

**Flygtningenævnets baggrundsmateriale**

|                                 |                                                                                      |
|---------------------------------|--------------------------------------------------------------------------------------|
| <b>Bilagsnr.:</b>               | <b>125</b>                                                                           |
| Land:                           | Diverse emner                                                                        |
| Kilde:                          | UK Foreign and Commonwealth office                                                   |
| Titel:                          | Human Rights and Democracy. The 2013 Foreign & Commonwealth Office Report – Zimbabwe |
| Udgivet:                        | 10. april 2013                                                                       |
| Optaget på baggrundsmaterialet: | 27. august 2014                                                                      |

[EN](#) | [DE](#)

- **Source:**  
FCO - UK Foreign and Commonwealth Office
- **Title:**  
Human Rights and Democracy Report 2013 - Section XI: Human Rights in Countries of Concern - Zimbabwe
- **Publication date:**  
10 April 2014
- **ecoi.net summary:** Annual report on human rights situation in 2013 (developments and concerns) [ID 273736]
- **Countries:**  
Zimbabwe
- **Original link** <https://www.gov.uk/government/publications/zimbabwe-country-of-concern/zimbabwe-country-of-concern>

**Recommended citation:**

FCO - UK Foreign and Commonwealth Office: Human Rights and Democracy Report 2013 - Section XI: Human Rights in Countries of Concern - Zimbabwe, 10 April 2014 (available at ecoi.net)  
[http://www.ecoi.net/local\\_link/273736/389500\\_en.html](http://www.ecoi.net/local_link/273736/389500_en.html) (accessed 30 April 2014)



Foreign &  
Commonwealth  
Office

## Human Rights and Democracy Report 2013 - Section XI: Human Rights in Countries of Concern - Zimbabwe

The human rights situation in Zimbabwe remained relatively stable throughout 2013, with a slight improvement on previous years. Zimbabwe Peace Project reported fewer than 5,000 cases of politically motivated human rights violations between January to November 2013. This compares to 5,096 in 2012, and 10,188 in 2011, 10,703 in 2010, 14,725 in 2009, and a peak of 23,755 cases recorded for 2008. Levels of politically motivated human rights violations have continued on a downward trajectory throughout the country.

However, serious concerns remain, including political violence, and harassment of political opposition, journalists, judges and human rights defenders (HRDs). Many international human rights indicators still rank Zimbabwe amongst the worst countries in the world in terms of civil liberties, political rights and press freedoms. Since the elections in July, the government of Zimbabwe has made little progress towards reforming the human rights environment. There appears to be a lack of political will from the ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF) to implement key agreed reforms under the previous Global Political Agreement, which would allow for long-term legislative and institutional change.

In 2013, the UK Government continued to pursue our policy of supporting the aspirations of the Zimbabwean people for a more democratic, stable and prosperous Zimbabwe. The British Embassy in Harare has worked closely with NGOs, HRDs, the EU, other diplomatic missions and development agencies to monitor the human rights situation and coordinate development assistance. In addition, the UK Government has collectively allocated £2.2 million to human rights and conflict prevention projects in Zimbabwe via the Africa Conflict Prevention Pool programme. Through its aid programme, the UK has also made significant contributions to socio-economic rights through investments in the health, education, water and sanitation.

## Elections

On 31 July, Zimbabwe held elections which could have been a potential trigger for violence and for the human rights situation to deteriorate. The elections were largely peaceful and levels of overt violence were lower than in previous election periods. The election ended the five years of the Government of National Unity between ZANU-PF, the Movement for Democratic Change-Tsvangirai (MDC-T), and the Movement for Democratic Change-Ncube (MDC-N). ZANU-PF won a two-thirds majority in parliament and President Robert Mugabe remained head of state. The Southern African Development Community (SADC) and African Union (AU) endorsed the elections and said they were "free, peaceful and generally credible", though their initial reports

highlighted a number of irregularities and flaws. The UK believes the conduct of the elections was seriously flawed, with clear evidence of voting irregularities raising serious doubts about their credibility. The US and Canada said the Zimbabwe election was deeply flawed, while Australia called for a re-run. Botswana, alone among regional states, publicly raised concerns about the credibility of the election. The AU final election observation report also captured several election shortcomings. The biggest domestic observer, Zimbabwe Election Support Network (ZESN), said, "the credibility of the 2013 Harmonised Elections is seriously compromised by a systematic effort to disenfranchise urban voters of up to a million votes."

The elections environment was closely monitored by domestic and international observers, including the international community. During the first half of the year, there was an increase in incidents of politically motivated intimidation, harassment, and threats of violence against NGOs and civil society organisations (CSOs) throughout the country. There were attacks on the media, judges and lawyers, HRDs and CSOs, targeting those working on election-related issues. The police and judiciary were used as a mechanism to disempower HRDs by bringing weak cases to court and prolonging final judgments.

The severity of pre-election harassment varied, but was targeted at opposition party members to instil fear. For example, in early July, the British Embassy in Harare received reports that Gift Chimaniro, an MDC-T minister in the previous government, and MDC-T supporters in his community, were attacked by a group of ZANU-PF youths for election campaigning.

After the election, local CSOs and HRDs, which were targeted by ZANU-PF and state security forces pre-election, continued to be fearful of retribution and a clamp-down on democratic space. In July and August, local CSOs received over a dozen reports of politically motivated cases of retribution, intimidation (e.g. threats of violence, death and abduction) and displacement. This included the attack on Mashonaland East official, Silent Dube, who was abducted from his farm.

However, the successful completion of the constitution-making process in March represented an important achievement for political cooperation in Zimbabwe, and a significant step for human rights. It guarantees civil liberties, including freedom of speech, media freedoms, and freedom of assembly and association. Chapter 4 of the new constitution includes economic, social, cultural, civil and political rights that are enforceable by law. It also allows dual citizenship. The new constitution provides opportunities for further reform and improvements in the legislative framework, especially with the Bill of Rights. It creates five new independent commissions, including a Human Rights Commission and a National Peace and Reconciliation Commission, which are designed to uphold and protect citizens' rights. To date, these have not been made operational, due to lack of political will and funding.

## Freedom of expression and assembly

Zimbabwe saw a slight improvement in media plurality in 2013, with two new radio licences granted. The Broadcasting Authority of Zimbabwe recently received 21 applications for new commercial radio stations. During the election period, Zimbabwe's first independent TV channel was launched, 1st TV, which provided a platform to disseminate non-partisan information, but was not allowed to broadcast from within Zimbabwe. In December, a new newspaper was launched, the Zimbabwe Mail. It becomes the second daily paper to be launched this year, after the Bulawayo-based regional daily, the Southern Eye. However, it is reported that Transport Minister Obert Mpofu is the owner, adding to the number of state-aligned newspapers, rather than bringing greater diversity.

Repressive legislation, now not aligned with the new constitution, such as the Access to Information and Protection of Privacy Act (AIPPA), continues to be applied by the state to limit media freedoms, which affects all Zimbabweans. Key legislative reforms designed to ensure an independent media and impartial security services were not completed ahead of the elections, as required by the Global Political Agreement. As a result, the Zimbabwean media is still dominated by state-owned outlets, and space for independent media remains severely limited.

The Broadcasting Services Act continues to be used to suppress the media, and access to information in rural areas in particular. Through its selective application, the Zimbabwean police (ZRP) have banned alternative sources of media and seized short-wave radios. The ZRP issued a warning on 20 February calling on NGOs not to distribute "communication gadgets" to rural areas. Many Zimbabweans, especially in rural areas, rely on shortwave radio as a key source of information. They also use it to pick up independent and international stations in preference to the state-run stations, which transmit pro-ZANU-PF messages. The ZRP raided the offices of ZESN in February, stating that they were looking for subversive materials, gadgets and illegal immigrants. The offices of Radio Dialogue were also raided in March, when 180 solar and kinetic energy-powered radios were seized by authorities.

The Criminal Law Act, which criminalises defamation and insulting or undermining the authority of the President, was increasingly used by the police throughout the beginning of 2013. In May, the editor and chief reporter of The Independent newspaper, Dumisani Muleya and Owen Gagare respectively, were arrested and charged for allegedly publishing falsehoods, in a story claiming the MDC-T was in negotiations with military and

police service chiefs aimed at preventing political instability. However, positive steps were taken by the Constitutional Court, when, on 8 November, it declared this law unconstitutional. It also moved to challenge the constitutionality of other sections of the Criminal Law Act, including the arrest of journalists on allegations of publishing falsehoods.

Individual civil liberties were further infringed on 1 October, when the government tightened controls on electronic media and enacted new postal and telecommunications regulations, which permit security agencies to intercept telephone calls, text messages and internet communications. Shortwave radios and the sending of bulk text messages were banned.

Freedom of association and assembly was frequently constrained by partisan police action, such as the use of repressive legislation, including the Public Order and Security Act and the Criminal Procedure and Evidence Act, to prevent and break up protests and rallies organised by the MDC political parties and civil society groups. Media practitioners and journalists continue to be harassed through attacks from senior politicians, unlawful arrests and threats of closure.

Political space continued to be tightly controlled by the state either side of the election. The CSO Women of Zimbabwe Arise has faced repeated restrictions on its freedom of expression and assembly. In February, approximately 30 members were beaten by ZRP officers while taking part in a peaceful demonstration. Five members were detained at Bulawayo Central Police Station and 13 members required medical treatment. This continued throughout the year and on 19 and 20 September, members were arrested twice in one week for peaceful demonstrations to mark International Day of Peace. The ability of youth organisations to operate was further reduced in January, when regulations requiring all youth organisations to be registered with the Zimbabwe Youth Council, or to be banned, were introduced by the Minister for Youth and Indigenisation.

In one of the worst incidents of the year, 12-year-old Christpowers Maisiri was killed when the hut of his father, a local MDC-T party official, was set on fire on 23 February. The police investigation concluded that the fire was a result of the explosion of tobacco chemicals and ammonium nitrate fertiliser in the thatched hut the boy was sleeping in. It is widely believed within the MDC-T and by human rights commentators that this was politically motivated arson.

## Human rights defenders

During 2013, HRDs were continually harassed by the state, often beaten and arrested on false charges. This includes the harassment of prominent human rights lawyer Beatrice Mtetwa who, in March, was charged with obstructing the course of justice, whilst defending a client. She was detained for eight days, despite a High Court order for her release. High Court judge, Justice Charles Hungwe, who initially ordered the release, was professionally and personally attacked by state media for his actions. The state appointed a new judge to preside over the case, amid allegations of misconduct. This attack by state media could have long-term implications for other judges presiding over politically sensitive cases. The political interference is indicative of the problems in the justice system in Zimbabwe.

Harassment of HRDs continued throughout May as elections drew closer, with the arrest of prominent community mobilisers and information providers from within the CSO community (Zimbabwe Peace Project, ZimRights, and National Youth Development Trust). These incidents highlighted the tight control the government holds over information.

In response to this, on 18 January 2014, the Office of the UN High Commissioner for Human Rights issued a statement condemning the crackdown on NGOs and others who were seen as critical of the President in the run-up to the Constitutional Referendum in March. The statement urged the government of Zimbabwe to respect international human rights norms and standards. On the same day, CSOs issued a joint statement condemning the "unashamed intimidatory and repressive tactics" used by the government of Zimbabwe against CSOs and their leaders.

## Access to justice and the rule of law

A culture of impunity is widespread in Zimbabwe. Victims of political violence are rarely able to rely on the police to pursue justice on their behalf. Court cases in Zimbabwe take a long time to proceed and are regularly postponed. Selective application and interpretation by law enforcement officials and the Attorney General's Office limit access to justice and the freedoms of political actors opposed to ZANU-PF. Several high-profile court cases highlighted these problems during 2013. Officials from the British Embassy in Harare attended many political court hearings, and followed such cases closely.

The Glenview 29 case remains open: 29 MDC-T activists were charged in May 2011 with murdering a police officer, Inspector Petros Mutedza in Glenview. Their lawyers argued that the state had failed to prove its case against them, and hence the case should be dismissed. After nearly three years in detention, 21 of the activists were acquitted with all charges against them dropped. On 19 September, the High Court ruled that none of the

evidence put forward by the state implicated them on the murder charge. Sadly, one of the accused, Rebecca Mafukeni, died in custody in August whilst awaiting the High Court judge's decision. Having been incarcerated since her arrest in May 2011, Rebecca was hospitalised two weeks before her death, reportedly suffering from meningitis. At the time, CSOs made statements on the condition of those accused in prisons, and the British Ambassador raised concerns with the government. Seven of the MDC-T activists remain charged for the murder of the policeman, with three still in detention. Their case will be heard at a later date in 2014.

In December, Anti-Corruption Commission official Emmanuel Chimwanda, who was charged in April with criminal abuse of office and contravening the Official Secrets Act, was acquitted. The court dismissed the charges as trivial. The magistrate added that the case had not followed correct procedure.

## **Death penalty**

Zimbabwe still has the death penalty but, despite recruiting a new executioner at the end of 2012, has observed a moratorium since 2005, when the last execution was carried out. On 7 June, two convicted armed robbers, Wilson Mavhuto and Charles Rusiko, were sentenced to death. There are currently 89 people on death row.

## **Torture**

There is currently no specific crime of torture defined in Zimbabwean law. In 2012, we welcomed the announcement by the Minister for Justice, Patrick Chinamasa, that the government will ratify the UN Convention against Torture. However, despite this commitment, the UN Special Rapporteur on Torture has not been extended an invitation since being refused entry to Zimbabwe in 2009. HRDs continue to raise allegations of torture against police for their interrogation practices.

## **Freedom of religion or belief**

In 2012, we reported on the long-running legal battle involving excommunicated former Bishop Dr Nolbert Kunonga, in which the Supreme Court ruled in favour of the Anglican Church in Harare. On 27 February, the Supreme Court issued another judgment in favour of the Anglican Church in Manicaland and, in April, the Anglicans finally regained their properties, including the cathedral. The service to mark reoccupation of the cathedral was well-attended, with the Archbishop of Zambia presiding and bishops from across Zimbabwe, Zambia, Malawi and South Africa participating. The British Ambassador in Harare also attended the service.

At the ZANU-PF 14th annual conference in December, Local Government Minister, Ignatius Chombo, threatened to ban emerging religious groups and sects deemed to be promoting Satanism and homosexuality. He said all churches should be registered and monitored by the government to avoid religious fundamentalism.

## **LGBT rights**

Homosexuality remains illegal in Zimbabwe. President Robert Mugabe often refers disparagingly to gay people in his speeches, and attacked same-sex marriages at his inauguration speech in August. The rights of homosexuals are not openly discussed due to the stigma associated with homosexuality. LGBT people remain a marginalised and stigmatised group. The new constitution does not explicitly recognise LGBT rights.

In June, the offices of Gays and Lesbians of Zimbabwe (GALZ) were forcefully entered by unknown assailants. Five suspects were subsequently arrested by police. Harassment of GALZ continued and, in August, police seized property (computers, DVDs and pamphlets) from their offices on the basis they were promoting homosexuality. The court case is ongoing, but it is expected that the High Court will rule that the search and seizure was unlawful and contravenes the constitution.

## **Other issues**

### **Land and farm invasions**

President Mugabe's land reform programme continues to cause suffering to the remaining white farmers, their families and workers. Many face intimidation and harassment, and 210 white commercial farmers are under prosecution for refusing to vacate farms allocated for redistribution. We continue to raise our concerns with the government and highlight our support for a fair, transparent and pro-poor land reform programme. We encourage Zimbabwe to carry out a land audit leading to land property rights, and stand ready to support a credible process. Positively, there are reports that ZANU-PF has admitted to its obligation to pay a degree of compensation to some farmers who were victims of the land reform programme (where they are nationals of countries with a Bilateral Investment Promotion and Protection Agreement with Zimbabwe (BIPPA) - the UK does not have a BIPPA). ZANU-PF has further admitted the illegality of the seizure of many farms.

## Marange diamond fields

Local NGOs such as the Marange-based NGO, the Chiadzwa Community Development Trust, continued to highlight human rights abuses in the diamond-mining areas of Marange. They reported several cases of human rights abuse towards the local communities within Marange, including intimidation, threats of violence and allegations about suspicious deaths. Police and private security companies are often implicated in cases involving persons who are allegedly mining illegally. The responses from the private security companies are often brutal and heavy-handed.

This publication is part of the [2013 Human Rights and Democracy Report](#).

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published on  European Country of Origin Information Network