding law enforcement), sex workers and sexual minorities face high levels of social isolation, exclusion, and violence. LBT women are particularly at risk of sexual violence in the form of “corrective” or “curative” rape, in which family members rape a woman who is thought to be a lesbian based on the erroneous belief that doing so can “cure” her sexuality. Sexual minorities are also at great risk of forced marriages, including child marriages. While forcing a female person to marry is a crime and additionally, such forced marriages are of no effect in Zimbabwe, child marriages continue to be legal and prevalent. Because of the stigma and discrimination, sexual minorities are at a very high risk of forced marriages. While forced marriages are criminalized, it has an insignificant effect in offering a comprehensive protection towards sexual minorities, exacerbated by the fairly new Constitution that explicitly prohibits same sex marriages. Transgender individuals are also at a very high risk of physical and sexual violence.

Combined, the social exclusion and institutional discrimination that certain minorities face can have a compounding effect on these individuals’ social and psychological well-being. Sex workers and sexual minorities are at a disproportionate risk of suicide, drug abuse, and alcoholism in light of the varied levels
of exclusion and marginalization that they face. Sex workers and many LGBTI individuals have also demonstrated incredible resilience and agency in supporting one another, building up their communities, and believing in the ability of Zimbabwe to become a more inclusive and diverse place.

**Recommendations for action:**

We invite the government of Zimbabwe to:

1. Condemn human rights violations committed against persons because of their real or imputed sexual orientation, gender identity and expression, or real or imputed sex work status, and ensure adequate protection for LGBT persons and sex workers.

2. Conduct swift, impartial and effective investigations into the unlawful use of profiling, intimidation, violence, torture, and verbal/emotional abuse against LGBT individuals and sex workers by law enforcement officials.

3. Adopt and adapt the necessary measures to eradicate the tendency and/or diffusion, through the media and by politicians, of stereotypes that may promote discrimination against persons, based on their real or imputed sexual orientation, gender identity, or real or imputed sex work status.

4. Implement measures to enable transgender individuals to have their gender identity legally recognized in government issued documents without infringement on other rights.

5. Adopt various measures to ensure access to comprehensive sexual and reproductive health and rights services, by giving priority to sex workers and LGBT persons.

6. Condemn acts of pledging of females and other types of arranged or forced marriages through legislative reform.

7. Repeal laws criminalizing soliciting and leaving off or facilitating “prostitution” i.e. repeal sections 81 and 82 of the Criminal Law (Codification and Reform) Act, 2006 [Chapter 9:23].

8. Repeal the crime of sodomy as fully described under section 73 of the Criminal Law (Codification and Reform) Act, 2006 [Chapter 9:23] to ensure that same-sex activity between consenting adults is not subject to criminal sanctions.

9. Sensitize law enforcement agents and health care workers on the rights of LGBT persons and sex workers to ensure the provision of friendly and hassle-free services.
Transgender Rights in Zimbabwe

Rights under the Constitution of Zimbabwe

Section 44 states that “the State and every person … and every institution and agency of the government at every level must respect, promote, protect and fulfil the rights and freedoms set out in this Chapter.”

Section 56(3) prohibits unfair discrimination on a number of grounds, including sex and gender. These should be interpreted to include protection against discrimination based on gender identity – which is a prohibited ground in international law.

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Section 47 of the Constitution further provides that the Chapter on rights in the Constitution “does not preclude the existence of other rights and freedoms that may be recognised or conferred by law, to the extent that they are consistent with this Constitution.”
Changing your Gender Marker

Zimbabwe does not have a specific law that allows transgender people to change the gender marker on their birth documents, or other official documents. Transgender people should rely on their fundamental human rights that are guaranteed under the Constitution.

Section 18(2) of the Births and Deaths Registration Act 11 of 1986 allows a person to change their forename. Section 18(3) provides for the change of a surname, but the Registrar-General must be satisfied that it is for a “lawful purpose”. It appears unlikely that these provisions could be useful when trying to change a gender marker.

Your Rights in the Workplace

The Labour Act 16 of 1985, as amended, protects employees against discrimination:

- **Section 5(1)** states that no employer shall discriminate against any employee or prospective employee on a number of grounds - including gender and HIV/AIDS status. The listed grounds do not include sex or sexual orientation. “Gender” should be interpreted to include protection from discrimination based on gender identity – which is a prohibited ground in international law.
- **Section 5(3)** provides that any person who contravenes subsection (1) or (2) shall be guilty of an offence.
- **Section 5(4)** allows an employee to claim damages from the employer.
- **Section 12B(3)(a)** provides that an employee is unfairly dismissed, if the employer deliberately made continued employment intolerable for the employee.

Criminalisation and Harassment

Transgender people are also unlawfully targeted by the harsh provisions in the Criminal Law (Codification and Reform) Act 23 of 2004:

- **Section 61** defines sexual intercourse as being between a male and female. Sodomy is included in the definition of “unlawful sexual conduct”.
- **Section 73** criminalises sodomy.
- **Section 77** refers to “public indecency”.
- **Section 77(1)(a)** states that: “Any person who indecently exposes himself or herself or engages in any other indecent conduct which causes offence to any other person in or near a public place, or in or near a private place within the view of such other person shall be guilty of public indecency.”
- **Section 77(2)** states that “No person shall be convicted of public indecency unless the words or conduct in question are sufficiently serious to warrant punishment”. The court will consider various factors – including the nature of the conduct, the age and gender of the person who witnessed the conduct, and the degree of offence caused to the person who witnessed the conduct.
• **Section 78** makes it an offence to transmit a sexually transmitted disease and makes a person liable to a fine or imprisonment for a period not exceeding five years or both.

The **Domestic Violence Act 14 of 2006** interprets a complainant to include a person who co-habits with the respondent or who has been in an intimate relationship with the respondent, or who has lived with the respondent. The definition of domestic violence is wide and includes physical, sexual, emotional, verbal and economic abuse, intimidation, and also harassment. The Act makes an act of domestic violence an offence and entitles the complainant to a protection order. **Section 5** places specific duties on police officers to assist complainants.

**Access to Sexual and Reproductive Health**

**Section 29(1) of the Constitution** states that “the State must take all practical measures to ensure the provision of basic, accessible and adequate health services throughout Zimbabwe.” **Section 29(2)** provides that no person should be refused emergency medical treatment at any health institution.

There are no laws or policies that provide for hormonal treatment or any other gender-affirming healthcare for transgender people. Transgender people who want to access hormonal treatment usually look to the black market or travel outside Zimbabwe – mainly to South Africa – to access this medication.
TAB

23
Sex work & violence in Zimbabwe

Needs Assessment report
Reducing violence against sex workers
The Hands Off! programme focuses on the reduction of violence against sex workers in Southern Africa through prevention, care and support activities. Violence is a key factor in the vulnerability of sex workers to HIV/AIDS. It leads to inconsistent condom use and prevents sex workers from accessing valuable legal support and health care. Hands Off! works with sex worker-led groups, law enforcement, health and support services, legal centres and non-governmental organisations (NGOs) working on human rights.

Research findings on sex work and violence in Southern Africa
This report presents the main findings of a study in Zimbabwe examining violence against sex workers. It is part of a regional study in the Southern African region under the Hands Off! Programme.

The research was designed by sex workers and partner organisations in the Hands Off! consortium. Sex workers in the five programme countries – Botswana, Mozambique, Namibia, South Africa and Zimbabwe - participated in the implementation of the research and the dissemination of results. Regionally the quantitative research part entailed more than 2000 surveys conducted by 37 sex workers who were trained to interview their peers. For the qualitative part of the study researchers conducted 125 semi-structured in-depth interviews and 40 focus group discussions with sex workers. Topics included: violence; social networks; police attitudes; safety, security and risk mitigation strategies.

Country reports and fact sheets on sex work and violence are available for:

Botswana
South Africa
Mozambique
Zimbabwe
Namibia
Southern Africa (regional)

Collaborating institutions
Sexual Rights Centre
Pow Wow
VU University, Amsterdam

July 2016
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## Abbreviations and acronyms

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<td>FDG</td>
<td>Focus Group Discussion</td>
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<td>HIV</td>
<td>Human Immunodeficiency Virus</td>
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<td>STI</td>
<td>Sexually Transmitted Infections</td>
</tr>
<tr>
<td>SRC</td>
<td>Sexual Rights Centre</td>
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<tr>
<td>UNAIDS</td>
<td>United Nations Programme on HIV/AIDS</td>
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<td>VOVO</td>
<td>Voice of Voiceless</td>
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Executive summary

Background
Violence is a key factor in the vulnerability of sex workers to HIV/AIDS. Violence prevents sex workers from accessing valuable information, support and services that help to protect them from HIV/AIDS. With the Hands Off! programme Aids Fonds (www.aidsfonds.nl/handsoff!) and partners' aim to reduce violence against sex workers in Southern Africa. The programme, a regional response, offers a comprehensive and joined-up approach to working with sex workers, police, law enforcement and service providers in Botswana, Mozambique, Namibia, South Africa and Zimbabwe.

Methods
A mixed method community-based participatory research (CBPR) approach was used. All partners, including sex workers, contributed to the design and implementation of research and tools. Both quantitative and qualitative components were developed in cooperation with the Vrije Universiteit (VU University) in Amsterdam. In Zimbabwe, 8 sex workers were trained as research assistants working alongside a social scientist specialising in qualitative methods. They conducted 453 surveys, 11 in-depth interviews and 12 Focus Group Discussions (FGDs) with, 78 participants in Bulawayo, Forbes, Plumtree and Victoria Falls. Participants were selected through snowball sampling techniques, whereby each respondent invited a fellow sex worker to participate in the survey.

Results
Sex workers in Zimbabwe experience many forms of violence ranging from social stigma, discrimination, and humiliation to beatings, rape and theft. The main perpetrators are clients and police, but sex workers can be violent towards each other also. Sixty-three percent of sex workers experienced violence in the past year.

The relationship between the police and sex workers in Zimbabwe varies but is generally negative. Maltreatment of sex workers by police is commonplace. Police regularly force their authority on sex workers by means of sexual violence. In this way, rather than protecting sex workers, police have become an actual threat to sex workers’ safety. Protection can be secured by paying bribes, either in money or in sex. Sex workers tend to mistrust policy and are reluctant to get involved with them because of their repressive and abusive behaviour. Fifty-eight percent of the sex workers were arrested within the last 12 months. Reasons for arrest were: being known as a sex worker, being caught in a police raid, soliciting on the street and carrying a condom. On arrest, 61 percent of sex workers experienced violence.

In Zimbabwe, the key risk factors associated with higher levels of violence are: the level of alcohol and drug use, the amount of working days and geographical area of the sex worker. Sex workers working in Bulawayo, Forbes and Plumtree face more violence than sex workers from Victoria Falls.

Forty-five percent of the sex workers were HIV positive and forty percent were HIV negative; others did not know their HIV status (8%) or did not want to discuss their status (7%). Eighty-three percent of those in need of anti-retroviral medication received regular treatment.

Conclusion
Sex workers in Zimbabwe face unacceptable levels of violence, stigma, discrimination and other human rights violations, which make them considerably more vulnerable to HIV/AIDS. To secure the safety and wellbeing of sex workers in the country, the government needs to decriminalise sex work, strengthen sex worker movements to protect and defend sex workers’ rights and raise awareness of sex workers’ legal rights. In addition, specialised training and sensitisation of police officers and improved police accountability are required.

1 The partners under the Hands Off! programme are the African Sex Worker Alliance (ASWA), BONELA, Sisonke Botswana, Sisonke South Africa, Sex Workers Education and Advocacy Taskforce (SWEAT), Rights not
3. Zimbabwe country context

3.1 Legal framework

While it is officially not a crime to sell sex, it is illegal to solicit clients, live on the earnings of sex work and to facilitate and procure sex work in Zimbabwe. Criminalisation of activities associated with sex work is enforced by means of different sections of The Criminal Codification and Reform Act. Laws targeting Lesbian Gay Bisexual and Transgender (LGBT) people also regulate sex workers.

The Criminal Codification and Reform Act

- Public soliciting for the purposes of prostitution is illegal and might lead to a fine or imprisonment for a period up to six months (section 61).
- Living off or facilitating prostitution. Those found guilty of the offence are liable to a fine or imprisonment for a period not exceeding two years. Any person who keeps a brothel or demands from a prostitute any payment or reward in consideration of the person doing the following is guilty of this offence: keeping, managing or assisting in the keeping of a brothel in which the prostitute is, or has been, living for immoral purposes; having solicited other persons for immoral purposes on behalf of the prostitute; having effected the prostitute’s entry into a brothel for the purpose of prostitution; having brought or assisted in bringing the prostitute into Zimbabwe for immoral purposes; or demands from a prostitute any payment or reward in consideration for any present or past immoral connection with the prostitute (section 82).
- Procuring in order to engage in ‘unlawful sexual conduct’ is considered an offence and might lead to a fine and imprisonment up to 10 years. In this section procuring is understood as follows: to become a prostitute, whether inside or outside Zimbabwe; to leave Zimbabwe with the intent that the other person may become a prostitute; or to leave his or her usual place of residence, not being a brothel, with the intent that he or she may become an inmate of or frequent a brothel elsewhere (section 83).
- Other sections of the Act. Section 85 states that any person detaining another against their will in a brothel or in any premises with the intention that such person should engage in unlawful sexual conduct with him or her shall be guilty of an offence. Section 86 targets owners of places allowing unlawful sexual conduct while section 87 targets parents and guardians allowing children under the age of eighteen years to be employed as sex workers.

Municipal by-laws

In Zimbabwe sex workers are often harassed and arrested under municipal by-laws, particularly on the grounds of ‘loitering’, ‘blocking the pavement’ and ‘nuisance’. In a study of African countries including Zimbabwe, Scorgie et al [5] observe that in practice authorities seldom formally prosecute sex workers for offences under the criminal code since these are difficult to prove and enforce.

LGBT rights

Criminalisation of sodomy under The Criminal Codification and Reform Act leads to greater vulnerability for Men who have sex with Men sex workers, as they are often subjected to extortion, blackmail and threats on the basis of their presumed sexual orientation or engagement in the criminal act of ‘sodomy’.

2013 Constitution

The 2013 constitution for the first time provides an opportunity for the legal protection of sex workers. By including rights to equality and non-discrimination (Section 56), to privacy (section 57), freedom of association and assembly (Section 58), freedom of conscience (section 60), and freedom of movement (section 66), police officers are now hindered from targeting sex workers. The constitution also offers the potential for decriminalising crimes of morality such as sex work.

3.2 Context of sex work in Zimbabwe

The most recent studies estimating the size of sex work populations in Zimbabwe date back to the early-mid 1990s. In 1992, a capture-recapture study was conducted in Bulawayo, which estimated the population of women socialising in a random selection of bars as 3,894. The total bar-based sex worker population was estimated at 9,500, including women who did not solicit in bars. The total sex worker population was estimated at almost 12,000. More recently, (The United States') President's Emergency Plan for AIDS Relief (PEPFAR) Zimbabwe estimated 85,949 sex workers in Zimbabwe and 51,306 sex workers in the 36 scale-up districts [8].

Violence

Up until now, a limited number of studies have shed light on violence against sex workers in Zimbabwe. Most of the information is about violence perpetrated by the police, showing alarmingly high levels. It is common for sex workers to be arrested on a weekly basis. However the majority of the sex workers that are arrested - sometimes en masse - do not see the inside of a court room. The media have reported rampant abuse of sex workers and women suspected of being sex workers by the police and other non-state actors. This abuse reflects the state's failure to exercise their protective duty towards women and marginalised communities.

Health and HIV

Data on HIV prevalence among sex workers in Zimbabwe is scarce. Zimbabwe has, however, been reported as one of the countries with the highest HIV prevalence amongst sex workers in the countries with the highest HIV prevalence amongst sex workers.
workers as compared to prevalence rates within the wider population [9]. PEPFAR Zimbabwe estimated 38-70 percent HIV prevalence among sex workers in the country[8]. In 2013 a survey conducted among 2,722 sex workers estimated HIV prevalence among the population at 56.4 percent. Only 61 percent of those living with HIV knew their status [10].

Limited access to sexual and reproductive health services such as pap smears and breast screening has a detrimental impact on the health of sex workers. There are numerous barriers to sex workers accessing healthcare services. Many sex workers report problems with medical staff in state hospitals who refuse to treat sex workers unless they bring their partner for treatment. The criminalisation of sex work also prevents sex workers from full disclosure about their profession and their specific health needs.

There is considerable evidence to indicate that it is critical to ensure that sex workers are proactively involved in prevention programmes. Centre for Sexual Health and HIV/AIDS Research (CeSHHAR) is the leading organisation advocating for healthcare services for sex workers as a marginalised population. There are now a growing number of services seeking to meet the needs of sex workers. However, with few clinics servicing male sex workers, discrimination against this already criminalised population continues.
TAB

24
A SURVEY OF LAWS IMPACTING THE HUMAN RIGHTS OF LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS IN SELECTED SOUTHERN AFRICAN COUNTRIES

March 16, 2016

OutRight Action International wishes to acknowledge with thanks the invaluable contributions to the report provided on a pro bono basis by the international law firms of Milbank and Webber Wentzel, with the support of the Cyrus R. Vance Center for International Justice, and the African Affairs Committee, of the New York Bar Association.
I. EXECUTIVE SUMMARY

This report seeks to outline the current state of legal protection for the human rights of lesbian, gay, bisexual and transgender (“LGBT”) persons in southern Africa by examining relevant current legislation in each of South Africa, Malawi, Namibia, Zambia and Zimbabwe and surveying the enforcement activities with regard to said legislation and communal attitudes toward LGBT individuals. By combining the individual case studies and providing a like-for-like comparison, this report seeks to identify how the neighboring states have influenced each other, both legislatively and with regard to popular attitudes, and to ascertain specific areas in which any individual country has made particularly progressive strides, thereby isolating the factors which have precipitated such progress.

This report consists of the following sections: (i) an executive summary, (ii) case studies for each of South Africa, Malawi, Namibia, Zambia and Zimbabwe, (iii) a brief analysis of the international and regional treaties and protocols that may impact the human rights of LGBT persons to which any of the above countries is a party and (iv) a conclusion summarizing the results of the preceding analysis. Each case study is composed of a brief background section, a discussion of constitutional anti-discrimination provisions and a summary of national legislation impacting LGBT persons vis-à-vis the human rights to (i) privacy, (ii) establishing a family, (iii) adoption, (iv) access to employment, healthcare and housing, (v) treatment for and non-discrimination due to HIV/AIDS, (vi) expression and assembly, (vii) immigration and (viii) military service.

II. CASE STUDIES

A. South Africa

1. Background

The South African constitution provides one of the most comprehensive sets of protective measures of individual rights not only in southern Africa but in the world. A ban on discrimination on the basis of sexual orientation has been enshrined in the South African constitution for twenty years. This is particularly notable given that consensual adult same-sex sexual acts are subject to criminal penalties in many of the country’s neighboring states. In addition, same sex marriage is a national right. As further evidence of its commitment to protecting LGBT rights, South Africa recently voted in favor of the Resolution on Human Rights, Sexual Orientation and Gender Identity adopted by the 27th Session of the Human Rights Council in September 2014, which has been hailed as a significant step forward in the fight against violence and discrimination based on sexual orientation and gender identity.¹

Immigration

No literature was specifically found on whether LGBT individuals or same-sex couples are overtly discriminated against in the context of immigration. However, given the general historical record in Zambia of discrimination and violence towards persons based on their real or perceived sexual orientation or gender identity, it is likely that Zambia’s current immigration policy favors the exclusion of individuals and couples thought to be LGBT. Furthermore, the language of the Zambian Immigration and Deportation Act suggests the potential for discrimination, given that it contains prohibitions against immigration by certain broad categories of individuals, which categories could be open to abuse if read broadly in order to discriminate against LGBT individuals. Accordingly, explicit, permissive legislation would likely be needed in order to ensure the rights of LGBT individuals and same-sex couples to immigrate to Zambia and to apply for permanent residence.

Military Service

Similar to immigration, no literature was specifically found on whether LGBT individuals are permitted to openly serve in the Zambian military, and the Zambian Defense Act does not contain any express or direct discriminatory provisions against LGBT individuals. However, the current criminalization and religious and political condemnation of LGBT individuals within Zambia makes it unlikely that LGBT individuals are permitted to openly serve in the military, and the Zambian Defense Act does contain certain statutory sections with nebulous definitions within which exists the potential for abuse of LGBT individuals in the military. Similar to the immigration area, it is likely that explicit policies are required to ensure that LGBT individuals that openly express their sexual orientation or gender identity do not suffer discrimination or repercussions as a result of their service in the military.

E. Zimbabwe

1. Background

Homosexuality and transgenderism are highly sensitive issues in Zimbabwe where homosexuality is politicized and publicly criticized by both religious leaders and government authorities and homosexual acts between men, including hand holding, hugging and kissing, are criminal offenses. As a result of the harsh laws and public denunciation, particularly by President Robert Mugabe, members of the LGBT community are routinely stigmatized, discriminated against, denied access to services and benefits and subjected to assault and harassment. President Mugabe has even gone so far as to threaten to behead gay citizens, denouncing tolerance for homosexuality as “unnatural” and criticing LGBT individuals as “worse than pigs, goats and birds.”

2. Constitutional Anti-Discrimination

After nearly four years of drafting, Zimbabwe’s new Constitution became fully operational following the swearing-in ceremony of President Mugabe on August 22, 2013.
 Immigration and Deportation Act, 2010, Section 35(1), available at http://www.refworld.org/docid/3ae6b4d64.html ("Any person who belongs to a class set out in the Second Schedule shall be a prohibited immigrant in relation to Zambia ...."). The cross-referenced Second Schedule makes no explicit reference to LGBT individuals, but has a broad range of categories of individuals, and the potential exists for a broad interpretation of any of the less clearly defined categories to include LGBT individuals. See id. at Second Schedule.

See, e.g., Defence Act, Cap. 106, Section 69, available at http://www.parliament.gov.zm/sites/default/files/documents/acts/Defence%20Act.pdf (imposing criminal liability by court-martial and imprisonment of up to two years for “disgraceful conduct of a cruel, indecent or unnatural kind”). Without express definition of such “disgraceful conduct”, it is possible for a military court to make any interpretation as to what behavior falls under this category.

LGBTQNation, “Mugabe says China aid doesn’t require Zimbabwe to embrace ‘homosexuality.’” September 3, 2014. Available at http://www.lgbtqnation.com/2014/09/mugabe-says-china-aid-doesn-t-require-zimbabwe-to-embrace-homosexuality/. See also the Criminal Law (Codification and Reform) Act [Chapter 9:23] Section 73, which prohibits “anal sexual intercourse” and “physical contact” between men. Although the law does not explicitly extend to homosexual women, in practice lesbians are subjected to the same victimization, censure and police harassment as gay men.


The new Constitution, which replaced the Lancaster House Constitution crafted in 1979, contains a general equality and non-discrimination clause, which provides that “[e]very person has the right not to be treated in an unfairly discriminatory manner on such grounds as their nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, political affiliation, opinion, custom, culture, sex, gender, marital status, age, pregnancy, disability or economic or social status, or whether they were born in or out of wedlock.” Sexual orientation and gender identity, however, were intentionally omitted from the final draft of the anti-discrimination provision. According to Dr. Alex Magaisa, an expert adviser to the Parliamentary Select Committee that was responsible for drafting the Constitution, similar phrases such as “natural difference, “circumstance of birth” and “any other status” were likewise removed at the insistence of the anti-gay rights lobby, which felt that any such phrases were “back-door” attempts to bring “gay rights” into the new Constitution. As such, the new Constitution does not affirmatively protect the right to non-discrimination based on real or perceived sexual orientation or gender identity in Zimbabwe. Furthermore, the Constitution expressly states that “Persons of the same sex are prohibited from marrying each other.”

3. Legislation

Privacy

Although the Zimbabwe Constitution provides for a right to privacy, which has been interpreted in the United States and elsewhere to protect sexual acts between consenting adults of the same sex from interference by the state, Section 73 of the Criminal Law Act specifically prohibits any male person from knowingly performing anal sexual intercourse with another male person, “or any other act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act.” Prior to the codification of the Criminal Law in 2006, common law and customary laws similarly prevented gay men, and to some extent lesbians, from expressing their sexual orientation and engaging in consensual same-sex conduct.

The Criminal Procedure and Evidence Act, which was enacted in order to consolidate and amend the law relating to procedure and evidence in criminal cases, similarly contains a provision that expands upon the charges for which a person charged with sodomy or assault with intent to commit sodomy may be found guilty, including indecent assault, assault, committing an unnatural offence, or contravening sections 3, 4, 8 or 15 of the Sexual Offences Act. Likewise, the Magistrates Court Act was amended in 2001 in order to include “sodomy” in the definition of a “sexual offence.” Under this Act, a magistrate is empowered to enact a punishment for a sexual offence of imprisonment for a period not to exceed twenty years or a significant fine.

Same-Sex Marriage


Id.
217 Zimbabwe Constitution. Section 4,78.
218 Zimbabwe Constitution. Section 57. Right to privacy.
222 Magistrates Court Act. Part III, Section 51 Special jurisdiction as to punishment. Available at http://archive.kubatana.net/docs/legisl/sexoff010817.pdf
Following President Mugabe’s public declarations against homosexuality, a constitutional ban on same-sex marriage was officially implemented in Zimbabwe in 2013 with the inclusion of Section 4.78 of the constitution, which reads: “[P]ersons of the same sex are prohibited from marrying each other.”

Zimbabwe’s Marriage Act likewise does not provide for the recognition of same-sex marriages in other countries.

**Adoption**

Prospective adoptive parents who are citizens or legal residents of Zimbabwe must be married and over the age of 25 in order to adopt in Zimbabwe. Single woman over 25 may also adopt if approved by the Minister of Labor and Social Welfare. Single men may only adopt family members and must also be approved by the Minister. Although not explicitly stated, the strict eligibility requirements for adoptive parents indicate that same-sex couples and LGBT individuals would not be permitted to adopt children in Zimbabwe. Furthermore, the United States Bureau of Consular Affairs Intercountry Adoption Agency has confirmed that the Zimbabwe government will not permit the adoption of Zimbabwean children by American gay, lesbian, or same-sex couples.

**Access to Employment, Healthcare and Housing**

The new Constitution provides that: “[t]he State and all institutions and agencies of government at every level must endeavor to secure (a) full employment [and] (b) the removal of restrictions that unnecessarily inhibit or prevent people from working and otherwise engaging in gainful economic activities.” However, similar to the general anti-discrimination clause of the new Constitution, national labor and employment legislation fails to specifically prohibit discrimination in the workplace on the basis of sexual orientation or gender identity. Section 5 of the Labour Act reads: “[n]o employer shall discriminate against any employee or prospective employee on grounds of race, tribe, place of origin, political opinion, colour, creed, gender, pregnancy, HIV/AIDS status or, subject to the Disabled Persons Act, any disability referred to in the definition of ‘disabled person.’” Sexual orientation and gender identity are, however, noticeably absent from this list. Further, the stigma surrounding homosexuality and transgenderism has created de facto barriers to employment for members of the LGBT community.

Similarly, Section 29(2) of the new Constitution provides that: “[t]he State must take appropriate, fair and reasonable measures to ensure that no person is refused emergency medical treatment at any health institution.” However, in practice, state services are often not made available to members of the LGBT community. Furthermore, consistent with the general public’s perception of homosexuality and transgenderism, many healthcare providers in Zimbabwe are homophobic or transphobic and fail to understand sexual orientation and the needs and concerns of LGBT individuals. As a result, even if they are not explicitly denied access to medical services, persons who identify as LGBT often fail to seek medical care for sexually transmitted diseases or other health issues out of fear of being shunned and persecuted.

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223 Zimbabwe Constitution. Section 4.78. See also “Zimbabwe’s new constitution makes gay marriage a ‘crime’.” Gay Star News.
With respect to housing, while there is no explicit legislation that directly promotes, or alternatively infringes upon, the rights of LGBT individuals when it comes to access to housing, it is likely that LGBT individuals open about their sexual orientation or gender identity would be at risk of being discriminated against due to the prevailing prejudices within Zimbabwean society.

HIV/AIDS

The Zimbabwe government established a National AIDS Council in 1999 that has since issued various plans, including, most recently, the Zimbabwe National HIV and AIDS Strategic Plan, to address the precarious HIV and AIDS situation in the country, where, according to 2014 estimates, approximately 1.6 million Zimbabweans were living with HIV or AIDS, equivalent to about 16.7% of the country’s adults aged 15 to 49. More recently, the Zimbabwean government has, in connection with the Zimbabwe HIV and AIDS Activities Union Community Trust, helped to launch an HIV community monitoring initiative, a program led by people living with HIV with the intention of monitoring access to and availability of AIDS services in the country’s health care centers. Likewise, Dr. Owen Mugurungi, the HIV and tuberculosis director at the Zimbabwean Ministry of Health, for the first time recently stated that gay men should be included in HIV and AIDS strategies, particularly men engaging in gay sex in prisons.

However, while the intention behind the Plan and the Community Trust is to combat discrimination and drastically reduce new infections and AIDS-related deaths, other national legislation, such as the Sexual Offences Act, directly discriminates against LGBT individuals that are living with HIV or AIDS. For example, Section 16 of the Sexual Offences Act provides that “[w]here a person is convicted of…sodomy …and it is proved that, at the time of the offence, the convicted person was infected with HIV, whether or not he was aware of his infection, he shall be sentenced to imprisonment for a period not exceeding twenty years.”

Expression and Assembly

The new Constitution specifically provides for freedom of expression, freedom of assembly and freedom to demonstrate and petition. However, government authorities continue to utilize repressive legislation to restrict these freedoms, particularly as they relate to members of the LGBT community or anyone speaking out against non-discrimination based on real or perceived sexual orientation or gender identity. Specifically, government leaders have used the Public Order and Security Act (“POSA”), the Criminal Law Act, the Private Voluntary Organization (“PVO”) Act and the Access to Information and Protection of Privacy Act to search private offices and dwellings without a warrant, ban lawful public meetings and gatherings, revoke operating licenses and deregister organizations. For example, it was only after a lengthy court trial that the Harare Magistrates Court in February 2015 found Martha Tholanah, chairperson of the Gays and Lesbians of Zimbabwe (“GALZ”), a non-governmental organization, not guilty of the charge of running an “unregistered” organization in contravention of Article 6 of the PVO Act, which requires that all private voluntary organizations register with the PVO board. Similarly, in March 2015, police arrested two GALZ officials on charges of organizing a media training workshop without police clearance, in violation of POSA.


Sexual Offences Act. Part V, Section 16. Sentence for certain offences where offender is infected with HIV.


Id.
Similarly, Chapter 10:04 of the Censorship and Entertainments Control Act prohibits the importation, keeping and distribution of publications that are undesirable (defined as “indecent or obscene or is offensive or harmful to public morals”). By extension, possession of most homosexual activity-related material would likely fall into this category.242

Immigration

Enacted for the purpose of regulating the entry and departure of persons into and out of the country, the Citizenship of Zimbabwe Act specifically discriminates against and provides for the prohibition and removal of individuals who are, or are perceived to be, lesbian or gay from the country. Section 14 of the Act states that, among others, the following persons are “prohibited persons” for purposes of the Act: “(a) any person or class of persons deemed by the Minister, on economic grounds or on account of standards or habits of life, to be undesirable inhabitants or to be unsuited to the requirements of Zimbabwe” and “(f) any person who (i) is a prostitute or homosexual; or (ii) lives or has lived on, or knowingly receives or has received any part of the earnings of prostitution or homosexuality; or (iii) has procured persons for immoral purposes.”243

Military Service

No literature was specifically found on whether LGBT people are permitted to openly serve in the Zimbabwe military, and the Zimbabwe Defence Act does not include any explicit prohibitions against LGBT individuals serving in the military.244 However, LGBT individuals who choose to be open about their sexual orientation or gender identity while serving in the military would likely be subject to discrimination and prejudice given the prevailing societal attitude, and such persons could leave themselves open to criminal charges. Moreover, the public criticism of homosexuality (and to a lesser extend transgenderism) by government leaders such as President Mugabe further compounds the problem and creates a more hostile environment for LGBT individuals who may choose to serve in the military.

III. LEGAL CHALLENGE: INTERNATIONAL AND REGIONAL TREATY ANALYSIS

242 Censorship and Entertainments Control Act [Chapter 10:04], available at http://www.refworld.org/pdfid/4c46e6ec2.pdf
TAB 25
WRITTEN SUBMISSION FOR THE GENERAL DISCUSSION ON THE PREPARATION FOR
A GENERAL COMMENT ON ARTICLE 6 (RIGHT TO LIFE) OF THE ICCPR

We, the Sexual Rights Centre, a non-profit grassroots organisation that works to advance the sexual rights of marginalised women, children and men in Bulawayo, Zimbabwe submit to this discussion because our work adopts a human rights based approach premised on the fundamental principles of equality, dignity and respect for all. We believe that every individual has the right to life and is entitled to equal access to information, resources and facilities for socio economic development in order for them to enjoy all their human rights.

As an organisation that advocates for the rights of Lesbian, Gay, Bisexual and Transgender (LGBT) persons in Zimbabwe, we challenge the criminalisation of same sex sexual activities by the government of Zimbabwe and we see this as a breach of Article 6 of the ICCPR. Such criminalisation has led to brutal killings of LGBT persons, increased targeted hate crimes and poor service delivery and increase of HIV and other health illnesses within such a marginalised community. We demand that states be responsible and take obligation to prevent and investigate killings, discrimination, loss of work, loss of education opportunities and lack of socio economic development opportunities for LGBT communities. The General Comment should affirm the link between the right to life and Article 6 , recognising the obligation under Article 6 to realise the right to health , the right to equality, freedom from non -discrimination, right to education and employment, with special attention to sexual orientation, gender identity and gender expressions.
LGBT persons in Zimbabwe face barriers to access to hassle-free and competent health services, leading to increased HIV infections, AIDS related deaths, depression and psycho social illnesses, all leading to a reduced life expectancy. This general discussion must consider Article 6, where it says no one shall be arbitrarily be deprived of his life, then link the failure of states to take obligation to prevent and investigate killings, discrimination, loss of work, loss of education opportunities and lack of socio economic development opportunities for LGBT communities as a huge contribution to the arbitrarily deprivation of one’s life.

The Sexual Rights Centre believes that the General Comment should reflect the fact that states parties have an obligation to address the root causes of the deprivation of life, including discrimination and stigma suffered by LGBT communities in health care settings.
‘So isolation comes in, discrimination and you find many people dying quietly without any family support’: Accessing palliative care for key populations – an in-depth qualitative study

Jenny Hunt¹, Katherine Bristowe², Sybille Chidyamatare³ and Richard Harding²

Abstract

Background: Ensuring palliative care for all under a new global health policy must include key populations, that is, lesbian, gay, bisexual, transgender and intersex (LGBTI) people, and sex workers. Accessibility and quality of care have not been investigated in lower and middle-income countries where civil rights are the weakest.

Aim: To examine the accessibility to, and experiences of, palliative care for key populations in Zimbabwe.

Design: Qualitative study using thematic analysis of in-depth interviews and focus groups.

Setting/participants: A total of 60 key population adults and 12 healthcare providers and representatives of palliative care and key population support organisations were interviewed in four sites (Harare, Bulawayo, Mutare and Masvingo/Beitbridge).

Results: Participants described unmet needs and barriers to accessing even basic elements of palliative care. Discrimination by healthcare providers was common, exacerbated by the politico-legal-economic environment. Two dominant themes emerged: (a) minimal understanding of, and negligible access to, palliative care significantly increased the risk of painful, undignified deaths and (b) discriminatory beliefs and practices from healthcare providers, family members and the community negatively affected those living with life-limiting illness, and their wishes at the end of life. Enacted stigma from healthcare providers was a potent obstacle to quality care.

Conclusion: Discrimination from healthcare providers and lack of referrals to palliative care services increase the risk of morbidity, mortality and transmission of infectious diseases. Untreated conditions, exclusion from services, and minimal family and social support create unnecessary suffering. Public health programmes addressing other sexually taboo subjects may provide guidance.

Keywords

Sex worker, sexuality, gender identity, palliative care, qualitative, stigma, Zimbabwe

What is already known about this topic?

- Key populations are disproportionately affected by serious illnesses, including cancer and HIV, but have significantly lower uptake of essential health services due to marginalisation, stigma and human rights violations.
- To our knowledge, no studies have considered access to palliative care for key populations in low- and middle-income countries, beyond the specific context of HIV.

What this paper adds?

- Participants reported barriers to accessing palliative care due to stigma and discrimination perpetrated by healthcare professionals.

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• Palliative care staff acknowledged intentionally stigmatising key populations with overtly judgmental attitudes and intentional reduction of care and support.
• This study demonstrated that the discriminatory beliefs and practices from healthcare providers, family members and community affected care delivery from the point of diagnosis throughout the illness trajectory to end-of-life care.

Implications for practice, theory and policy
• Palliative care policy must enshrine non-discrimination for key populations with respect to access to services.
• There is a need for accepting, confidential environments, counselling training that is sensitive to diversity, and public health strategies to reduce stigma and improve access to palliative care for key population patients and family members.
• Professional communication skills that enable patients to share key aspects of identity and behaviour must be combined with enforcement of professional standards that ensure anti-discriminatory practice.

Introduction
Palliative care should be founded upon appropriate government policies, adequate drug availability, the education of health professionals, implementation of palliative care at all levels and integration into national healthcare systems. Palliative care is now stated as a part of the Universal Health Coverage goals: all individuals and communities receive the health services they need without suffering financial hardship. It includes the full spectrum of essential, quality health services, from health promotion to prevention, treatment, rehabilitation, and palliative care. The need for palliative care and pain relief services has traditionally been missed in global health and death reviews.

There is also a global policy drive towards ‘person-centredness’ as a marker of quality care. Person-centredness requires health services to see people as complete individuals, including an understanding of their intimate relationships. This suggests a shift from volume-based health services to value-based care where providers can improve patient outcomes through getting to know them, their lifestyles and their specific needs, including those living with chronic and terminal conditions. In Africa, HIV and cancer morbidity and mortality place enormous demands on underfunded over-burdened health systems.

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‘Key populations’ as described in public health include lesbian, gay, bisexual, trans and intersex (LGBTI) people, including men who have sex with men and women who have sex with women, who may or may not identify as gay or bisexual, sex workers (people who exchange sexual services for money or gifts) and injecting drug users. Discrimination against any socially disadvantaged groups is a significant risk factor for stroke, heart disease, psychological distress and depression. Discrimination against LGBTI people in particular is known to lead to poorer health outcomes. Fisher (2014) describes potentially lethal health outcomes for sexual minorities in legally sanctioned homophobic countries, where those who provide healthcare to key populations may be criminalised. Key populations are disproportionately affected by some serious illnesses (such as HIV, other sexually transmitted illnesses and some cancers), often under-diagnosed due to the failure of health workers to explore sexual preferences. Men who have sex with men have an HIV prevalence four times that of heterosexual men, but they and other key populations have significantly lower uptake of essential health services due to social marginalisation, legal and social conditions, stigma and human rights violations. Access to health and psychosocial care is generally poorer for these marginalised populations, and especially so in African countries like Zimbabwe with seriously discriminatory socio-political climates. Barriers to palliative and end-of-life care for LGBT people have been described in a high-income setting, but not previously in a low- or middle-income country. Other factors such as social class may also affect access to care, and where potential sources of discrimination coexist, as in the case of poverty and homelessness, there is the potential for double stigma.

Current, in low- and middle-income countries nothing is known about the palliative care needs and experiences of these key populations. This study aimed to identify the attitudes and experiences of sex workers, sexual minorities, and health and palliative care providers regarding accessibility and quality of palliative care for key populations within Zimbabwe.
Methods

Study design

Cross-sectional in-depth qualitative interview and focus group study.

Recruitment

Using the above definitions, key populations were defined as adult (aged at least 18 years) sex workers and sexual and gender minorities (LGBTI people and other sexually non-conforming people). The selection was focused on those socially excluded populations whose behaviours led to higher incidence of infectious and non-communicable life-limiting illness. As the socio-political context precluded a conventional recruitment strategy via health centres, these legally vulnerable and hard to reach populations were accessed through non-governmental organisations that support sex workers and LGBTI people. The researcher met with all representatives to introduce the study and the sampling frame. They approached eligible individuals about the study to avoid any potential coercion from direct contact with the researcher at this stage. Purposive sampling criteria including sexual orientation, gender identity, age and sex worker status, guided recruitment. Representatives were not offered training to recruit for this study but were familiar with the process and all succeeded in recruiting requisite numbers. Data regarding refusal to participate were not collected by support agencies, therefore it is not possible to know whether there were any patterns to non-participation.

Due to non-response from the Ministry of Health, government health professionals were not included in the sample. Health and palliative care providers and representatives of support and programme agencies were purposively sampled across palliative care, sexual health and support agencies. The sample was drawn from those living in two urban areas as well as smaller centres near border posts, mines and truck stops known to attract high-risk populations in Zimbabwe.

Ethical considerations

Ethical approval was obtained from the Medical Research Council of Zimbabwe on 24 September 2014 (Ref: MRCZ/A/1881). Recruitment was undertaken with clear safety protocols to minimise risk to participants and researchers. A distress protocol was developed in case any interviewee became distressed, fatigued or unable to continue for other reasons. A representative from a relevant support organisation was available to address any adverse events. Interviews were conducted in places considered safe by our partner organisations. These included their own secure premises, or at alternative spaces considered low risk with no link to key populations. Before commencing the interview/focus group discussion and having received an explanation of the study, each participant signed consent forms to participate and to audio record. Confidentiality was ensured throughout the analysis and reporting process by using pseudonyms and removing identifying information.

Data collection

A focus group discussion for sex workers and another for LGBTI people, each lasting approximately 1.5 h, was conducted in the four centres (n = 8 focus group discussions in total) using a semi-structured topic guide. The proximal towns of Beitbridge and Masvingo were combined as a single centre focus group discussion. Individual interviews of approximately 1 h were conducted with a small sample of participants from the focus group discussion, who self-identified as having a life-limiting illness. A further 12 interviews were conducted with health professionals: five palliative care nurses, three doctors, two support organisation administrators, one programme coordinator and one outreach worker across the sites. Data collection was undertaken from November 2014 to January 2015.

The topic guides were developed with reference to the study objectives and review of the literature on LGBTI people and sex worker health. Two pilot focus group discussions helped refine phrasing and sub-headings (data not included). The broad areas of enquiry were illness history and experiences of accessing health and palliative care, exploration of sexual identity in clinical consultations, communication and sexual identity, involvement of partner/significant others and support structures during serious illness and after death. Interviews were conducted and audio-recorded primarily in English with questions and topic guides translated into the vernacular (Shona and Ndebele) by the research assistant as required. The lead researcher (J.H.) is Zimbabwean female, fluent in English and conversational in Shona; the research assistant (S.C.) is Zimbabwean female, and fluent in all three local languages (English, Shona and Ndebele). It was not possible to return translated transcripts to participants for checking due to the challenges and sensitivities of re-approaching participants.

Analysis

Data were transcribed verbatim (with translation into English where required) by the research assistant and analysed using thematic analysis with five key stages: familiarisation, coding, theme development, defining themes and reporting. Analysis was led by J.H. The first stage of analysis was familiarisation in which the researcher(s) read, reread and annotated the transcripts alongside research questions. Transcripts were coded line-by-line within the sub-headings of the interview
schedules; however, inductive coding was undertaken within each theme to identify emergent patterns and sub-themes, and across transcripts for higher level overarching themes. Subsequently, a coding frame was developed to demonstrate emergent patterns and themes. The coding frame and transcripts of three interviews/focus groups were reviewed by the research team. After discussion, themes were developed and the coding frame revised and applied to the full data set. During subsequent analysis, the themes were developed further and refined with particular attention paid to non-confirmatory cases, where emerging themes contradicted more common ideas. Additional themes not captured under the sub-headings were also noted during this stage of analysis and added to the thematic compilation. Themes were defined and finalised through discussion (J.H., K.B., R.H.), and all researchers agreed with the final analysis, interpretation and reporting.

Results

Participants

A total of 72 individuals participated (see Table 1): from key populations ($n = 60$) recruited for focus group discussions, and from healthcare providers and support organisation representatives ($n = 12$) recruited for interviews. Focus group discussion participants who self-identified as living with a life-limiting illness were also interviewed ($n = 1$ sex worker in Mutare, $n = 1$ sex worker in Beitbridge and $n = 1$ lesbian woman in Masvingo).

In all, 49 participants were of Shona ethnicity, 17 were of Ndebele and 6 were of ‘other’ ethnicity. Of the participants, 50 were female and 22 were male. Focus group discussion participants self-identified as lesbian ($n = 6$), gay ($n = 15$), bisexual ($n = 3$), transgender ($n = 2$), intersex ($n = 1$) and sex worker ($n = 33$).

Findings

Two dominant themes emerged from the data: (a) minimal understanding of, and negligible access to palliative care significantly increased the risk of painful, undignified deaths and (b) discriminatory beliefs and practices from healthcare providers, family members and the community had wide-ranging effects on care for those living with life-limiting illness and their wishes at the end of life.

Theme a: Minimal understanding of and access to palliative care significantly increased the risk of painful, undignified deaths.

Few key population participants had heard of palliative care. Understanding was incomplete and generally linked to anti-retroviral therapy adherence. Some participants had heard of a local hospice, but were unclear what was offered there:

Maybe it’s for people who are tired of pain and go there to die. Maybe get injected and die. (FGSWB3 Sex worker female, 21, focus group Bulawayo)

Healthcare providers had limited experience of providing palliative and end-of-life care for key populations:

I haven’t had terminally ill patients. Most of the patients who are presenting are still at a manageable stage. (KIIH8 doctor male, 30, interview Harare)

Despite HIV being a common reason for palliative care referrals in Zimbabwe, exploration of sexual risk behaviours, particularly among key populations who are known to be at risk, was uncommon. Health professional assumptions of heterosexuality and monogamy enabled LGBTI people and sex workers to remain ‘undercover’ and access health and palliative care along with mainstream populations:

Our social history just goes to, ‘are you married?’ If yes then we take it that they have one sexual partner. (KIIH7 palliative care nurse, female, 33, interview Harare)

Hiding sexual risk behaviours, however, resulted in untreated symptoms. Together with inaccurate self-diagnosis,
this was likely to increase transmission of infectious diseases, non-adherence to treatment, risk of co-morbidities and mortality:

\[\text{When} \text{ they die within a week you wouldn't have done a lot of work because they were a late referral ... because they would be hiding ... and you wouldn't have achieved much.} \text{ (KIIH1 palliative care nurse female, 59, interview Harare)}\]

Pain assessment and management were lacking in personal testimonies and anecdotal accounts of others who had died in their communities. Participants had access to only basic pain medication regardless of severity. Most were unaware of medications for severe pain and described scenarios of friends dying in pain, partly due to their resistance to seek healthcare.

**Theme b: Discriminatory beliefs and practices from healthcare providers, family members and the community had wide-ranging effects on support for those living with life-limiting illness and their wishes at the end of life**

The six healthcare providers associated with palliative care organisations were conversant with palliative care principles, but some acknowledged personal difficulties in applying the approach to key populations. Attitudes to key populations were strongly determined by religious beliefs and personal experience:

\[\text{... we tend to intertwine [unfinished personal business] with what the patient brings and at the end of the day it will impact negatively on the type of treatment that we give a patient.} \text{ (KIIM2 palliative care nurse female, 42, interview Mutare)}\]

Healthcare providers reported less experience with, and more prejudice against, sexual minorities than sex workers, a population they were familiar with in their personal lives:

\[\text{The commercial sex workers I don't think I will have much fuss with them but the gays and lesbians. I think I am not used to them.} \text{ (KIIM2 palliative care nurse female, 42, interview Mutare)}\]

That familiarity also jeopardised care for seriously ill sex workers:

\[\text{... they are corrupting and taking our husbands ... they are looting from our husbands and we are now running short of finances because of these commercial sex workers ... if you are a female nurse and a sex worker comes as a patient and sometimes your husband, it happens doesn’t sleep at home and sleeps elsewhere or books a room for him and a sex worker then you won’t be good to that lady ... and you would rather say let her die because she is corrupting my husband and disturbing my marriage.} \text{ (KIIBB1 coordinator male, 48, Beitbridge)}\]

Participants offered reasons for delayed presentations at health facilities such as lack of finance and anticipated discriminatory behaviours from health workers. When patients did seek care, judgmental and inconsistent medical care led to patients defaulting on treatments, with consequent incremental effects on co-morbidities and mortality:

\[\text{They get questions like, ‘why are you doing this? Have you read the bible?’ Or the nurses would scream ‘look at that homosexual’, ‘is this a woman?’ and you get those giggles. And people feel like next time I won’t go. They default on treatment. They do that. Sometimes people get stressed and default.} \text{ (KIIH3 Director male, 42, interview Harare)}\]

Some participants chose to visit private doctors who they felt were professional and confidential. Others sought advice and medicines from pharmacists. Many relied on colleagues and friends. None reported relationships with healthcare providers that supported their specific needs. Untreated symptoms, uncontrolled illness, lack of health monitoring and social support led to painful, lonely and undignified deaths:

\[\text{I had a friend of mine ... she had a cancer on her leg and she went to the Apostolic church. So they used some herbs to heal the wound. So they used to take some [local grain] and put it in there saying that there were worms in the wound that needed to eat the food they put rather than eat her flesh ... the whole room would be filled with a bad smell. So people started to run away from her until they stopped giving her food, then one day when we went to pay her a visit we found no one there, flies everywhere and the moment we opened the door we discovered that she had passed away.} \text{ (KIIBB2 Lesbian, 40, interview Masvingo)}\]

Stigma from family members and the wider community further compromised support for the ill and dying. Discrimination in this environment was described as extreme to the extent that lives were in danger:

\[\text{They can be killed or burnt alive. Because people regard them as animals and not as human beings.} \text{ (KIIM2 palliative care nurse female, 42, interview Mutare)}\]

Patient care appeared contingent upon attitudes of family and community towards key populations, regardless of the severity of illness, even at the end of life. Some participants preferred to die in hospital as they could not count on family support:

\[\text{So isolation comes in, discrimination and you find many people dying quietly without any family support ... They will} \]
say you were doing your gay things on your own that’s why now it’s payback time for your sins ... People will look at you and say it’s now punishment for not having reproduced, getting married and not following the family tradition and going against God. (KIIH3 Director male, 42, interview Harare)

Spiritual support was also compromised by discriminatory views of some religious leaders:

... when the pastor comes ... and you say this is my wife and he is a man the pastor will definitely freak out. ‘This is a taboo, an abomination. What are you doing? No wonder you are in this situation’. (KIIH6 palliative care nurse female, 48, interview Harare)

Participants believed final wishes at the end of life would not be respected because of their ‘bad behaviour’:

I would want my partner to stay with some of my things, but if you are staying with your partner and you die, your family will just come and take away your things and just say you were a friend and this property belonged to my daughter. (FGLGB3 lesbian 42, focus group Bulawayo)

Discussion

The research highlights that for sexual and gender minorities and sex workers living with life-limiting illness, the care and support provided by healthcare providers, family and community members was negatively affected by discriminatory beliefs and practices, closely reflecting stigma and community views of some religious leaders:

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Strengths and limitations of this study

This was the first study undertaken in low- and middle-income countries to describe palliative care experiences for sexual and gender minorities and contributes to the growing body of research on sex workers. It is likely that palliative care issues experienced by gender diverse minorities were under-described as only two transgender and one intersex persons were included in the sample; therefore data saturation is unlikely to have been achieved. In this socio-politically punitive environment, their recruitment, however, was a positive achievement and addressed the absence of this demographic in other research.22 The sexual orientation of sex workers was not recorded, therefore, we may have missed the opportunity to explore experiences for those with both LGBTI and sex worker status. Diagnosis information was not included when recruiting key population participants, beyond a request for participants with life-limiting illness to volunteer for individual interview. Data regarding refusal to participate were not requested from the support agencies who all successfully recruited requisite numbers, therefore, it is not possible to know whether there were any patterns to non-participation. Information surrounding serious illness, dying and death was often based on witnessing deaths of colleagues and friends. Permission was sought from the Ministry of Health and Child Care to interview government health workers, but non-response in the time available excluded them from this study. Recruitment of 12 other health workers to discuss care for key populations was challenging given the socio-political situation. Translated transcripts were not returned to participants for checking, due to the challenges and sensitivities of re-approaching individuals.
Conclusion

The findings from this study have informed the following recommendations which, given the risks for individuals associated with these key populations, focus on palliative healthcare services and staff:

1. Enhance clinical interviewing skills using history taking forms reflecting culturally appropriate terminology to explore sexual orientation, gender identity and relationships to enable person-centred care for key populations faced with life-limiting illness.

2. All palliative care training and service implementation should include information regarding health and human rights of key populations to promote person-centredness and values-based care in order to comprehensively address the needs of all patients and their families affected by incurable illnesses.

3. Practitioners must ensure confidentiality and safety which is culturally and context-specific while facilitating disclosure, and ensure access to appropriate treatments and support from diagnosis of life-limiting illness to death and bereavement.

4. Recognition of the challenges that key populations may experience in managing the interface between members of their support network and their own family members demands a broader interpretation of ‘family’. This would decrease the isolation of patients and disenfranchised partners, and increase access to care throughout the life-course.

To our knowledge, this is the first study to describe palliative care experiences of both sex workers and sexual minorities in low- and middle-income countries. As was found in a similar study in the United Kingdom, patients must make a risk assessment to determine if the benefits outweigh the risks of revealing their identity to health professionals. Given the legal context and public discourse, and the very real threat of violence, this risk assessment carries serious implications in Zimbabwe. Discrimination from healthcare providers discourages key populations from accessing palliative care services, potentially increasing the risk of morbidity, mortality and transmission of infectious diseases. Untreated conditions, exclusion from services, and minimal family and social support create unnecessary suffering in an environment characterised by poverty and under-resourced health facilities. Recommendations from the study confirm the continuing need for research and enhanced education of practitioners. These are necessary to address the public health implications of discrimination in health and palliative care, especially in countries where inequality is legally or religiously sanctioned. Public health programmes addressing other taboo subjects such as HIV and male circumcision may provide guidance.

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The push of stigma: a qualitative study on the experiences and consequences of sexuality stigma among same-sex attracted men in Harare, Zimbabwe

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The push of stigma: a qualitative study on the experiences and consequences of sexuality stigma among same-sex attracted men in Harare, Zimbabwe

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ABSTRACT

This paper describes experiences of sexuality stigma among same-sex attracted men in Zimbabwe and analyses the consequences of such experiences for healthcare seeking. It draws on qualitative research carried out in Harare in 2017, which included in-depth interviews with sixteen gay and bisexual men, and key informant interviews with three representatives of organisations that work with gay men. There were numerous stories about sexuality stigma in the study participants' social environments, including at home, in local communities and in healthcare facilities. We first offer a description of these and then go on to trace the implications of stigma on the relations between men who have sex with men on the one hand and the healthcare sector on the other. We conceive of stigma as a pushing force that exerts pressure on and in these relations, and identify five types of consequences of this. Stigma works to (1) produce geographical shifts in healthcare, (2) promote private over public care, (3) compartmentalise healthcare (with dedicated providers for queer persons), (4) depprofessionalise care, and (5) block access to appropriate healthcare altogether for some same-sex attracted men. Most of these consequences have negative implications for preventive or treatment-focused HIV programming.

Introduction

Men who have sex with men in Africa are at a high risk of HIV infection as a result of a variety of factors, including the conduct of healthcare staff (Maleke et al. 2017; Nkambule et al. 2017). For a long time, same-sex attracted men were left out of most HIV-related research and programming in Africa (Beyrer et al. 2010). The overwhelming scale of the heterosexual HIV epidemic, coupled with political, social and cultural barriers against homosexual practices, severely delayed the development of a same-sex-focused response to HIV in most parts of the continent (McIntyre 2010). International organisations in the African HIV epidemic also did not address the epidemic among gay and other same-sex practising men for a long time (Moen et al. 2012).
Sub-Saharan Africa still accounts for two-thirds of the world’s total new HIV infections (Kharsany and Karim 2016). In East and Southern Africa, men who have sex with men are among the groups that experience high HIV prevalence. One in three is living with HIV, and in 2014, 6% of new HIV infections occurred among men in this group (UNAIDS 2017a). Given the continued burden of HIV on countries, communities and individuals, a better understanding of the health care needs and challenges among men who have sex with men is an urgent priority. It will be impossible to reach UNAIDS’s three zero goals (zero new infections, zero HIV related deaths and zero discrimination) without strengthened HIV programming in this segment of the population (Haghdoost and Karamouzian 2012).

One of the reasons for the high prevalence of HIV among men who have sex with men is stigma enacted in families, local communities and healthcare facilities (Larsson et al. 2017; Ross et al. 2015; Stojisavljevic, Djikanovic, and Matejic 2017). In South African townships, for example, Lane et al. (2008) found that same-sex attracted men felt that their options for non-stigmatising sexual healthcare services were limited by homophobic verbal harassment by healthcare staff. In Malawi, many men reported stigmatisation and fears of sexual orientation disclosure (Ntata, Muula, and Siziya 2008). Fay et al. (2011) have found strong associations between men’s experiences of discrimination and their fear of seeking healthcare services. Furthermore, the vilification of homosexuals by some national presidents has contributed to seriously inadequate healthcare interventions (Nyanzi 2013). Significantly, some studies have also shown that the stigmatisation of men who have sex with men is associated with poor mental health, increased sexual risk behaviour and a higher prevalence of sexually transmitted infections (Arreola et al. 2015; Maulsby et al. 2014; Parker et al. 2018).

Previous scholarship has dealt with HIV related stigma in Zimbabwe (Busza et al. 2018; Campbell et al. 2011; Ferris et al. 2019; Duffy 2005; O’Brien and Broom 2014), and several previous publications have referred to experiences of stigmatisation and discrimination among men who have sex with other men (e.g. Hunt et al. 2017; Mabvurira et al. 2012; Matsikure 2009). In this paper, we describe experiences of sexuality stigma among a diverse group of queer men in the Zimbabwean capital and analyse the consequences of these experiences for their relationships with the healthcare system and their healthcare seeking.

**Context**

Zimbabwe has an overall HIV prevalence of nearly 14% (UNAIDS 2016). In 1999, the Zimbabwean government established the AIDS levy, funded through 3% payee and corporate taxes, that goes to support the national HIV response (Zimbabwe Ministry of Health and Child Care and National AIDS Council 2015). In parallel with collaborative efforts by the government and other stakeholders, the number of new HIV infections in Zimbabwe has decreased by 49% since 2010, and AIDS-related deaths have fallen by 45% (UNAIDS 2016). While the national HIV policy framework has acknowledged that men who have sex with men face a heightened risk of HIV, until recently, there had been no specific public response to the HIV epidemic in this group. In 2018, however, the government launched a training programme for healthcare providers on key populations in the HIV epidemic, including men who have sex with men (Ministry of
Health and Child Welfare 2018). The estimated HIV prevalence in the latter group is 31% (UNAIDS 2017b).

There have been many studies in Zimbabwe focusing on same-sex practising men. Among important contributions are Epprecht (1998, 1999, 2004, 2005, 2012, 2013), Gunda (2010, 2011); Goddard (2004); Hunt et al. (2017), Muparamoto (2018), Phillips (1997, 2009), Van Klinken and Chitando (2016), and, Van Klinken and Gunda (2012). These studies have explored the gay rights movement in Zimbabwe; historical aspects of same-sex sexuality; religion and same-sex sexuality; and culture, human rights and homosexuality. This literature indicates that negative attitudes towards same-sex practising men are deeply embedded in Zimbabwe’s social and historical forces. We variously use the terms gays, queer men, men who have sex with men and same-sex practising men in this paper as a way of reflecting the diversity of labels and understandings in circulation.

Conceptualising stigma

Stigma is a term that is frequently used and applied in many different fields. This has led to different interpretations – and perhaps a loss of clarity – in the concept. The work of Goffman (1963) and Link and Phelan (2001) informs our understanding of stigma in this paper. Goffman (1963) popularised the concept of stigma in the academic field. He explained that when a stranger is present before us,

“evidence can arise of his possessing an attribute that makes him different from others in the category of persons available for him to be, and of a less desirable kind – in the extreme, a person who is quite thoroughly bad, or dangerous, or weak. He is thus reduced in our minds from a whole and usual person to a tainted, discounted one. Such an attribute is a stigma, especially when its discrediting effect is very extensive…” (Goffman 1963, 11-12).

Of significance in Goffman’s conceptualisation is the understanding that stigmatisation is a process involving relationships between an attribute, stereotyping and loss of status (Link and Phelan 2001). Building on Goffman’s work, Link and Phelan (2001, 377) expanded the conceptualisation of stigma. For them, stigma exists when “labeling, stereotyping, separation, status loss, and discrimination occur together in a power situation that allows them.” In labelling, people distinguish human differences and articulate them through the use of labels, then in stereotyping labelled individuals are linked to undesirable characteristics and put into separate categories to create an “us” and “them” distinctions. Labelled and otherised individuals lose status as they are driven down in status hierarchies; and discrimination is manifested when they are isolated or denied access to some goods and services leading to unequal outcomes. (Link and Phelan 2001). We adopt this conceptualisation in this paper as we find it offers a multifaceted and multilevel understanding of stigma.

Research design and methods

We carried out qualitative interviews with 16 men who had regular or occasional sex with other men in Harare, Zimbabwe. They were recruited through 1) persons with prior knowledge of the lesbian, gay, bisexual, trans and intersex (LGBTI) community, 2) organisations working with the LGBTI community and 3) snowballing (recruited
participants were asked to invite other potential study participants from their personal networks).

The organisations mentioned enquired among their members who defined themselves as men who had sex with other men and were interested in joining the study. To lessen the chance of feeling coerced to participate, we approached those who had indicated their willingness to let us do so. Our aim was to recruit persons with diverse backgrounds, and we managed to have study participants from both low and high-income backgrounds; persons who were employed, self-employed and un-employed; persons self-identifying as both gay and bisexual; and persons with ages ranging from 19 to 39 years.

In addition to in-depth interviews, we carried out three key informant interviews with representatives of organisations that worked with same-sex attracted men in Harare. These interviews provided contextual information to the study and perspectives on sexuality stigma facing same-sex attracted men in Harare.

The fieldwork was carried out by the first author, who shares a national and cultural background with the study participants. Interviews were conducted in either English or Shona (one of the main local languages), and were audio recorded and transcribed verbatim. We also collected and reviewed secondary data, including national and international HIV related plans and strategies.

Transcribed data were imported into NVivo 11, a software programme that organises qualitative data, in which we created tentative descriptive codes that became themes. For this article, we coded experiences of stigma and actions taken in response to stigmatisation. Below, we first trace the different situations in which stigma was reportedly experienced by same-sex attracted men, and thereafter go on to explore some of the ways in which experiences of stigma contributed to shape the relationships (or lack thereof) between men who have sex with men and healthcare services and healthcare professionals.

The necessary approvals were obtained from the Norwegian Centre for Research Data (NSD) in Norway (52794) and the Medical Research Council of Zimbabwe (MRCZ/A/2159) before commencing the study.

**Findings**

This section describes the study participants’ experiences with and responses to stigma and has two parts. The first traces experiences of stigma in various domains of social life, whereas the second looks at the implications of stigma on study participants’ healthcare-seeking behaviour.

Before we start this exploration, it is important for us to stress that stigma was not all that the study participants experienced. Participants also described how families and friends, community members and healthcare staff positively supported their needs and contributed constructively to deal with their circumstances. There is a tendency in the literature on Africa and same-sex relations to overlook this latter aspect of experienced realities, and this may contribute to misrepresent circumstances.

We hope to return to other aspects of the experiences of same-sex attracted men in Harare elsewhere, but in this paper, we limit ourselves to experiences and consequences of stigma.
**Experiences of stigma**

There were numerous stories about stigma in the study participants’ immediate social environments. Some men told of negative reactions of various kinds at home. For example, when Jim’s father heard about his son’s sexual orientation, he could not at all accept it. He linked it to evil spirits and forced his son to visit traditional healers in an effort to cure him of them. However, nothing changed, and Jim was disowned and chased away from the family home. Through this action, the father isolated his son from the social context of the family. Around the same point in time, Jim lost some of his friends, who, he explained, did not want to be associated with a homosexual.

Study participants also described incidents in which they were stigmatised by members of their wider local communities. David, for example, was beaten up by a neighbourhood person who shouted that he was an embarrassment to the community because of his sexuality. When David reported this at the local police station, no officer was willing to take up the case. In this case, labelling (homosexual), stereotyping (embarrassment to the community), discrimination (violence and not taking the case) contributed to physical injury, status loss and lack of protection.

Men also faced discrimination in healthcare facilities. For example, one key informant recounted how one of their group members went to the clinic and disclosed that he had anal ulcers, in response to which the nurse started counselling him using the Bible. The patient explained to her that he was a Christian, but that he had come only for the health services. The nurse responded, ‘even if we treat you, but you continue with your demonic acts, you will continue getting sick and you will waste our medication’. In this case, the healthcare provider enacted stigma when summoning the Bible and her Christian beliefs, imposing them on the patient, and denying him medical treatment.

Apart from concrete lived experiences of stigmatisation, there was also structural stigma and discrimination. Among these were constraints imposed by the Criminal Law (Codification and Reform) Act 2004, which outlaws sexual acts between men but not self-identifying as an LGBTI person (Hunt et al. 2017):

> “Any male person who, with the consent of another male person, knowingly performs with that other person anal sexual intercourse, or any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act, shall be guilty of sodomy and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding one year or both.” (Constitution of Zimbabwe 2004, 50).

Ongoing political discourse in Zimbabwe is labelling, stereotyping, separating and discriminatory towards same-sex attracted men. The late President Mugabe was widely known for his public denunciation of homosexuals, among other things labelling such persons as “worse than pigs and dogs” (Shoko 2010, 644). Although the political landscape in Zimbabwe has changed since the ousting of the former president, it may still be too early to judge to what degree the official stance on same-sex relations will change. Prior to the elections in July 2018, officials from the ruling ZANU-PF party met with representatives of the LGBTI community in a bid to see how they can best relate with one another (New Zimbabwe 2018). However, in an interview around the same time (CNN 2018), the country’s new president, Mr Mnangagwa, told Richard Quest that: “In our Constitution, it [same-sex acts] is banned—and it is my duty to obey my Constitution.”
Recently, a teacher at a prestigious private school was forced to resign after a furious backlash from parents following his admission to being gay (Duff 2018).

How study participants dealt with experiences of stigma varied. Some passively accepted accepting discriminatory actions whereas others took action to counter the negative consequences of stigma, either individually or in groups collective activism. Some remained self-confident whereas others shared experiences of low self-esteem and self-deprecatory thoughts, e.g. dwelling on periods in their lives when they made efforts to be heterosexual. For stigma scholars, this would be referred to as internalised stigma (Fitzgerald-Husek et al. 2017), i.e. acceptance of stigma as being true and applicable to oneself because of perceived and enacted stigma (Fekete, Williams, and Skinta 2018).

Simba, for example, considered himself gay, but had not disclosed his sexuality to his family and most of his friends. Instead, he was hiding it as he felt that being gay was wrong according to his Christian faith. He said that he had visited churches with the hope that church leaders would be led by the spirit and notice that he had a homosexual ‘spirit’ and remove it from him, but the leaders did not seem to notice any homosexual ‘spirit’, and nothing was done. Simba clearly felt ashamed and that there was something about him that was not as it should be.

**Implications of stigmatisation for healthcare seeking behaviour**

In what follows, we trace the implications of stigma on the relations between men who have sex with men in Harare on the one hand and the providers of healthcare on the other. We use the metaphor of pushing to conceive of the consequences of stigma for these relations. Stigma exerts pressure that contributes to shape healthcare seeking in certain specific ways. We identified five types of such ‘pushing forces’.

**A geographical push**

One consequence of enacted, perceived and felt stigma was an ongoing subtle geographical shift in the landscape of healthcare. Many same-sex practising men simply did not want to seek healthcare in their own neighbourhoods, but rather sought help and care further away.

> I would never go at the local clinic. There is discrimination and stigma that comes with being a man who sleeps with other men. I would not even try to go there. I go to clinics in other areas (Alfred)

While it seems sensible that people would visit their nearest public healthcare facilities (among other reasons because this offers shorter travel distances and ultimately lower costs), this was not always the case for queer men in Harare. As a reaction to stigma from healthcare staff, men like Alfred chose not to seek help from the local facilities. Instead, they visited services at healthcare facilities located further away from their places of residence.

Of course, seeking healthcare services at facilities further away was not a guarantee of more professional and friendly treatment. However, study participants argued that even if stigma occurred at the healthcare facility, it would most likely stay within that health facility. This was not assured in healthcare facilities in their own
neighbourhoods, where either the staff or other clients might pick up things that had transpired and spread it around the community.

**Push towards lay advice and self-treatment**

A second kind of shift was towards greater reliance on lay advice and self-treatment. Faced with a (potentially and de facto) stigmatising health care system, men at times preferred to shy away from professional healthcare services and sought lay advice and help instead. While some problems were successfully sorted in this way, this was not always the case. Joshua, for example, had not managed to treat his own piles. Although by no means a specifically gay or HIV-related condition, Joshua (and several other study participants) were worried that piles could serve as a sign they were engaging in receptive anal sex and hesitated to bring it up with healthcare providers.

I told a friend that I have a problem of haemorrhoids and he said that I should apply petroleum jelly after taking bath. I asked other guys and they said that they had been advised to apply candle wax, another one showed me a herb and another said he was told to sit on salt. (Joshua)

While help and advice from friends and family members is common for most citizens, stigma worked to make this route extra meaningful among men who had sex with men and contributed to a relative shift away from the professional sector towards the lay sector of the healthcare system. This was also the case regarding the sourcing of health information. When men lacked knowledge about sexually related issues (which the formal healthcare system did not provide them with), study participants often had to rely on knowledge gained from their peers and from the Internet.

**Push towards private healthcare**

A third consequence of stigma was a push away from public healthcare facilities in the direction of private services. Tapiwa and Tino, for example, two of the study participants who came from affluent residential areas of Harare, said that they used private doctors to avoid stigma in publicly owned health facilities. The situation was perceived to be much different in private care:

“They are gay friendly, and they take you through every step, explaining everything clearly.” (Tapiwa)

Fortunately, Tapiwa could afford to pay for private healthcare as he came from a well to do family, and private care did not severely affect his personal economy. However, among men who were not equally well off, but paid for private healthcare although they could only barely afford it, the push towards private healthcare providers had important implications for their overall financial situation.

**Push towards dedicated healthcare**

A fourth kind of consequence was a push towards health service providers who had entered into particular agreements with organisations offering support to the LGBTI community.

We wrote to different doctors, introducing ourselves and requesting services for our members. Some responded and others did not. We brought a specialist from South Africa who trained those who had responded positively, working with the LGBTI community.
From there we started referring our members to the trained doctors whom we pay. (Lillian, LGBTI activist)

Men in this study used private healthcare facilities which, in collaboration with some LGBTI organisations, offered healthcare support to the LGBTI community. Study participants mentioned the positive role played by these clinics, which offered free-of-charge educational support and services (including HIV testing & counselling, condoms, lubricants, PEP, and PrEP) in a supportive and friendly atmosphere.

**Push away from necessary healthcare in the first place**

The most serious consequence of stigma was that it pushed men away from necessary care in the first place. Being in a stigmatising environment had both social and psychological effects on men who have sex with men. It bred uncertainty and sometimes this had the consequence that necessary healthcare was not obtained at all.

For example, although sexually active, some study participants had never been tested for HIV as they avoided situations that exposed them to stigma.

I had a friend who was very sick and they took him to the hospital. They wanted to test [for] TB and HIV, he got up and told them that he did not come there for that. They tried to convince him to test, but he refused, they had to treat what they could see. (Maxwell)

Some men did not seek care even when there was a strong need to do so. At times, this was linked to fatal outcomes.

Some of our members do not go to clinics for fear of being stigmatised. This year one of our members died. He had anal ulcers and we referred him to a certain facility then they referred him to another healthcare facility. Unfortunately, I think that day there were no homosexual-friendly trained staff and the receptionist called her friends, even the cleaners, to come and see this boy. He went home without getting any medication and he stopped going to the clinic to get his ARV medication and the ulcer spread and became cancerous, he died. (Lillian, LGBTI activist).

As told, this story draws our attention to the potentially very serious consequences that can follow from stigma and discrimination in the clinic. In this case, the stares and comments of curiosity seekers among staff in the health facility drove a young HIV positive man away from the clinic and from his ARV medication. His subsequent death was associated with this occurrence.

**Discussion**

Stigmatisation of men who have sex with men has been well documented globally. We have tried to contribute to this documentation by exploring stigma among same-sex attracted men in Harare and identifying the consequences experiences of stigma have for their interaction with the healthcare sector.

Five main consequences were highlighted. We conceive of them as a set of pushing forces that contribute to shape health-seeking behaviour in specific ways. In short, what we have seen is that stigma works to produce geographical shifts in healthcare, promote private over public care, increase individuals’ healthcare-related expenditures, compartmentalise healthcare (with dedicated providers for queer persons), deprofessionalise care and block access to appropriate healthcare altogether for some same-
sex attracted men. It would seem to be of importance that key stakeholders, including the National AIDS Council and the Ministry of Health and Child Care, be aware of these five consequences and take them into consideration as they work to develop policies and programmes for the future. Our findings are not, of course, statistically representative, so there is no way of knowing how common the described consequences may be. However, what the study participants show us is that they are at work, and that their negative implications for access to healthcare in general, and to HIV related services in particular, are far from trivial. While some of the pushing forces of stigma make it more difficult to obtain preventive and curative services at appropriate times and affordable cost, others work to exacerbate social inequalities in health.

The emergence of dedicated healthcare facilities for men who have sex with men is both popular among and immensely helpful for many men in Harare. Yet, the establishment of such facilities may not be without their own potential challenges. One may relate to sustainability, since these services are funded by external sources and rely on ongoing availability of donor commitment. Will this last? Another may be whether dedicated “gay healthcare”, instead of challenging the stigmatisation of men who have sex with men, could contribute to sustain ‘othering’ and social exclusion. If one assumes that personal contact with the other can represent a way through which othering processes may be challenged and amended, it would clearly not be a good thing if all queer clients should have disappeared from the mainstream healthcare system. Finally, since dedicated LGBTI care is only available in Harare and other large towns, it is a solution that may not easily assist those who live in other locations.

To address the stigma directed towards men who have sex with men, a variety of interventions are required. Some of them should be enacted by the professionals that serve the healthcare needs of Zimbabweans. Doctors are bound by professional ethics codes that require them to provide medical care irrespective of their patients’ behaviours and practices. Already the Hippocratic oath stated that “Into whatsoever houses I enter, I will enter to help the sick” (National Library of Medicine 2002) and the ethical code of the World Medical Association, of which the Zimbabwe Medical Association is a member, continues to call for respecting the rights and preferences of patients (World Medical Association 2006). Similarly, the Nursing Council of Zimbabwe is a member of the International Council of Nurses whose ethical codes (Smith and Mafa 2010) prescribe sensitivity to the values, customs and beliefs of patients.

The national government also has an important role to play. Although Zimbabwean law still criminalises same-sex acts, section 76 of the Constitution guarantees every citizen the right to health, including basic care, timely and appropriate healthcare, and access to health-related information. As we have shown, stigma works to contravene these basic principles. While some of the work the government could do to help rectify this will take time, other things could be done right away. Through the AIDS levy, Zimbabwe has built a unique funding model for HIV-related programming. However, while funding has been provided for interventions targeting other key populations, there has so far been silence regarding same-sex practising men. By including this population in projects funded by the AIDS levy, the government would be sending the message that men who have sex with men should not be excluded from, but be treated like others with respect to access to healthcare.
Interestingly, Goffman’s (1963) famous theorising of stigma, referred to earlier, takes as a starting point “While a stranger is present before us”, perhaps giving the impression that stigma may be linked to our unfamiliarity with the (soon to be) stigmatised person. While this is sometimes the case, some of the other participants in this study described experiences of stigma that were linked to persons they knew very well. Under such circumstances, it is clearly not the person as such that is a “stranger” to the other, but rather an aspect of his or her subjectivity. While Goffman is right, it seems that there is something about stigmatised identities that renders people strangers in our minds. This cannot be answered in this paper but warrants further investigation.

Finally, LGBTI organising in Zimbabwe would certainly seem to have an important role to play, with respect to stigma as well as with respect to health care access. Community solidarity may work to challenge internalised stigma, community voices may work to challenge taken-for-granted (mis)conceptualisations of minorities, and community action may contribute to shift political, bureaucratic and professional attitudes.

Note
1. To maintain confidentiality, this and all other names given to study participants in this paper are pseudonyms.

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References


‘They will be afraid to touch you’: LGBTI people and sex workers’ experiences of accessing healthcare in Zimbabwe—an in-depth qualitative study

Jennifer Hunt, Katherine Bristowe, Sybille Chidyamatare, Richard Harding

ABSTRACT

Objectives: To examine experiences of key populations (lesbian, gay, bisexual, trans and intersex (LGBTI) people, men who have sex with men (MSM) and sex workers) in Zimbabwe regarding access to, and experiences of, healthcare.

Design: Qualitative study using in-depth interviews and focus groups, with thematic analysis.

Participants: Sixty individuals from key populations in Zimbabwe.

Setting: Participants were recruited from four locations (Harare, Bulawayo, Mutare, Beitbridge/Masvingo).

Results: Participants described considerable unmet needs and barriers to accessing basic healthcare due to discrimination regarding key population status, exacerbated by the sociopolitical/legal environment. Three main themes emerged: (1) key populations’ illnesses were caused by their behaviour; (2) equal access to healthcare is conditional on key populations conforming to ‘sexual norms’ and (3) perceptions that healthcare workers were ill-informed about key populations, and that professionals’ personal attitudes affected care delivery. Participants felt unable to discuss their key population status with healthcare workers. Their healthcare needs were expected to be met almost entirely by their own communities.

Conclusions: This is one of very few studies of healthcare access beyond HIV for key populations in Africa. Discrimination towards key populations discourages early diagnosis, limits access to healthcare/treatment and increases risk of transmission of infectious diseases. Key populations experience unnecessary suffering from untreated conditions, exclusion from healthcare and extreme psychological distress. Education is needed to reduce stigma and enhance sensitive clinical interviewing skills. Clinical and public health implications of discrimination in healthcare must be addressed through evidence-based interventions for professionals, particularly in contexts with sociopolitical/legal barriers to equality.

Key questions

What is already known about this topic?

▸ ‘Key populations’ are disproportionately affected by serious illnesses, including cancer and HIV.
▸ However, they have significantly lower uptake of essential health services due to marginalisation, stigma and human rights violations.
▸ Very few studies have considered access to healthcare for key populations in low-income and middle-income countries, beyond the context of HIV.

What are the new findings?

▸ Participants described barriers to accessing even basic healthcare due to discrimination perpetuated by healthcare professionals.
▸ Equal access to care was dependent on conforming to ‘sexual norms’.
▸ Healthcare professionals’ personal attitudes affected care delivery, and key populations were perceived to have brought illnesses on themselves through sexual behaviour.

Recommendations for policy

▸ Key populations experience unnecessary suffering from untreated conditions, exclusion from healthcare and extreme psychological distress.
▸ There is a need for safe confidential environments, cultural sensitivity training and public health strategies to reduce stigma and improve and increase access to healthcare for key populations.
▸ Policy must enshrine non-discrimination for key populations with respect to access to public services.
▸ Professional communication skills to enable patients to share key aspects of identity and behaviour must be combined with enforcement of professional standards that require antidiscriminatory practice.
INTRODUCTION

‘Key populations’ describe individuals who are disproportionately affected by some serious illnesses (such as HIV), but have significantly lower uptake of essential health services due to social marginalisation, legal and social conditions, stigma and human rights violations. The term is especially relevant in determining an appropriate response to the HIV epidemic where inequities in vulnerability are experienced by different subgroups within the population. Key affected populations include lesbian, gay, bisexual, trans and intersex (LGBTI) people, including men who have sex with men (MSM) and women who have sex with women (WSW), sex workers (people who exchange sexual services or favours for money or gifts) and injecting drug users (IDU). MSM and WSW have been consistently used as terminology to include people globally, and within Africa (including Zimbabwe), who may not identify with ‘gay’ or ‘lesbian’.2–4

Key populations may experience health vulnerability beyond the risk of HIV infection. There is increasing recognition that LGBTI people represent minority communities with unique healthcare needs.5 6 Access to health and psychosocial care for marginalised populations in general, and in Africa in particular, is poorer than for the general population. LGBTI people have a relatively higher prevalence of life-limiting illnesses, particularly cancer,7 8 and greater all-cause mortality than heterosexual people.9 Discrimination against any minority or socially disadvantaged group is a significant risk factor for stroke, heart disease, poor mental health, psychological distress and depression.10 11 There is global variance in acceptance of homosexuality with secular and more affluent countries demonstrating greater acceptance, and widespread rejection in Africa and in poor, highly religious countries.12

Stranglement from family and stigmatisation from healthcare staff reinforce widespread discrimination against key populations.13 Globally, MSM are disproportionately affected by HIV. In sub-Saharan Africa, MSM have an HIV prevalence four times that of heterosexual men.14 Stigma and discrimination against LGBTI individuals are common in Southern Africa,15 and same-sex practicing Africans living with HIV are known to be marginalised by HIV programmes, increasing the probability of premature death.16 Research in Central and Southern Africa has found that WSW have poorer sexual and reproductive health17 and higher prevalence of forced sex,18 while MSM have experience of human rights abuse.19 Perceptions of stigma are known to discourage people from testing and seeking treatment worldwide,20 and discriminatory practices often result in exclusion and inadequate care provision.13

Despite historical acceptance of same-sex relationships in Africa,21 the current Zimbabwe Criminal Law (Codification and Reform) Act makes specific sexual acts illegal, but falls short of criminalising LGBTI status.22 The popular belief, however, driven by political attitude and an uninformed media is that it is a crime to identify as LGBTI. Homophobic statements by government leaders in public fora and reported in the national press contribute to a misinformed, highly discriminatory sociopolitical environment. While recent moves towards upholding rights of sexual minorities in Malawi have been greeted with cautious optimism,23 in several African states, most notably in Nigeria and Burundi, attempts have been made to extend criminalisation of same-sex practice with harsh and sometimes lethal punitive measures. The unintended health-related consequence of such highly stigmatised environments is reluctance by sexual minorities to access early diagnostic and treatment services and care programmes.14

Sex workers also routinely experience discrimination, hostility, denial of, or precarious access to, health services across Kenya, Zimbabwe, Uganda and South Africa.24 In Zimbabwe, the Criminal Law Act makes soliciting, procuring and living off the earnings of sex work a crime. Research with sex workers in Africa has generally focused on risk behaviours and disease transmission, rather than illness experiences and access to care although health worker stigma has been identified as one of several challenges facing sex workers accessing hospital HIV treatment in Zimbabwe.15

There has been limited research of the specific health outcomes and experiences of trans people, outside of the context of HIV and studies of MSM or WSW. However, one study of trans people in South Africa reported unacceptable care, with frequent experiences of hostility and discrimination.25 To date, no study has aimed to understand the experiences of access to healthcare (beyond HIV) across key populations in Africa. The aim of this study was to explore the healthcare experiences of key populations (LGBTI people and sex workers) in Zimbabwe regarding formal healthcare access and experience of care received.

METHODS

Study design

In-depth qualitative interview and focus group study.

Population

For this study, key populations included sex workers and sexual and gender minorities (LGBTI individuals and MSM). The selection was focused on those socially excluded populations whose sexual behaviours promote higher incidence of infectious and non-communicable life-limiting illness due to risk behaviours which may be linked to discrimination.26 In Zimbabwe, LGBTI people, MSM and sex workers are legally and socially marginalised. To access these ‘hard to reach’ populations, organisational leaders of agencies working with key populations were asked to identify and recruit participants in line with purposive sampling criteria. A traditional approach of recruiting via health centres and clinics was considered unrealistic given the sociopolitical
context. A summary of the approved project was attached with recruitment guidelines, including a request for one participant (this determined by time and financial constraints) at each site to volunteer to be interviewed separately to explore personal narratives pertaining to illness in key populations in more depth.

Ethical considerations

Ethical approval for the study was obtained from the Medical Research Council of Zimbabwe (reference number MRCZ/A/1881). Recruitment was undertaken with clear safety protocols to minimise risk to participants and researchers. A distress protocol was developed in case any interviewee becomes distressed, fatigued or unable to continue for other reasons, and a representative from a relevant support organisation was available to address any adverse events. Interviews were conducted in places considered safe by the relevant organisation. Before starting the interview/focus group and having received an explanation of the study, each participant signed a consent to record and a separate participation consent form. Confidentiality was ensured throughout the research process.

Participants

Participants were purposively sampled by age (aged at least 18 years), gender, sexual orientation, gender identity and sex worker status from four centres in Zimbabwe. The sample was drawn from those living in the two main urban areas as well as smaller centres near border posts, mines and truck stops known to attract high-risk populations. A Focus Group Discussion (FGD) for sex workers and another for LGBTI was conducted in each of the four centres (eight FGDS) using an open-ended semistructured topic guide. Owing to small-town demographics, Beitbridge and the nearby town of Masvingo were combined as one centre. FGDS ranged from 5 to 10 participants. In response to our request for one volunteer at each site for in-depth interview, we conducted three further interviews with FGD participants: one sex worker in Mutare, one sex worker in Beitbridge and one lesbian woman in Masvingo.

Interviews/focus groups

The topic guides (see online supplementary appendices 1–4) were shaped by: the study objectives; review of the literature on LGBTI and sex worker healthcare needs and experiences and two pilot FGDS (data not included). The broad areas of enquiry were: illness history and experiences of accessing healthcare; exploration of sexual identity in consultations; communication and sexual identity and involvement of partner/significant others and support structures.

All interviews and focus groups were audio recorded. Interviews and focus groups were conducted primarily in English with questions translated into the vernacular by the research assistant as required. The lead researcher (JH) is Zimbabwean, fluent in English and has limited fluency in Shona; the research assistant (SC) is Zimbabwean and fluent in all three main languages (English, Shona and Ndebele). English is the official language of Zimbabwe but was sometimes the second or third language of the participants. Topic guides were translated from English into both vernacular languages.

Analysis

Data were transcribed verbatim into English by the trilingual research assistant and analysed using thematic analysis which has five key stages: familiarisation, coding, theme development, defining themes and reporting. Analysis was led by JH. The first stage of analysis was familiarisation where the researcher(s) read, reread and annotated the transcripts alongside research questions. Transcripts were then coded by line deductively within the core areas of the interview schedules. Subsequently, a coding frame was developed to demonstrate emergent patterns and themes. The coding frame and transcripts of three interviews/focus groups were reviewed by the research team (JH, KB, RH). After discussion (JH, KB, RH), themes were developed and the coding frame revised and applied to the full data set. During subsequent analysis, the themes were developed further and refined with particular attention paid to non-confirmatory cases where emerging themes contradicted more common ideas. Additional themes not captured in the core areas were also noted during this stage of analysis and added to the thematic compilation. Themes were defined and finalised through discussion (JH, KB, RH), and all researchers agreed the final analysis, interpretation and reporting.

RESULTS

Participants

Sixty individuals from key populations were recruited for interviews and focus groups from across Zimbabwe (see table 1): Harare (n=17); Bulawayo (n=16); Mutare (n=15) and Beitbridge/Masvingo (n=12).

Thirty-nine participants were of Shona ethnicity, 16 Ndebele and 5 other ethnicity. Forty-two participants were women and 18 men. Just over half (n=32) were <35 years old, and the remainder were 35 or over (n=27, one individual did not disclose their age). Participants self-identified as: lesbian (n=6); gay (n=15); bisexual (n=3); trans (n=2); intersex (n=1) and sex workers (n=33).

Findings

Three distinct main themes emerged from the data: (1) illnesses have been caused by ‘bad behaviour’ and deserve blame, discouraging key populations from seeking health support; key populations were perceived to have brought illnesses on themselves through sexual behaviour; (2) equal access to healthcare is conditional on conforming to sexual norms: to receive the same access to health and palliative care services as the
illnesses have been caused by ‘bad behaviour’

Getting what they deserve

Participants experienced widespread stigma and discrimination irrespective of their symptoms and illnesses. They described being blamed for their illness as a result of their identity or profession. The discrimination for sexual minorities extended to accusations of witchcraft to explain their condition, bringing a curse on the family or suggestions of divine retribution against their sexual identity.

Healthcare workers had some misconceptions over the whole thing, almost treating it ‘with superstition’... linking it [prostate cancer]... most likely he is gay... so he wasn’t getting the healthcare that he needed to the point that he eventually passed away due to just simple negligence... treating it as some kind of illness that is due to homosexuality.

FGLGH4 Gay man, 25, focus group Harare

For some, the double stigma of being a member of a key population and living with HIV, both considered socially unacceptable, presented a dilemma with participants choosing to disclose one or the other to minimise the risk of negative reactions.

The only time he eventually said he is actually sick [with HIV] was when he was really sick because that is how judgmental the family is. Even if he was heterosexual. So if it’s hard for a heterosexual in my family to come out to say that I have this, what more of a person who is gay. They would kick you to the kerb.

FGLGH4 Gay man, 25, focus group Harare

For sex workers, there was evidence that they were reluctantly accepted as an inevitable part of society. However, they were regularly exposed to extremely negative, discriminatory and hostile reactions from health workers.

They can tell you to wait outside and that you want me to touch your rubbish and you are the ones destroying our marriages.

FGSWM8 Sex worker female, 30, focus group Mutare

<table>
<thead>
<tr>
<th>Table 2</th>
<th>Emergent themes and subthemes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Themes</td>
<td>Subthemes</td>
</tr>
<tr>
<td>1. Illnesses have been caused by ‘bad behaviour’ and deserve blame, discouraging key populations from seeking health support</td>
<td>Getting what they deserve</td>
</tr>
<tr>
<td></td>
<td>Manifestations of stigma and discrimination</td>
</tr>
<tr>
<td>2. Equal access to healthcare is conditional on conforming to sexual norms</td>
<td>Assumptions made about sexuality or sexual practices make them invisible</td>
</tr>
<tr>
<td></td>
<td>If you do not fit you do not get care</td>
</tr>
<tr>
<td>3. Perceptions that healthcare workers were ill-informed about needs of key populations, and personal attitudes impacted on their care delivery</td>
<td>Compromised professional medical standards, ethics of care and accountability</td>
</tr>
<tr>
<td></td>
<td>Ignorance, religious views and personal opinions</td>
</tr>
</tbody>
</table>

general population, key populations believed they must pretend, deny or lie about their sexual identity/behaviour and (3) perceptions that healthcare workers were ill-informed about needs of key populations, and personal attitudes impacted on their care delivery: the lack of understanding of, and disrespect for, key populations by health workers resulted in experiences of poor support and provision of care during chronic illness, significantly increasing morbidity and mortality. Themes and subthemes are displayed in table 2. Example quotes are presented in the descriptions below to support each theme.

Table 1 Participants

<table>
<thead>
<tr>
<th>Focus group and interview participants</th>
<th>60</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site</td>
<td></td>
</tr>
<tr>
<td>Harare</td>
<td>17</td>
</tr>
<tr>
<td>Bulawayo</td>
<td>16</td>
</tr>
<tr>
<td>Mutare</td>
<td>15</td>
</tr>
<tr>
<td>Beitbridge/Masvingo</td>
<td>12</td>
</tr>
<tr>
<td>Age (years)</td>
<td></td>
</tr>
<tr>
<td>&lt;35</td>
<td>32</td>
</tr>
<tr>
<td>35 and over</td>
<td>27</td>
</tr>
<tr>
<td>Information not provided</td>
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<tr>
<td>Self-identified gender</td>
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</tr>
<tr>
<td>Male</td>
<td>18</td>
</tr>
<tr>
<td>Female</td>
<td>42</td>
</tr>
<tr>
<td>Ethnicity</td>
<td></td>
</tr>
<tr>
<td>Shona</td>
<td>39</td>
</tr>
<tr>
<td>Ndebele</td>
<td>16</td>
</tr>
<tr>
<td>Other</td>
<td>5</td>
</tr>
<tr>
<td>Self-identified sexual or gender identity/sex worker</td>
<td></td>
</tr>
<tr>
<td>Lesbian</td>
<td>6</td>
</tr>
<tr>
<td>Gay</td>
<td>15</td>
</tr>
<tr>
<td>Bisexual</td>
<td>3</td>
</tr>
<tr>
<td>Trans</td>
<td>2</td>
</tr>
<tr>
<td>Intersex</td>
<td>1</td>
</tr>
<tr>
<td>Sex worker</td>
<td>33</td>
</tr>
</tbody>
</table>

If you go to the clinic seeking treatment as a sex worker, the way they handle you is unpleasant even if you are explaining your problem nicely. Secondly for medication you might be given Paracetamol when they have the proper medication because they would be fixing us. They say we are doing something illegal which is prostitution so you won’t get the medication. So they won’t give you the medication when they have it.

FGSWM9 Sex worker female, 50, focus group Mutare

Participants described assessing the level of discrimination of the health worker from their manner and language, which often discouraged disclosure. Fears regarding potential reactions from healthcare professionals resulted in failure to attend the hospital for diagnosis.

I won’t go to a hospital and say I have STI. I would rather pay a doctor and get prescribed the amoxicillin or these cheap tablets instead of telling the doctor that I have an STI which I got from my boyfriend. I won’t tell him that.

FGLGB5 Gay man, 30, focus group Bulawayo

When patients did disclose their sexual orientation, attention was often diverted from health needs to inappropriate curiosity about their sexual behaviour.

We said … we are a couple. She panicked and she left. The next thing they came. Two of them. And we said yes we are a couple, we are partners and she started asking who the man in the relationship is? How do you do it? You know it just made us uncomfortable.

FGLGH8 Lesbian woman, 41, focus group Harare

The pejorative attitude of health workers led to individuals avoiding seeking healthcare.

I was ignored at the hospital because I had evidence to show that I am a sex worker which was my referral from [sex worker clinic]. They ignored me then I said I should pay of which I didn’t have any money. So I then went back home and until now I haven’t been attended.

FGSWM6 Sex worker female, 31, focus group Mutare

Experiences of stigma, discrimination, financial constraints as well as the dilemma posed by attending STI and HIV clinics with an acceptable partner, commonly resulted in late presentation for diagnosis and treatment.

I went to a pharmacist one time and I wanted [postexposure] prophylaxis … he said he needed a prescription and it was during the weekend and he told me to go to my GP and I was thinking what to tell the GP if I were to go there and how would I explain. So the weekend passed and the 72 hours were up.

FGLGB4 Gay man, 26, focus group Masvingo

Such delays in attending clinics had significant impacts on the health and well-being of these individuals.

Access to healthcare conditional on conforming to sexual norms

Assumptions made about sexuality or sexual practices make them invisible

Communication about sexual identity was limited and primarily framed in monogamous heterosexual terms. This left the onus on the patient to disclose ‘non-conformity’, knowing that doing so may change or halt treatment options. Failure to take a sexual history, even when the presenting symptom (HIV, cervical cancer, genital warts, other Sexually Transmitted Infections (STIs)) was related to sex, afforded individuals anonymity, culminating in heteronormative assumptions and ironically accessing to healthcare without judgement.

When she accompanies me, we say that we are sisters. So she would just have accompanied her sister to get her medication. They would not know what would be going on.

KIIBB2, Lesbian, 40, interview Masvingo

However, hiding sexual practice had many more negative results and disadvantages. Lesbian, gay, trans and intersex people were unspecified in HIV and health support programmes, increasing pressure for them to conceal their sexual identity to access these services. The standard procedures of treating both or all sexual partners for STIs and encouraging sexual partners to be tested together for HIV were especially challenging for key populations. Sex workers unable to produce a partner reported returning home without treatment, while some sexual minorities admitted to recruiting an acceptable proxy partner.

I could not take my girlfriend to the clinic with me and I would take any man on the road to go with me so I could get treated.

FGLGBB5 Lesbian woman, 40, focus group Masvingo

Sex workers described becoming highly mobile to escape identification, jeopardising continuity of healthcare, or concealing their profession to secure treatment.

The nurses there would go about calling you a prostitute in the wards … but I said I was a cross border trader because I was in a ward with better off people so I had to lie of what I did for a living.

FGSWHI Sex worker female, 36, focus group Harare

Conversely, one participant claimed to be a sex worker to benefit from the free treatment provided at the clinic reserved for sex workers only. There were also reports of concealing symptoms to avoid questions that may lead to
disclosure of sexual identity or sex worker status, leading to inaccurate diagnosis, inadequate treatment and often risky self-diagnosis.

Most of the times you hide what you would be feeling like. You have an STI and you end up saying you have a headache and don’t get treated properly.

FGSWB7 Sex worker female, 25, focus group Bulawayo

If you do not fit, you do not get care
Participants described health workers displaying overt discrimination against key populations, with particularly negative attitudes towards men practising anal sex. In addition, the punitive socioeconomic and legal environment acted as a tangible barrier to accessing care.

When you go [to the clinic] they say you have to report to the police. So their first target is for me to go to the police and say I am gay and I am sick and then get a letter from there and go to the clinic. But now it’s a matter of you are now a targeted person from the community you see.

FGLGH3 Trans man, 28, focus group Harare

Owing to estrangements from biological family, healthcare was ultimately provided by partners and friends from key populations groups.

They might support me morally but not financially because there’s this belief that the LGBTI community infects each other, they are reckless and their multiple partners, that you got it yourself and they will come and visit and bring fruits but for the other problems they say that I should go to my community that I say understands me, they should pay for me.

FGLGB2 Bisexual female, 24, focus group Bulawayo

Perceptions that healthcare workers were ill-informed about needs of key populations, and personal attitudes impacted on their care delivery
Compromised professional medical standards, ethics of care and accountability

Participants living with a diagnosis of advanced STI, HIV diagnosis or any other chronic illness described failing to receive anything other than basic history taking and simple treatments. Lack of knowledge and experience of working with key populations was a key driver of stigma. Health workers appeared unwilling to examine key populations for fear of possible contamination or sexual predation.

They will be afraid to touch you and will act like even your fingers are very sensitive. I don’t know. They will think that you are going to respond.

FGLGB4 Lesbian woman, 25, focus group Bulawayo

When examination did occur, participants expected healthcare professionals to make obvious their disdain.

Like if you have sores or warts on the private parts. If she treats you and looks at them without screwing her face and just looking at them with a neutral face that makes me comfortable.

FGSWH6 Sex worker, female, 37, focus group Harare

Reports of breaches of confidentiality were also common, particularly when attending local clinics.

You find that the nurses live in our communities and once you tell her that mostly the news will spread… you will go out with your friends for drinks and walk past them and they will start talking about you coming to the clinic and the reason.

FGLGB2 Bisexual female, 24, focus group Bulawayo

Ignorance, religious views and personal opinions
Participants described care being driven by personal attitudes of health workers, often based on religious beliefs. Participants perceived that health workers abused their professional role by promoting personal religious views and that prejudice against sexual minorities was often framed in moral and religious (Christian) terms.

some of them are Christians and they will want to now start preaching to you that this is not right, you should change.

FGLGB3 Lesbian, 42, focus group Bulawayo

Sex workers, however, reported better care experiences from clinics specifically focused on improving sexual reproductive health for sex workers, attributing this to well-trained health workers.

the first thing they ask me is how my work is and if we are getting money. So by that I will then feel comfortable because they know what I do for a living and they will ask if I feel ok inside or I have a problem. (FGSWBB1 Sex worker 41, focus group Beitbridge)

DISCUSSION
This was the first study undertaken in Zimbabwe to describe health-seeking behaviours and experiences of LGBTI people and contributes to the growing body of local research on sex workers. Evidence of a blame culture towards key populations by family members, health workers and society in general in Zimbabwe was described, closely reflecting stigma research results in India.28 Factors emerged hindering uptake of general health services by key populations, most important of which was the experience of stigma and discrimination from health workers. The findings from this study confirm that misconceptions, limited experience and lack of information about key populations drive fear and
prejudice. The study demonstrates how a stigmatising environment discourages early presentation, diagnosis and treatment and that an unwillingness to explore and disclose identity and sexual practice results in inaccurate information, hidden symptoms and harmful behaviour (self-treatments or continuing risk behaviours). Most participants acknowledged there were differences in care afforded to the general population and key populations. These findings are in line with a recent large international survey which found implicit preferences for heterosexual people versus gay and lesbian people by heterosexual healthcare providers.

The interview process itself was identified as an intervention, providing recognition and a voice for key populations, as well as identifying barriers to care.

Terminology in national health strategies (Zimbabwe included) refers to the principles of equity, universal healthcare and quality of health for all. However, this study identifies experiences of stigma, discrimination and refusal of care for key populations across Zimbabwe. Policymakers need to use evidence from this study to advocate for specific inclusion of LGBTI people and sex workers as key populations in health strategies as they are developed or revised. Specific health services for sexual minorities, operated along similar lines to the successful sex worker clinics and clinics for people living with HIV, may well provide a safer, more effective health environment for LGBTI people. However, the socio-political threat creates dangers for such an identifiable location and it may be more viable for support agencies to expand their network of selected ‘LGBTI-friendly’ medical practitioners.

At the service level, the need for cultural sensitivity training for healthcare professionals is well recognised and emphasised by our findings. Increased awareness of, and information about, the healthcare needs and human rights of key populations need to be woven through all health worker trainings and service implementation. For example, history taking forms can be amended to guide health workers in appropriate terminology, exploring sexual behaviours and comprehensively addressing the needs of all patients.

Finally, at a public health level, support agencies need to increase provision of resources relating to self-protection, sexual health and well-being, alongside programmes to empower key populations, and adaptation of successful campaigns addressing similar taboo topics (eg, HIV, circumcision) to demystify healthcare rights and access.

Recommendations to improve the healthcare experience of key populations, developed from our data, may be relevant in other low-income and middle-income countries that do not currently provide civil rights for these key populations.

This study had some limitations. First, despite working with support agencies, only men who identified as gay, not other MSM, were recruited, and these men may have a different experience of healthcare. As only two trans and one intersex persons were included in the sample, it is probable that specific healthcare issues experienced by gender minorities were underdescribed. However, in this context, their recruitment was a positive achievement, and addresses the criticism of many LGBTI studies not actually recruiting any trans or intersex individuals. Further research with wider representation could contribute to the limited data available on health needs among trans and intersex people in sub-Saharan Africa.

CONCLUSION

This is one of relatively few studies to describe access to and experiences of healthcare (beyond HIV and sexual health) of sex workers and sexual minorities (ie, key populations) in Africa. The findings inform recommendations to provide a safe and confidential environment that facilitates disclosure and ensures access to effective appropriate treatments. Educational programmes are needed to raise awareness, dispel myths associated with key populations, reduce stigma and enhance sensitive clinical interviewing skills. Recognition of a broader interpretation of ‘family’ and relationship configurations would ease the isolation of patients and disenfranchised partners, and increase access to care. The global health agenda must continue to ensure that the clinical and public health implications of discrimination in healthcare are addressed through research and education of clinicians. This is especially important in contexts that pose particularly strong legal barriers to equality in care such as in many countries in sub-Saharan Africa and other less affluent regions, particularly where religion more often plays a central role in people’s lives.

Handling editor Stephanie Topp.

Contributors JH conceived the study, collected and managed data. SC assisted in collecting and managing data. KB and RH provided academic scientific direction for the study (design, analysis, reporting). JH, KB and RH reviewed the coding to improve rigour and jointly drafted the manuscript. All authors agreed the final analysis and interpretation.

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Competing interests None declared.

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Provenance and peer review Not commissioned; externally peer reviewed.

Data sharing statement No additional data are available.

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Homophobia in Zimbabwe hurts the mental health of LGBTI people | D+C - Development + Cooperation

HOMOPHOBIA

“I have no place in society”

01/08/2019 – by Grace Badza

Most gays and lesbians in Zimbabwe have to hide their sexual identity. Discrimination, exclusion and violent attacks against them cause permanent fear and loneliness. Many suffer from poor mental health. A local civil-society organisation provides help, but ultimately policy must change.

Ten percent of Zimbabwe’s population are estimated to be gay or lesbian – they are simply born like this. However, only few dare to disclose their sexual orientation. Homosexuality is largely rejected by society and considered a taboo. It is misunderstood as a form of psychiatric problem (see box). Negative attitudes towards people of the LGBTI (lesbian, gay, bisexual, transsexual, intersexual) community are highly prevalent.

“They say I am the reason why the Biblical towns Sodom and Gomorrah were destroyed,” an elderly gay man recounts. “They call me an abomination with no acceptance in the Christian religion.” Another man says that he was harassed at work: “They fired me. I have no source of income anymore.” Many LGBTI people in Zimbabwe suffer from low self-esteem; they are isolated and often depressed. “I have no place in society,” a young Lesbian in Harare says. “Where do I run to?”

Most LGBTI persons give in to pressure from parents and the extended family and agree to heterosexual marriages. They are forced to live a life of deceit and lies, which is emotionally draining and leads to extreme psychological distress.

Zimbabwe is one of the least accepting countries in the world for gay, lesbian and transgender people. A 2006 revision to the country’s criminal code expanded the penalty for sodomy to include acts that “would be regarded by a reasonable person as an indecent act”. This could include two men holding hands or hugging, and it can be punished by an extended prison term.

The current Zimbabwe Criminal Law (Codification and Reform) Act makes specific sexual acts illegal, but falls short of criminalising LGBTI status. According to popular belief, however, homosexuality is a crime. An uninformed media exacerbates this attitude. Homophobic statements by government leaders contribute to a misinformed, highly discriminatory socio-political environment.

Zimbabwe is no exception. Homosexuality is outlawed in 35 African countries and punishable by death in two countries, Mauritania and Sudan, as well as in some areas of Somalia and Nigeria, according to Amnesty International.

Stigma and taboo

Homosexual persons are likely to experience violence and marginalisation due to their sexual orientation. Aggression towards them ranges from verbal abuse and bullying to social discrimination, physical violence and psychological torture.

According to a 2018 survey by the non-governmental organisation GALZ (Gays and Lesbians of Zimbabwe), 50% of gay men in Zimbabwe had been physically assaulted, and 64% had been disowned by their families. Twenty-seven percent of lesbians also reported disownment. Often, they are accused of exposing their parents to “blame and shame”.

Some families in rural areas assume that their gay son or lesbian daughter is possessed by Satan or demons. Traditional leaders evict them from their villages. A young man from western Zimbabwe, who prefers to stay anonymous, recounts that people in his village believed that “even with a handshake, I would transfer homosexuality”. The elders decided that he was unfit to stay in the community.

But even when moving to cities, LGBTI persons are not safe from discrimination. For instance, they often lose their jobs when their sexual orientation is discovered.

Another frequent problem is bad treatment by health-care workers. Hospital staff are “afraid to touch me,” recounts a gay man regarding his experience with accessing health care in Zimbabwe. “Some will even start preaching the Bible.” Consequently, LGBTI persons often shy away from seeking support from even essential physical health services.

In Zimbabwe and other African countries, it is often claimed that homosexuality is “un-African” and a deviant Western ideology. Robert Mugabe, the former president, publicly called gays “worse than dogs and pigs” in 2013 and threatened to “cut their heads off.” In this context, many law enforcers still do not respond as they should when the human rights of someone who belongs to a sexual minority is violated. They tend to be more concerned with the sexual orientation of the victim than with the crime committed.

Due to living with this stigma, people from the LGBTI community have an increased risk of mental and psychological problems. These problems range from anxiety disorders and depression to substance abuse and risky sexual behaviour.

Consequently, there are higher incidences of suicide attempts and suicide related deaths amongst men who have sex with men. Such trends are known around the world and tend to be underreported even in countries where the rights of LGBTI people are fully acknowledged. Stigma and exclusion obviously make matters worse in places where that is not the case. Civil-society activism can improve things, however.

**Counselling on gay rights**

GALZ was founded in 1990. The association provides counselling and human-rights advocacy. With a staff of 32 people, the NGO pushes for social tolerance of sexual minorities and the repeal of homophobic legislation. Its ultimate goal is to obtain psychological, socio-economic and legal justice for LGBTI people in Zimbabwe.
In September 2018, three GALZ counselling drop-in centres were established in the cities of Harare, Mutare and Masvingo, all financed by the Global Fund. Many clients come with signs of depression, suicidal tendencies, paranoia, anxiety and other related challenges. Psychiatric assessments are conducted. To the extent possible, people are given advice at the centre. Counselling therapy sessions can be conducted individually, with couples, or for families or groups. In cases of particularly severe suffering, patients are referred to specialists. Workshops on mental and psychological health of sexual minorities are also offered. GALZ staff follows up with community visits to check on the progress of the LGBTI clients.

A substantial number migrate to neighbouring countries like South Africa, Botswana or Namibia, where the environment is more open and tolerant. However, a lot of them have to engage in sex work to survive.

There is a need for cultural sensitivity training and public health strategies to reduce stigma and to improve access to health care for key populations, focusing on their mental and psychological health. Zimbabwe must finally protect LGBTI persons from discrimination in line with the Yogyakarta principles, a set of rules on the application of international human-rights law in relation to sexual orientation and gender identity.

Links

Gays and Lesbians of Zimbabwe (GALZ):
https://galz.org/

Yogyakarta Principles:
http://yogyakartaprinciples.org/principles-en/about-the-yogyakarta-principles/

Grace Badza is a counselling psychologist for Gays and Lesbians of Zimbabwe (GALZ). She lives in Harare, Zimbabwe.
grace.badza@galz.co
EDUCATION
Girls’ school enrolment figures are good in Bangladesh, but dropout rates are worrying

HUMAN RIGHTS
Pakistan violates rights of internally displaced people
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A teacher in a **Zimbabwean boys’ school** has resigned after coming out as gay to his students.

Deputy head of **St John's College** sixth form in Harare, **Neal Hovelmeier**, was forced to come out in a school assembly. The school's chairman claimed that a Zimbabwean newspaper was planning to out him.

However, as homosexuality is illegal in the country, some parents threatened legal action. Others sent death threats.
In a resignation letter quoted by the BBC, the teacher wrote: ‘I have come to realize that my current position as deputy headmaster is untenable.’

**Helping gay and bisexual children**

Also, he added that he would not subject himself to a ‘sham trial’. The teacher then revealed he suffered ‘threats of physical danger to myself and my pets.’

Neal Hovelmeier originally stated he came out to his pupils via an assembly to help students suffering from homophobia. He said that past students came forward to reveal how they were subjected to abuse as kids.

In a statement released by the school, the former deputy head wrote: ‘I have felt increasingly troubled by the fact that we as an institution have never openly dealt with trying to curb homophobic behavior and, equally, failed to provide a safe learning experience for students who may identify as being gay or bisexual to truly flourish and feel accepted.

‘I simply feel and believe that as an educator I will be able to better address and advance this issue if I am prepared to be fully and open and transparent about it myself.’

**Zimbabwe’s stance on LGBTI rights**

Male same-sex sexuality has been illegal since 1891 in Zimbabwe after British colonial law. Long-time ruler Robert Mugabe propagated these rules throughout his rule. He called gay people ‘filthy’ and said the country would ‘never, never, never’ decriminalize homosexual relations.

**More from Gay Star News:**

New Zimbabwe President says he won't legalize gay sex

LGBTI groups celebrate end of Mugabe’s reign in Zimbabwe

Emmerson Mnangagwa is the anti-gay ‘crocodile’ that is now Zimbabwe’s leader

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*Apologies to iOS and Safari users, but you may be unable to comment due to an ongoing issue with Facebook.*
Gay Zimbabwean teacher resigns after death threats from parents

Mark Daniel Cross
What a courageous man. May time will vindicate his bravery and sacrifice, and I hope he helped encourage someone who felt isolated.

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TAB
31
Zimbabwe’s LGBTI rights group, GALZ, has released a troubling report that analyses trends emerging from the violations of LGBTI people’s rights in the country between 2012 to 2017.

The Analysis of Human Rights Violations Against LGBTI Persons in Zimbabwe report draws data from a total of 170 violations extracted from 104 actual cases compiled and categorized by GALZ into 12 types.

The 12 recorded categories were assault, threats, outing, discrimination, police harassment, unlawful detention, disownment, blackmail, displacement, unfair labour practice, hate speech and invasion of privacy.

The report showed that of these recorded categories, the most common violations were assault (19%), threats (15%), blackmail (15%) and being outing (11%). The study also found that the country’s government was “a key actor in influencing change in terms of how issues of sexual orientation and gender identity are addressed both at state level and among the ordinary
Zimbabweans.

The analysis noted that gay men were predominantly the main targets in the recorded categories. Sixty-one percent of gay men were targets of these violations, compared to one percent of bisexual individuals.

The study does, however, acknowledge: “It is difficult to confirm, with certainty, the reason for this distribution, though it is generally believed that gays and lesbians represent the greatest proportion of the LGBTI community in Zimbabwe. At the same time, it also plausible to conclude that this could be the function of vulnerability on the part of these particular LGBTI subgroups.”

In terms of the most common and highest recorded form of violation (assault), about 50% of gay men said they had been assaulted. The instances of assault took place at various settings, though mostly in public spaces such as bars, commuter taxi ranks or gatherings. Vulnerability to assault was greatest where LGBTI people are in the presence of a crowd.

Disownment of an LGBTI person by their family after they had been outed accounted for 7% of all recorded violations. Sixty-four percent of gay men said they were disowned by their relatives after being outed to them, followed by lesbian individuals at 27%.

The highest number of police harassment and detention cases were recorded in the 2012-13 violations reports, totaling 25. Forty-two percent of recorded cases were from gay men who were targets of police violation. Transgender people were also significant targets of police harassment (25%). The analysis observed that police officers had the tendency of “taking the law into their own hands”, verbally and physically attacking LGBTI persons. Such occurrences were recorded as happening at police stations while the complainants were in custody and in public spaces.

The report noted a steady rise in the figures of recorded cases between 2012 and 2014 and a slump in the succeeding two years, 2015 to 2017. “Gay men fell victim the most to threats, though however this is also proportionate to their larger numbers of recorded cases relative to other gender identities. On the other hand, transgender men and women – though with fewer recorded cases in the period under review – were victim to the second highest number on threats,” the study said.
When it comes to the Zimbabwean media’s coverage of LGBTI issues, the report found that sensationalist headlines and biased perspectives were all too common. It observed “that government owned media has tended to report more negatively about issues relating LGBTI persons compared to the privately owned media, which seemed to be more tolerant and objective in their reportage.”

The study concludes that it reflects “a less than satisfactory picture of the LGBTI situation in the country” and noted that, “the number of violations is just the tip of the iceberg in relation to the many other incidences that are taking place unreported within the communities where LGBTI persons live.”

The report includes a series of recommendations for the government, the police, Zimbabwe human rights bodies, the families of LGBTI people and members of the community themselves. These range from ensuring that the law is not used to target LGBTI people and for victims of abuse to report incidents to the authorities.

“We want to continue to generate evidence of the violations that the community faces [so] that our advocacy is backed by evidence,” GALZ Director Chester Samba told Mambaonline. “Creating this evidence ensures that policymakers and institutions such as the Zimbabwe Human Rights Commission can also take note of the violations that are experienced by LGBTI people.”

Zimbabwe’s 2013 Constitution bans same-sex marriage but does otherwise provide protections of civil liberties and human rights, at least in theory. Laws criminalising homosexuality, with penalties of up to three years in jail, remain on the statute books and have yet to be challenged in court as unconstitutional.

Under homophobic former President Robert Mugabe’s 37 year rule, members of Zimbabwe’s LGBTI community were subjected to ongoing abuse and crackdowns. Since Mugabe’s forced resignation in November last year there have been some encouraging developments, including a recent meeting between the governing Zanu-PF party and GALZ.

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Polls

Do you still go to gay bars and gay nightclubs?

- All the time. It's my second home!
- Often. I like to be among my own.
- Sometimes. It's good to feel welcome.
- Occasionally. I like to pop in.
- Almost never. I prefer mixed places.
- Very rarely. I hang out at straight venues.
- Nope, I prefer to meet guys online.
- I wish, but there are none near me.

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New Zimbabwe President says he won’t legalize gay sex

President Mugabe’s successor, Emmerson Mnangagwa says it is not his duty to do anything for LGBTI rights

The new President of Zimbabwe, Emmerson Mnangagwa, has dashed the hopes of local LGBTI advocates. He has stated that he has little intention of making life easier for LGBTI people in the country.

Mnangagwa, 75, recently replaced Robert Mugabe, who had ruled Zimbabwe for 37 years.

The new President took part in an interview with CNN in Davos, Switzerland. The Swiss town is currently playing host to the annual World Economic Forum. Leaders from all over the world are attending: US President
Trump is due to arrive later today.

Mnangagwa told CNN’s Richard Quest of his determination to bring an end to corruption in his country. He said Zimbabwe is now ‘open for business.’

However, Quest then pressed him on whether he would do anything to advance LGBT rights in the country.

‘Those people who want it are the people who should canvass for it, but it’s not my duty to campaign for this.’

Asked specifically if he would end the country’s ban on gay sex, he replied: ‘In our constitution it is banned – and it is my duty to obey my constitution.’

Zimbabwe and LGBTI rights

Male same-sex sexual activity has been illegal in Zimbabwe since 1891. Robert Mugabe was notorious for his staunchly homophobic views. He called gay people ‘filthy’ and said the country would ‘never, never, never’ decriminalize homosexual relations.

Emmerson Mnangagwa took over from Mugabe in November, after rising to become leader of the ruling ZANU-PF party.

Edwin Sesange, African LGBTI rights advocate, told GSN, ‘It is time for President Mnangagwa to prove to ordinary Zimbabwean and the world at large that he is different from despotic Mugabe by vowing to protect all persons irrespective of their sexuality and gender.

‘The laws prohibiting same sex relationships are colonial hangover that should be abolished by independent countries. President Mnangwa should defend the right to non-discrimination as stipulated in the Zimbabwean constitution.’

H/T: CNN

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New Zimbabwe President says he won’t legalize gay sex

https://www.gaystarnews.com/article/mnangagwa-zimbabwe-president/
President Mnangagwa: 'Zimbabwe is open for business'

By Richard Quest and Sheena McKenzie, CNN

Updated 1534 GMT (2334 HKT) January 24, 2018

Davos, Switzerland (CNN) — Zimbabwe President Emmerson Mnangagwa said the country was "open for business" after almost four decades of oppressive rule by former leader Robert Mugabe.

Mnangagwa, who took the top job in November following Mugabe's dramatic resignation, said his priority now was embracing the international economy and modernizing infrastructure, in an interview with CNN's Richard Quest at the World Economic Forum in Davos on Wednesday.

Mnangagwa pledged "zero tolerance on corruption" and said he was "doing everything possible to deal with our debts."

Asked whether people could trust the word of a man who worked closely with Mugabe for more than five decades, Mnangagwa said, "Those who want to live in the past can continue to live in the past. But those who want to see the future, where we are going, can look at what we are doing."

Independent monitors at 2018 elections

Striking a conciliatory tone on his relationship with Mugabe, Mnangagwa did not rule out the previous leader's family having a role in the future of Zimbabwe.

"The family, the children, are citizens of Zimbabwe and they have every right like any other citizen," he said. "If they commit
any crime or any corruption they will be dealt with."

Mugabe's firing of then-vice president Mnangagwa in early November, in an apparent attempt to clear a path for his wife Grace to succeed him, set in motion a military takeover and ultimately the president's resignation.

Mnangagwa said Zimbabweans will have "fair and free" elections when they next go to the polls later this year.

Unlike his predecessor, Mnangagwa said independent international monitors would be present.

**Related Article: Will Zimbabwe’s new President actually bring change?**

**Compensation on land reform**

The president also said compensation would be paid for developments on property seized by the government in controversial land reforms. However, he added, "we will not pay anything on the land itself."

Under Mugabe's program of land reform, forced land seizures from white farmers resulted in widespread poverty and adopt the US dollar.

"We don't regret the actions we took," Mnangagwa told CNN, adding that violence was used in "some instances."

"We fought a war of liberation for more than 15 years to regain our land -- it was a situation where 1% of the population owned 75% of the land."

**Gay rights not changing any time soon**

Same-sex marriage is banned in Zimbabwe, and that doesn't appear to be changing any time soon under Mnangagwa's leadership.

"Those people who want it are the people who should canvass for it, but it's not my duty to campaign for this," he said.

"In our constitution it is banned -- and it is my duty to obey my constitution."

**Can Mnangagwa deliver a new-look economy?**

Mugabe's resignation marked the end of an era in Zimbabwe. The 93-year-old ruled the country with an iron fist for 37 years and was the only leader the nation has known since it achieved independence from Britain in 1980.

Zimbabwe was once the breadbasket of Africa, but under Mugabe's policies the economy was left in ruins. Zimbabweans have suffered under industrial mismanagement, food shortages, a collapsed currency and widespread corruption.

Corruption is a subject close to the hearts of the people, who had watched Mugabe live an extravagant lifestyle for decades as the country struggled with food shortages and poverty.

But with Mnangagwa accused of orchestrating some of Mugabe's most ruthless policies and actions, there is a sense
Who is the man they call 'The Crocodile'?

Mnangagwa is known as "The Crocodile" for his political cunning and longevity and is among the country's combat-hardened veterans of the struggle for liberation from white-minority rule.

His background and experience are almost entirely hitched to Mugabe's career. He was Mugabe's closest aide for much of his career and presided over some of the leader's most ruthless actions.

Mnangagwa was the country's spy chief in the 1980s when a campaign of terror was unleashed by the North Korean-trained Fifth Brigade against political opponents and civilians, in which thousands were killed. Mnangagwa has denied involvement and blamed the army.

He is at the center of Zimbabwe's cluster of power, with strong backing from the country's elite and the military, but it is unclear whether he will be able to win the hearts of the people and be victorious in an election.

CNN's David McKenzie, Euan McKirdy, Faith Karimi and Angela Dewan contributed to this report.
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Emmerson Mnangagwa is the anti-gay 'crocodile' that is now Zimbabwe's leader

The recently sacked VP Emmerson Mnangagwa is set to take the presidency in Zimbabwe

Emmerson Mnangagwa has been a leading figure in Zimbabwe politics since the 1970 war | Photo: Facebook

21 November 2017  14:27 GMT  Jamie Wareham

The recently sacked VP Emmerson Mnangagwa is taking up the presidency in Zimbabwe following a military coup ousting anti-gay despot Robert Mugabe.

But, until Mugabe fired Mnangagwa as vice president earlier this month – his entire political career was reliant on aligning himself with the president.
Before the President resigned Tuesday, Mnangagwa had been urging Mugabe to quit from an undisclosed location in exile:

‘The people of Zimbabwe have spoken with one voice and it is my appeal to President Mugabe that he should take heed of this clarion call and resign forthwith so that the country can move forward and preserve his legacy’

Mnangagwa left Zimbabwe just weeks ago fleeing what he believes was a plot to kill him. In his statement, he reflected:

‘Given the events that followed my dismissal I cannot trust my life in President Mugabe’s hands.’

The ruling Zanu-PF party had begun impeaching Mugabe in parliament on Tuesday to remove Mugabe as president. It’s after the embattled President did not resign in a speech on Sunday.

However just hours into the debate in Zimbabwe’s parliament, Mugabe resigned to jubilant and extraordinary scenes in the country’s capital Harare.

This bizarre turn of events opened the path for Mnangagwa to take over, so what will it mean for gay rights in Zimbabwe?

Who is Emmerson Mnangagwa?

Mnangagwa created a resilience group which got him the nickname the ‘crocodile’. It’s a name he proudly wears.

His faction in the Zanu-PF party has the name ‘Lacoste’. He had military training in China and Egypt and was a leading force in the country’s 1970s war of independence.

Many who were part of the war, have long been leading figures in the country’s leadership since. Mnangagwa himself was a close ally to Mugabe until he lost his job in the regime last month.

An action that alongside rumors swirling that Robert Mugabe’s wife Grace might succeed her husband – are thought to have inspired the coup.

Moreover, Mnangagwa has long been a key link between the army, intelligence agencies, and Zanu-PF party, according to the BBC.

What is his record on gay rights?

In Zimbabwe, male gay sex is illegal.

Defined as ‘sodomy’ the country’s law bans: ‘unlawful and intentional sexual relations per anum between two human males.’

It is also impossible for people to legally change their gender.

As recently as 2016 Mnangagwa led the way in rejecting gay rights calls from the UN.

In an interview with The Herald Mnangagwa said Zimbabwe had shot down the recommendations:
'With regards to areas that we felt we would not accept, it is issues of gays and homosexuality, which is unlawful in our country.

'We rejected all those. There are a few countries from Europe which recommended that we reconsider our position with regard to adults of the same sex marrying each other. That we have rejected.'

A Rainbow International Fund spokesperson tells Gay Star News:

'We do not expect any immediate change to this position if Mnangagwa replaces Mugabe as President.'

'But we hope that he will modify his views and show real leadership and uphold human rights for LGBT Zimbabweans in the future.'

**Mugabe’s ‘Legacy’**

Mnangagwa takes the presidency after being part of the corrupt Mugabe regime.

During that time, Mugabe is well known for vocally spreading hateful messages about LGBTI people.

In 2013, he promised hell for gay and lesbians if he was re-elected. In the same speech, he said gay people should also ‘rot in jail.’

Not to mention, he also previously threatened to cut gay people’s heads off, as well as saying ‘filthy gays destroy nations.’

An Amnesty International representative tells GSN:

‘Mugabe’s uncompromising opposition to LGBTI rights saw security forces carry out numerous raids. These arrests were targeting LGBTI activists, though none were ever convicted.

‘Across Zimbabwe, studies show that rates of adolescent pregnancy and HIV are increasing. This is because of declining rates of knowledge related to sexual and reproductive health.’

**More from Gay Star News:**
What is Zimbabwe’s Emmerson Mnangagwa’s record on gay rights?

[https://www.gaystarnews.com/article/zimbabwe-emmerson-mnangagwa-anti-gay-record/]

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What is Zimbabwe's Emmerson Mnangagwa's record on gay rights?

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WASHINGTON - Trymore “Tiara” Gendi of Zimbabwe clearly remembers the moment her life changed forever. In 2008, at age 16, she was outed as being gay to her family by a friend. Gendi, who was born a male but identifies as female, returned home to find her mother devastated by the news.

“My mom was like, sitting on the floor with rat poison in her hand, crying and saying, ‘I am going to kill myself, saying, I will not have a gay son, I am going to kill myself’ that's how I was outed,” she said.

Gendi’s parents eventually grew to accept her, but that was not the case with society at large. Pictures of her dressed in a wig and high heels began circulating, and people in her neighborhood responded with violence.

“People started gathering around discussing what they are going to do to me. I was hiding for days, but people knew that I was still around,” Gendi said. “So they went and told my friend, ‘We don't want to see him in this neighborhood, and the next day that we are going to see him, we are going to put wire on fire for three days and that's what we are going to use to beat him up until the gay could get out of him.’"
Before being injured, Gendi was rescued and taken out of the neighborhood by local LGBT activists who kept her safe in hiding for months.

Gendi’s story is not unusual. Zimbabwe is one of the least accepting countries in the world for gay, lesbian and transgender people. A 2006 revision to the country's criminal code expands the penalty for sodomy to include acts that “would be regarded by a reasonable person as an indecent act.” This could include two men holding hands, hugging or kissing and could carry an extended prison term.

And Zimbabwe is not alone. Homosexuality is outlawed in 35 African countries and punishable by death in two countries, Mauritania and Sudan, as well as in areas of Somalia and Nigeria, according to Amnesty International U.K.

Catch-22

Strict laws against homosexuality are embraced by Zimbabwe's longtime head of state, the 92-year-old Robert Mugabe, who has compared gays to animals. During a 2015 speech at the U.N. General Assembly he lashed out at the world body for trying to force gay rights reforms on Zimbabwe.

"We equally reject attempts to prescribe new rights that are contrary to our norms, values, traditions and beliefs. We are not gays,” he said. “Cooperation and respect for each other will advance the cause of human rights worldwide. Confrontation, vilification and double standards will not.”

Gay rights advocates in Zimbabwe say the laws in the country present something of a Catch-22 for the LGBT community. While it is not technically illegal to be gay in Zimbabwe, it is illegal to act on it.

“There is no law that states that one cannot be gay. It only becomes a crime once you start committing homosexual acts in public,” said Mojalifa Mokwele, a gay rights activist in Zimbabwe. “If you take a look at the constitution in Zimbabwe, it is not a crime to stand in the streets and publicly state that he or
she is homosexual. It is not illegal to be gay in Zimbabwe. Being homosexual is only regarded criminal in Zimbabwe once you publicly commit homosexual acts.”

The heated rhetoric and misunderstanding can lead to violence. In 2014, armed men stormed a gathering of the group Gays and Lesbians of Zimbabwe and left 35 injured.

Frank Malaba, a gay Zimbabwean living in South Africa said homosexuality in the country is so culturally taboo that people simply cannot come to grips with it.

“There are a few things that make people frown upon homosexuals, the main one being people do not understand how a man or a woman is capable of being sexually attracted to someone of the same gender,” he said. “At times a person is just born that way, but people just can not grasp that idea, hence it's not something we're taught about in our homes.”

But Mokwele said that attitude is changing among the young generation. “There is still hope that change will come. The youth who are the leaders of tomorrow are a lot more accepting and understanding,” he said. “Our current leaders are old and they don't understand, neither do they respect the concept of human rights."

'Our own places'

Today Gendi lives in the U.S. and does research and outreach for an organization called the Transgender Research Education, Advocacy and Training (TREAT). In 2016 she was named a Mandela Washington Fellow, a program launched by President Barack Obama to give future African leaders the chance to study in the U.S. Gendi studied at Wagner University in New York.

Gendi said the LGBT community in Zimbabwe endures despite many hardships, and members lean on one another for strength.
“While there are all these challenges, the LGBT community has always been able to stay together and be there for each other on the ground, so for me that it is a positive thing to see,” she said. “While we still face all these harassments, at the end of the day we have our own places that we can claim, meet up, discuss and share our tragedies and share our joys as well. It's so unfortunate that we can't share our tragedies and our joys with the broader country and the world at large.”

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**UN Creates LGBT Expert Post Despite Objections**

An attempt to block creation of an independent expert to challenge violence and discrimination directed at homosexuals and other persons based on gender identity failed Monday in the U.N. General Assembly human rights committee. African states, led by Botswana, retroactively sought to block the work of Vitit Muntarbhorn, whose mandate came into effect on November 1 as the first U.N. Independent Expert on the Protection against Violence and Discrimination based on...

By Margaret Besheer
Mon, 11/21/2016 - 15:25

**Africa**

**21st World AIDS Summit Opens in South Africa**

Thousands of researchers, activists and donors have opened a global AIDS conference in South Africa, to share ideas about the best ways to treat and prevent the disease. The five-day conference has drawn more than 18,000 attendees, including actress Charlize Theron, Britain's Prince Harry and U.N. Secretary-General Ban Ki-moon. In a speech at the
opening of the conference in Durban, Theron said it is sad that the...

Africa

US Envoy Sees 'Seeds of Hope' for Gay Rights in Africa

Southern Africa is moving toward greater acceptance of sexual and gender minorities, though there is still a long way to go, the United States' first special envoy for the rights of lesbian, gay, bisexual and transgender people said Wednesday. Randy Berry, an openly gay senior U.S. diplomat, was speaking at the end of a 10-day visit to Malawi, Namibia, Botswana and South Africa, one year after his appointment. "I believe in all of these countries, there are seeds...
TAB
36
Zim govt’s same-sex marriages lie exposed

Zimbabwe early this month appeared before the Universal Periodic Review meeting of the United Nations Human Rights Council in Geneva, Switzerland, where the country’s human rights record came under scrutiny. The delegation, led by Vice-President Emmerson Mnangagwa was also quizzed about the abuse of the lesbians, gays, bisexual transgender and intersex (LGBT) community.

the big interview BY BLESSED MHLANGA

Mnangagwa claimed the government had rejected proposals by some European countries to allow same-sex marriages in exchange for budgetary support, but Chester Samba (CS) the director of the Gays and Lesbians Association of Zimbabwe (Galz) told our reporter Blessed Mhlanga (BM) in a wide-ranging interview that the VP’s claims were not true. Below are excerpts of the interview.

BM: After the United Nations’ Human Rights Council Universal Periodic Review (UPR) process, the Zimbabwean government delegation claimed it had rejected demands that the country must legalise same-sex marriages in exchange for foreign aid. Were these reports a true reflection of what happened in Geneva?

CS: The Zimbabwe government’s assertion that Zimbabwe was asked to legalise same-sex marriages are an inaccurate report of the UPR process of the recommendations targeting LGBTI people that were put to Zimbabwe.

Of the 10 countries that gave recommendations to Zimbabwe around LGBTI issues, the recommendations focused on discrimination, criminalisation of same-sex conduct and addressing stigma. Galz and the Sexual Rights Centre made recommendations to repeal section 73 of the Criminal Code and Reform Act, 2006 (Chapter 9:23), to ensure that same-sex activity between consenting adults is not subject to criminal sanctions. We also called upon Zimbabwe to create measures to protect the economic, social and cultural rights of the LGBTI community, including access to healthcare, employment, housing and education and a repeal of the Public order Security Act and Access to Information and Protection of Privacy Act to protect freedom of expression, association, petition, peaceful demonstration and assembly and to discontinue restrictions on LGBTI and sex work advocacy.

BM: What was Galz’s agenda in Geneva and do you think you achieved the goals you had set yourselves?

CS: Our agenda was to appraise the NGO delegation and the Human rights Commission on the human rights situation of LGBTI individuals since Zimbabwe’s first review in 2011.

We demonstrated through fact that Zimbabwe’s treatment of its LGBTI community directly contradicts its commitment to the preservation of equal rights and principles of non-discrimination as enshrined in the constitution that guarantees, among other rights, “all persons are equal before the law and
have the right to equal protection and benefit of the law,” and that “every person has the right not to be treated in an unfairly discriminatory manner on such grounds as their… sex, gender,…or social status”.

Galz highlighted how the refusal by some duty bearers and policymakers to engage with and rectify Zimbabwe’s flagrantly negative approach to basic human rights for LGBTI individuals causes public intolerance to become deeply ingrained in the Zimbabwean community and reinforces the general stigmatisation of sexual minorities in society.

Finally, we proved that Zimbabwe has failed to protect LGBTI individuals from numerous human rights abuses within its jurisdiction. By directly curtailing fundamental rights through state action, by allowing others to abuse the fundamental rights of the LGBTI community with impunity, and by not protecting sexual minorities from discrimination or guaranteeing their equal protection under law, Zimbabwe was in direct violation of both its own constitution and its international human rights treaty obligations. We achieved the goals we had set as demonstrated by the resultant recommendations that were given to Zimbabwe and the 10 or more states that also highlighted the plight of our community.

BM: Do you think LGBTI rights are regarded as human rights in Zimbabwe and if not so, what are you doing to change people’s attitudes and perceptions?

CS: Zimbabwe is violating many of the fundamental human rights of LGBTI individuals within its jurisdiction. We hold the view that there are no LGBTI rights. however, the general human rights as they apply to LGBTI people would be more appropriate as looking at it as LGBTI rights is a little misleading as it suggests a rights regiment for LGBTIs that is different from all other rights holders. This is not the case as LBGTIs are subject to the same rights and duties as every other citizen in Zimbabwe. The Constitution generally does not distinguish citizens on the basis of sexual orientation or preference. The only such distinction is with respect to marriage. The extent to which the generality of Zimbabweans enjoy their human rights could be measured by how Zimbabwe treats its minorities.

BM: You are on record saying same-sex marriages are no longer on the agenda for the LGBTI community in Zimbabwe. What informed this stance?

CS: Galz maintains that same-sex marriage is not on the agenda and not even something we are considering, at least at this stage. Government propaganda continues to foist this agenda on us.

We still suffer from basic humiliations such as the criminalisation of sexual acts between men and vitriolic verbal attacks and ridicule from our national leaders. We also share all the major problems faced by the majority of Zimbabweans when it comes to the curtailment of fundamental rights and freedoms, including the right to receive and impart information, the right to work and the rights to health and freedom from fear and poverty.

BM: Besides the legal hurdles, do you think ordinary Zimbabweans would support same-sex marriages?
CS: Zimbabwe is generally conservative, hence the issue of same sex marriage is one that is meant to shut down debate or conversations around human rights abuses which threaten our safety, our livelihoods and our lives. It would be premature for us to table marriage when we still suffer from basic humiliations such as the criminalisation of sexual acts between men and vitriolic verbal attacks and ridicule from our national leaders.

BM: What are some of the main challenges facing the LGBTI community in Zimbabwe?

CS: The criminalisation of same-sex conduct is a major challenge to the LGBTI community, specifically the strict sodomy laws, including the more expansive prohibition and criminalisation of any activity perceived as homosexual in nature. LGBTI individuals also experience arbitrary detention by authorities at a disproportionate rate simply due to their identity as sexual minorities.

While some examples of detention may not be a result of laws directly criminalising same sex activity, many other instances of Zimbabwe’s arbitrary detention of LGBTI individuals are a result of the adverse consequence of the highly stigmatised and discriminatory environment which these laws create.

There have been a number of reports citing incidents of violence against LGBTI persons. In many cases, the violence in question is perpetrated directly by state actors. Just in the last few years, there have been multiple reported instances where LGBTI individuals in Zimbabwe have been physically assaulted by police officers while in police custody. The state also allows violence to occur against LGBTI individuals with impunity. A number of violent incidents have occurred against LGBTI individuals either in social settings, such as neighbourhood bars, or after having their sexual orientation revealed to family members.

Extortion with impunity against LGBTI individuals in Zimbabwe has been documented on both a state-based and privatised level. Extortion has taken the form of demands for money, personal belongings, or other valuables in order to keep the blackmailer silent. LGBTI individuals often succumb to such extortions due to fear of being discriminated against, being disowned by their family, or being faced with the possibility of criminal charges due to Section 73 or other relevant laws which discriminate against LGBTI people.

LGBTI individuals in Zimbabwe are also experiencing violations of their economic, social, and cultural rights. Many LGBTI individuals have found themselves treated poorly when visiting public health institutions, therefore making it difficult for them to seek out and receive healthcare. Numerous LGBTI individuals have reported having their employment discontinued after supervisors and colleagues discovered their sexual orientation. The LGBTI population in Zimbabwe has reported high rates of eviction and homelessness on account of landlords or families discovering their sexual orientation. LGBTI persons in Zimbabwe have reported expulsions due to their sexual orientation or gender identity at both secondary and tertiary education levels; even without expulsion, many LGBTI individuals withdraw from school at an early age due to the effects of discrimination.
Lastly, we are affected by restrictions on association, expression and assembly, Zimbabwe's government has persistently obstructed human rights organisations from standing up for the rights of LGBTI individuals.

BM: How would you describe Galz membership? how big is the LGBTI population in Zimbabwe?

CS: Galz only serves a portion of the LGBTI population in this country owing to the challenges highlighted earlier. we have an annual reach of up to 5 000 community members nationally. Of those we reach, these can be identified as the ones that are bold enough to make contact with us. there remains a larger population that remains unserviced. it is difficult for LGBTI people to come out and seek services from organisation like Galz because the political and social contexts pose a great risk to their existence, hence many have been forced into silence and into hiding, mainly due to fear.

BM: There have been claims that some politicians who bash gays during the day are your members. Is there any truth in that?

CS: I would not know of these politicians and would care any less if there are gays in government. I am concerned at the politicisation of homosexuality where politicians target gullible voters as they try to divert attention from the challenges affecting Zimbabwe such as the economy, poverty and unemployment with meaningless social issues that play on prejudices and fears such as gays in government.

Politicians have mastered that labelling someone gay in a very homophobic society is enough to silence critics and continue the rage with total disregard of the impact that this rhetoric has on the LGBTI community itself. There is a marked difference from Galz of 20 years ago when the state was after gays and lesbians; the change now is that the LGBTIs are not the direct target, but are being used as an instrument by politicians.

BM: Men having sex with men (MSM) are considered to be some of the high risk populations when it comes to HIV and Aids. Can you illustrate to us the extent of this problem?

CS: Zimbabwe now acknowledges that men who have sex with men are at a higher risk of HIV, hence they are a key population in government’s efforts to reduce HIV transmission. The Zimbabwe National Aids strategic Plan attempts on paper to seek to address this gap in programming in an effort to ensure Zimbabwe meets its own and the global targets around HIV. Galz has carried out studies that prove that there is a great risk of HIV in MSM as well as in women who have sex with women. We still continue to lobby government to undertake more research with our communities to effectively address HIV and to have data that can inform their programming efforts.

BM: Are your members included in government's HIV prevention and management programmes?

CS: The government under the Global fund-supported programme has carried out nationwide sensitisation of healthcare workers on the needs of our community and how they can better serve LGBTI patients, as well as availing commodities for our community, although we feel that more can and should be done in working with key populations in Zimbabwe.
BM: As leader of the LGBTI community in Zimbabwe, what are some of the changes you would like to see in the country, be they legal or societal?

CS: I Zimbabwe to improve the lives of LGBTI citizens and end the systematic persecution of LGBTI people through discriminatory laws and practices, including allowing others to also violate the rights of the LGBTI community with impunity.

* An end to the arbitrary arrest and detention of sexual minorities, including an end to various acts of violence that are committed by both state actors and others that the state allows to act with impunity.

* Zimbabwe to uphold the human rights of all citizens, including that of freedom of expression, association, and assembly.

* And most importantly to decriminalise same-sex conduct — which provides direct and indirect justification for all of the other rights violations.

BM: The hostility by the government led by President Robert Mugabe who describes gays as worse than dogs and pigs has driven some of your members underground. What are some of the dangers posed by such a scenario?

CS: As already highlighted, the violent homophobic language used by politicians from both major political parties exacerbates the general stigma against gays and lesbians in the community. Political leaders must cease making statements that in any way vilify, dehumanise, abuse, or slander LGBTI individuals.

As Zimbabweans, we are well-placed because of our colonial past to understand the mechanisms of prejudice and oppression. How much suffering would have been avoided if the Rhodesian regime had accepted what is self-evident — that discrimination on the basis of race can never be justified. How much suffering can now be avoided if people can be made aware that discrimination on the basis of sexual orientation can likewise never be justified and that such discrimination is a violation of one’s basic human rights.