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ZIMBABWE

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1. Introduction

- 1.1** This document provides Home Office caseworkers with guidance on the nature and handling of the most common types of claims received from nationals/residents of Zimbabwe, including whether claims are or are not likely to justify the granting of asylum, humanitarian protection or discretionary leave. Caseworkers must refer to the relevant asylum instructions for further details of the policy on these areas.
- 1.2** Caseworkers must not base decisions on the country of origin information in this guidance; it is included to provide context only and does not purport to be comprehensive. The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and caseworkers must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with up to date country of origin information (COI) and any other relevant knowledge. COI is published by the Country of Origin Information Service (COIS) on Horizon and is available on the [Home Office website](#).
- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. Where a claim for asylum or Humanitarian Protection is being considered, caseworkers must consider any elements of

Article 8 of the European Convention on Human Rights (ECHR) in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules. Where a person is being considered for deportation, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Part 13 of the Immigration Rules. Caseworkers must also consider if the applicant qualifies for discretionary leave in accordance with the published policy.

- 1.4** If, following consideration, a claim is to be refused, caseworkers should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

2. Country assessment

- 2.1** Caseworkers should refer to the relevant COIS country of origin information material. An overview of the human rights situation in certain countries can also be found in the [Foreign & Commonwealth Office \(FCO\) Annual Report on Human Rights and Democracy](#) which examines developments in countries where human rights issues are of greatest concern.

2.2 Actors of protection

- 2.2.1** Caseworkers must refer to section 7 of the asylum instruction - [Considering the asylum claim and assessing credibility](#). To qualify for asylum, an individual must have a fear of persecution for a Convention reason and be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to seek protection in their country of origin or habitual residence. Caseworkers must take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the state, any outcome of doing so or the reason for not doing so. Effective protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the state) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.

Overview

- 2.2.2** In its 2012 World Report, Human Rights Watch stated that “State security agents, police, and ZANU-PF supporters have been implicated in beatings, arbitrary arrests, and harassment of members of the MDC, cabinet ministers, human rights activists, and journalists, deepening the pervasive climate of fear in the country”.¹ In September 2012, Amnesty International reported that “There have been consistent reports of human rights violations by security forces against perceived political opponents and members of the public. Similarly the police have been accused of handing criminals over to Chipangano gang members who have subjected them to torture before they were taken back into custody and charged”.²

¹ Human Rights Watch, World Report 2012, 22 January 2013. <http://www.hrw.org/world-report-2012/world-report-2012-zimbabwe-0>

² Amnesty International, Zimbabwe: Members of the public at risk as police crack down on gang suspects, 14

2.2.3 The US State Department report covering events in 2012 also noted that although the constitution prohibits torture and other cruel, inhuman, or degrading treatment or punishment, security forces continued to engage in such practices with impunity and with the implicit support of officials affiliated with ZANU-PF. Police used excessive force in apprehending, detaining, and interrogating criminal suspects. Security forces assaulted and tortured citizens in custody, particularly perceived opponents of ZANU-PF. In some cases police arrested the victims of violence and charged them with inciting public violence. Police units also organized and participated in political violence affiliated with ZANU-PF. Security forces were infrequently held accountable for abuses. Senior government officials often dismissed allegations of excessive force and torture, claiming that such actions were necessary to maintain public order.³

Police

2.2.4 The police force is an armed, quasi-military organisation modelled more along the lines of a military gendarmerie than a civilian police force. It has approximately 20,000 full-time members and is deployed throughout the country. Its presence is most evident in cities and towns, but thinly spread in rural areas.⁴

2.3.5 The US State Department report for 2012 reported that the Zimbabwe Republic Police (ZRP) are ill-equipped, underpaid, and poorly trained, particularly at the lower levels. Police authorities lacked sufficient fuel and resources, which reduced police effectiveness. Poor working conditions, low salaries, and high rates of dismissal in the ZRP resulted in corruption and high turnover. Implicit assurances of impunity and a culture of disregard for human rights contributed to police use of excessive force in apprehending and detaining criminal suspects. Authorities routinely ignored court orders compelling investigations into allegations of abuse. ZRP leadership loyal to ZANU-PF stifled, derailed, or did not authorize the efforts of those police who sought to investigate political violence. For example, police were reluctant or refused to record reports of politically motivated violence or property destruction perpetrated by ZANU-PF-aligned individuals against political opponents, often blaming the lack of fuel for vehicles for why they could not investigate.⁵

2.3.6 The continued politicisation of the ZRP's upper echelons, mostly composed of war veterans loyal to ZANU-PF, made it difficult for lower ranking police to remain politically impartial or to show support for non-ZANU-PF parties. In contrast to previous years, there were no reports of police and army personnel suspected of being sympathetic to the MDCs or other political parties being threatened with demotion, suspension, incarceration, or transfer to remote areas. Most low-ranking personnel lived in ZRP-provided housing, which allowed the monitoring of their votes during election years in certain districts.⁶

September 2012 <http://www.amnesty.org/en/for-media/press-releases/zimbabwe-members-public-risk-police-crack-down-gang-suspects-2012-09-14>

³ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section 1.c Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment . 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

⁴ Jane's Sentinel Security Assessment: Southern Africa Security and Foreign Forces, updated 12 October 2011. www.janes.com (subscription source)

⁵ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section 1.d Role of the Police and Security Apparatus. 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

⁶ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section 1.d Role of

- 2.3.7** Nevertheless, government efforts to reform the security forces were minimal, and there were no reports of disciplinary actions against security officers who erred in ZANU-PF's favour in their official conduct. Training on allegiance to ZANU-PF for securing the nation's sovereignty was commonplace, while authorities rarely provided training on nonpartisan implementation of the rule of law.⁷
- 2.3.8** The Foreign and Commonwealth Office report that despite requirements in Zimbabwe's current Constitution and the Police Act for police officers to maintain a clear division between their duties and their political affiliations, the police force often act in a partisan fashion. The police regularly invoke and misuse repressive legislation, including the Public Order and Security Act and the Criminal Procedure and Evidence Act, for political purposes to prevent and break up protests and rallies organised by the MDC political parties and civil society groups. A culture of impunity is widespread in Zimbabwe. Victims of 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.⁸
- 2.3.9** Between January and March 2012, the ZRP restarted a 2007 program to recruit 20,000 additional members, while the Zimbabwe Defence Forces (ZDF) recruited 4,600 new members. To meet these recruiting goals, widespread exceptions were made for potential recruits who did not meet typical requisite academic and physical requirements. Both the ZDF and ZRP used quotas to balance ethnic group representation. Critics of the mass hiring, including some senior government officials, questioned the change in recruitment policy, believing that it was simply a method for the ZDF and ZRP to formalise employment for politicised ZANU-PF youth.⁹
- 2.3.10** According to Human Rights Watch, the leadership of the Zimbabwe Republic Police (ZRP), led by Commissioner General Augustine Chihuri, has actively pursued a partisan political agenda on behalf of ZANU-PF. On 1 May 2013, in response to reports that the security forces had met with Tsvangirai to discuss security sector reforms, Chihuri declared that the security forces would never meet with the prime minister and that anyone who reported on or raised the issue risked arrest.¹⁰
- 2.3.11** In June 2013, Freedom House reported that "security forces abuse citizens with impunity, often ignoring basic rights regarding detention, searches, and seizures.

the Police and Security Apparatus. 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

⁷ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section 1.d Role of the Police and Security Apparatus. 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

⁸ Foreign and Commonwealth Office, Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Zimbabwe, 15 April 2013

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/186688/Cm_8593_Accessible_complete.pdf

⁹ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section 1.d Role of the Police and Security Apparatus. 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹⁰ Human Rights Watch, The Elephant in the Room: Reforming Zimbabwe's Security Sector Ahead of Election, 5 June 2013, Zimbabwe Republic Police

http://www.hrw.org/sites/default/files/reports/zimbabwe0613webwcover_0.pdf

The government has taken no clear action to halt the incidence of torture and mistreatment of suspects in custody. Formed in 2009 as part of the GPA, the Joint Monitoring and Implementation Committee has helped expose abuses of power by security forces, but the body has almost no enforcement powers. Security forces have also taken on major roles in crop collection and food distribution, and both the police and the military remain heavily politicized in favour of ZANU-PF despite the GPA. Meanwhile, ZANU-PF militias operate as de facto enforcers of government policy and have committed assault, torture, rape, extralegal evictions, and extralegal executions without fear of punishment.¹¹

Judiciary

- 2.3.12** The 2012 US State Department report said that although the constitution provides for an independent judiciary, executive influence and interference remained a problem. In contrast with previous years, the judiciary demonstrated greater independence despite being under intense pressure to conform to government policies. The authorities sometimes denied attorneys access to their clients, especially in cases involving MDC members or civil society activists. Defendants have the right to present witnesses and evidence on their own behalf and to question witnesses against them. In practice these rights were not always observed. Defendants and their attorneys have the right to be furnished with all government-held evidence relevant to their cases. These and other rights were often not respected, particularly in politically sensitive cases. Unlike normal criminal proceedings, which proceed from investigation to trial within months, in cases of members of political parties or civil society critical of ZANU-PF, prosecutors regularly took abnormally long to bring accused persons to trial.¹²
- 2.3.13** In June 2013, Freedom House noted that pressure from the executive has substantially eroded judicial independence, though the situation has improved somewhat since the GPA. The accused are often denied access to counsel and a fair, timely trial, and the government has repeatedly refused to enforce court orders. It has also replaced senior judges or pressured them to resign by stating that it could not guarantee their security; judges have been subject to extensive physical harassment. Vacancies for scores of magistrate posts have caused a backlog of tens of thousands of cases.¹³
- 2.3.14** Magistrates heard the vast majority of cases. In 2010 the Judicial Services Act (JSA) went into effect. The JSA transfers authority over judicial magistrates and their support staffs from the Public Service Commission to the Judicial Services Commission (JSC), provides that the JSC determine remuneration and other conditions of service for magistrates, and provides for greater independence of magistrates. Legal experts claimed that defendants in politically sensitive cases were more likely to receive a fair hearing in magistrates' courts than in higher courts, where justices were more likely to make political decisions. In practice, however, the JSA's effect was limited, particularly in rural areas. ZANU-PF sympathisers successfully used threats and intimidation to force magistrates, particularly rural magistrates, to rule in

¹¹ Freedom House, Freedom in the World 2013 - Zimbabwe, 3 June 2013

<http://www.refworld.org/docid/51aefaae27.html>

¹² US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section 1e. Denial of Fair Public Trial 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dld=204183>

¹³ Freedom House, Freedom in the World 2013 - Zimbabwe, 3 June 2013

<http://www.refworld.org/docid/51aefaae27.html>

the government's favour. Some urban-based junior magistrates, however, demonstrated a greater degree of independence and granted MDC and civil society activists bail against the government's wishes. Other judicial officers not covered by the JSA, such as prosecutors and private attorneys, also faced political pressure in politically charged cases, including harassment and intimidation.¹⁴

Human Rights Commission

2.3.15 On 15 October 2012 the government finally gazetted the Zimbabwe Human Rights Commission Bill that gave the nine member commission powers to investigate rights violations in the country. A clause in the Bill allows Human Rights Commissioners only to look at rights abuses after they were sworn into office on 13th February 2009. The passage of the Bill in parliament was delayed due to opposition from MDC-T legislators who felt it did not address the contentious issues of killings, torture, and politically motivated violence preceding the 2008 presidential run-off election.¹⁵ In December 2012 the chairperson for the Human Rights Commission resigned, citing a lack of resources and legislative enforcement mechanisms necessary for the commission to fulfil its mandate.¹⁶

Conclusion

2.3.16 If the applicant's fear is of ill-treatment/persecution by the state authorities, or by agents acting on behalf of the state, then it is improbable that they can apply to those authorities for protection. If the ill-treatment/persecution is at the hands of non-state agents, then the provision of effective state protection is likely to be limited. Each case must be considered on its individual facts and the assessment of whether effective protection is available should be considered in relation to the particular circumstances and profile of the claimant and the latest country of origin information

2.3 Internal relocation.

2.3.1 Caseworkers must refer to the asylum instruction on [Internal Relocation](#) and in the case of a female applicant, the asylum instruction on [Gender Issues in the Asylum Claim](#), for guidance on the circumstances in which internal relocation would be a 'reasonable' option, so as to apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum. Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection.

¹⁴ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section 1e. Denial of Fair Public Trial 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹⁵ SW Radio Africa, Zimbabwe Human Rights Commission Bill signed into law, 15 October 2012, <http://www.swradioafrica.com/2012/10/15/zimbabwe-human-rights-commission-bill-signed-into-law/>

¹⁶ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights. 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account. Caseworkers must refer to the gender issues in the asylum claim where this is applicable. The fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.

- 2.3.2** Where a category of applicants' fear is of ill-treatment/persecution by the state authorities, then internal relocation to escape that persecution will not generally be an option. Very careful consideration must be given to whether internal relocation would be a viable way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unreasonable to expect them to do so, then asylum or humanitarian protection should be refused.
- 2.3.3** Caseworkers must refer to the country guidance case of [CM \(EM country guidance; disclosure\) Zimbabwe CG \[2013\] UKUT 00059\(IAC\)](#) in which the Upper Tribunal re-stated the country guidance in [EM & others](#) with regard to the differing risks in different parts of the country and the viability of internal relocation to a part of the country where the claimant would not be at risk.
- 2.3.4** Careful consideration must be given to the relevance and reasonableness of internal relocation on a case by case basis taking full account of the individual circumstances of the particular claimant. Case workers need to consider the ability of the persecutor to pursue the claimant in the proposed site of relocation, and whether effective protection is available in that area. Caseworkers will also need to consider the age, gender, health, ethnicity, religion, financial circumstances and support network of the claimant, as well as the security, human rights and socioeconomic conditions in the proposed area of relocation, including the claimant's ability to sustain themselves. Caseworkers must also ensure that they obtain the latest information about the situation in Zimbabwe, remembering that the question is simply whether taking all relevant material into account, internal relocation would both avoid the risk and would not be unduly harsh.

2.4 Caselaw

[NN \(Teachers: Matabeleland/Bulawayo: risk\) Zimbabwe CG \[2013\] UKUT 198\(IAC\) \(10 May 2013\)](#). In this country guidance case the Upper Tribunal confirmed that the "geographical filter" identified in [EM and Others \(Returnees\) Zimbabwe CG \[2011\] UKUT 98\(IAC\)](#) and confirmed more recently in [CM \(EM country guidance; disclosure\) Zimbabwe CG \[2013\] UKUT 59\(IAC\)](#) is equally applicable to teachers. Thus, a teacher will generally not face a heightened risk on return to Zimbabwe, on account of his or her occupation or former occupation alone, if his or her destination of return is (a) rural Matabeleland North or Matabeleland South, where a returnee will in general not face a real risk of harm from ZANU-PF elements, including the security forces, even if he or she is a MDC member or supporter; or (b) Bulawayo, where the returnee will in general not face such a risk, even if he or she has a significant MDC profile

[CM \(EM country guidance; disclosure\) Zimbabwe CG \[2013\] UKUT 00059\(IAC\) \(31 January 2013\)](#). In this country guidance case the Upper

Tribunal found:

- (1) The Country Guidance given by the Tribunal in [EM and Others \(Returnees\) Zimbabwe CG \[2011\] UKUT 98 \(IAC\)](#) on the position in Zimbabwe as at the end of January 2011 was not vitiated in any respect by the use made of anonymous evidence from certain sources in the Secretary of State's Fact Finding Mission report of 2010. The Tribunal was entitled to find that there had been a durable change since [RN \(Returnees\) Zimbabwe CG \[2008\] UKAIT 00083](#). The Country Guidance in [EM](#) does not require to be amended, as regards the position at that time, in the light of:
 - (a) the disclosure by the Secretary of State of any of the materials subsequently disclosed in response to the orders of the Court of Appeal and related directions of the Tribunal in the current proceedings; or
 - (b) any fresh material adduced by the parties in those proceedings that might have a bearing on the position at that time.
- (2) The only change to the [EM](#) Country Guidance that it is necessary to make as regards the position as at the end of January 2011 arises from the judgments in [RT \(Zimbabwe\) \[2012\] UKSC 38](#). The [EM](#) Country Guidance is, accordingly, re-stated as follows (with the change underlined in paragraph (5) below):
 - (1) As a general matter, there is significantly less politically motivated violence in Zimbabwe, compared with the situation considered by the AIT in [RN](#). In particular, the evidence does not show that, as a general matter, the return of a failed asylum seeker from the United Kingdom, having no significant MDC profile, would result in that person facing a real risk of having to demonstrate loyalty to the ZANU-PF.
 - (2) The position is, however, likely to be otherwise in the case of a person without ZANU-PF connections, returning from the United Kingdom after a significant absence to a rural area of Zimbabwe, other than Matabeleland North or Matabeleland South. Such a person may well find it difficult to avoid adverse attention, amounting to serious ill-treatment, from ZANU-PF authority figures and those they control. The adverse attention may well involve a requirement to demonstrate loyalty to ZANU-PF, with the prospect of serious harm in the event of failure. Persons who have shown themselves not to be favourably disposed to ZANU-PF are entitled to international protection, whether or not they could and would do whatever might be necessary to demonstrate such loyalty ([RT \(Zimbabwe\)](#)).
 - (3) The situation is not uniform across the relevant rural areas and there may be reasons why a particular individual, although at first sight appearing to fall within the category described in the preceding paragraph, in reality does not do so. For example, the evidence might disclose that, in the home village, ZANU-PF power structures or other means of coercion are weak or absent.
 - (4) In general, a returnee from the United Kingdom to rural Matabeleland North or Matabeleland South is highly unlikely to face significant

difficulty from ZANU-PF elements, including the security forces, even if the returnee is a MDC member or supporter. A person may, however, be able to show that his or her village or area is one that, unusually, is under the sway of a ZANU-PF chief, or the like.

- (5) A returnee to Harare will in general face no significant difficulties, if going to a low-density or medium-density area. Whilst the socio-economic situation in high-density areas is more challenging, in general a person without ZANU-PF connections will not face significant problems there (including a “loyalty test”), unless he or she has a significant MDC profile, which might cause him or her to feature on a list of those targeted for harassment, or would otherwise engage in political activities likely to attract the adverse attention of ZANU-PF, or would be reasonably likely to engage in such activities, but for a fear of thereby coming to the adverse attention of ZANU-PF.
- (6) A returnee to Bulawayo will in general not suffer the adverse attention of ZANU-PF, including the security forces, even if he or she has a significant MDC profile.
- (7) The issue of what is a person’s home for the purposes of internal relocation is to be decided as a matter of fact and is not necessarily to be determined by reference to the place a person from Zimbabwe regards as his or her rural homeland. As a general matter, it is unlikely that a person with a well-founded fear of persecution in a major urban centre such as Harare will have a viable internal relocation alternative to a rural area in the Eastern provinces. Relocation to Matabeleland (including Bulawayo) may be negated by discrimination, where the returnee is Shona.
- (8) Internal relocation from a rural area to Harare or (subject to what we [the Tribunal] have just said) Bulawayo is, in general, more realistic; but the socio-economic circumstances in which persons are reasonably likely to find themselves will need to be considered, in order to determine whether it would be unreasonable or unduly harsh to expect them to relocate.
- (9) The economy of Zimbabwe has markedly improved since the period considered in [RN](#). The replacement of the Zimbabwean currency by the US dollar and the South African rand has ended the recent hyperinflation. The availability of food and other goods in shops has likewise improved, as has the availability of utilities in Harare. Although these improvements are not being felt by everyone, with 15% of the population still requiring food aid, there has not been any deterioration in the humanitarian situation since late 2008. Zimbabwe has a large informal economy, ranging from street traders to home-based enterprises, which (depending on the circumstances) returnees may be expected to enter.
- (10) As was the position in [RN](#), those who are or have been teachers require to have their cases determined on the basis that this fact places them in an enhanced or heightened risk category, the significance of which will need to be assessed on an individual basis.
- (11) In certain cases, persons found to be seriously lacking in credibility may properly be found as a result to have failed to show a

reasonable likelihood (a) that they would not, in fact, be regarded, on return, as aligned with ZANU-PF and/or (b) that they would be returning to a socio-economic milieu in which problems with ZANU-PF will arise. This important point was identified in [RN](#) and remains valid.

- (3) In the course of deciding CM's appeal, the present Tribunal has made an assessment of certain general matters regarding Zimbabwe as at October 2012. As a result, the following country information may be of assistance to decision-makers and judges. It is, however, not Country Guidance within the scope of Practice Direction 12 and is based on evidence which neither party claimed to be comprehensive:
- (a) The picture presented by the fresh evidence as to the general position of politically motivated violence in Zimbabwe as at October 2012 does not differ in any material respect from the Country Guidance in [EM](#).
 - (b) Elections are due to be held in 2013; but it is unclear when¹⁷.
 - (c) In the light of the evidence regarding the activities of Chipangano, judicial-fact finders may need to pay particular regard to whether a person, who is reasonably likely to go to Mbare or a neighbouring high density area of Harare, will come to the adverse attention of that group; in particular, if he or she is reasonably likely to have to find employment of a kind that Chipangano seeks to control or otherwise exploit for economic, rather than political, reasons.
 - (d) The fresh evidence regarding the position at the point of return does not indicate any increase in risk since the Country Guidance was given in [HS \(returning asylum seekers\) Zimbabwe CG \[2007\] UKAIT 00094](#). On the contrary, the available evidence as to the treatment of those who have been returned to Harare Airport since 2007 and the absence of any reliable evidence of risk there means that there is no justification for extending the scope of who might be regarded by the CIO as an MDC activist.

Supreme Court. RT (Zimbabwe) & others v Secretary of State for the Home Department [2012] UKSC 38 (25 July 2012) The Supreme Court ruled that the rationale of the decision in [HJ \(Iran\)](#) applies to cases concerning imputed political opinion. Under both international and European human rights law, the right to freedom of thought, opinion and expression protects non-believers as well as believers and extends to the freedom not to hold and not to express opinions. Refugee law does not require a person to express false support for an oppressive regime, any more than it requires an agnostic to pretend to be a religious believer in order to avoid persecution. Consequently an individual cannot be expected to modify their political beliefs, deny their opinion (or lack thereof) or feign support for a regime in order to avoid persecution.

The judgment is based on the situation in Zimbabwe as disclosed by [RN \(Returnees\) Zimbabwe CG \[2008\] UKAIT 00083](#) which was at that time exceptional and the country guidance held that generally those who were unable to demonstrate their loyalty to the regime were at risk of persecution. Thus, those

¹⁷ The elections were subsequently held on 31 July 2013

with no political beliefs could not be required to profess their loyalty to the regime to avoid persecution and were entitled to refugee status.

As the appellate court, the Supreme Court was concerned only with the question of whether the Tribunal determinations under appeal had correctly applied the law and country guidance at the time that the determinations were promulgated. The Supreme Court was therefore required to consider [RN](#) because it was the country guidance case in force at the time that the determinations under appeal were promulgated by the Tribunal. The Supreme Court heard no evidence as to what the current country situation in Zimbabwe was as at the date of hearing. Consequently, the statement of Lord Dyson that the cases under consideration by the Supreme Court fell to be decided in light of the “latest country guidance for Zimbabwe” was no more than a reference to the requirement mentioned above and, following the quashing of [EM and Others](#), a statement of fact as to the then most recently promulgated country guidance case. The case should not be read as authority for the proposition that [RN](#) reflects the current country situation in Zimbabwe.

[LZ \(homosexuals\) Zimbabwe CG \[2011\] UKUT 487 \(IAC\) \(26 January 2012\)](#)

The Tribunal found:

- (i) There has been much public expression of extreme homophobia at the highest levels in recent years.
- (ii) Male homosexual behaviour is criminalised, but prosecutions are very rare. Lesbianism is not criminalised.
- (iii) Some homosexuals suffer discrimination, harassment and blackmail from the general public and the police. Attempted extortion, false complaints and unjustified detentions are not so prevalent as to pose a general risk. There are no records of any murders with a homophobic element. “Corrective rape” is rare, and does not represent a general risk.
- (iv) There is a “gay scene,” within limitations.
- (v) Lesbians, living on their own or together, may face greater difficulties than gay men.
- (vi) GALZ (Gays and Lesbians of Zimbabwe) takes a realistic view: Zimbabwe is “not the worst place in the world to be gay or lesbian even though the President, government officials and church leaders have whipped up a climate of hysterical homophobia.”
- (vii) Applying [HJ & HT \[2010\] UKSC 31](#), [\[2010\] Imm AR 729](#), there is no general risk to gays or lesbians. Personal circumstances place some gays and lesbians at risk. Although not decisive on its own, being openly gay may increase risk. A positive HIV/AIDS diagnosis may be a risk factor. Connections with the elite do not increase risk.
- (viii) The police and other state agents do not provide protection.
- (ix) A homosexual 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 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.

[EM and Others \(Returnees\) Zimbabwe CG \[2011\] UKUT 98\(IAC\) \(14 March 2011\)](#)

The determination in this country guidance case was, by consent, quashed by order of the Court of Appeal on 13 June 2012 for procedural reasons; and the

matter was remitted to the Upper Tribunal for further determination.

The Upper Tribunal handed down its further determination on 31 January 2013 in the case of [CM \(EM country guidance; disclosure\) Zimbabwe CG \[2013\] UKUT 00059\(IAC\)](#) (see above) and re-stated the country guidance in [EM](#) with an amendment to account of [RT \(Zimbabwe\) \[2012\] UKSC 38](#).

RS and Others (Zimbabwe – AIDS) Zimbabwe CG [2010] UKUT 363 (IAC) (14 October 2010)

The Tribunal considered the availability of treatment for HIV/AIDS and found that:

- (i) A significant number of people are receiving treatment for HIV/AIDS in Zimbabwe, and hence a Zimbabwean returnee will not succeed in a claim for international protection on the basis of a diagnosis of HIV/AIDS unless their case crosses the threshold identified in [N v United Kingdom](#).
- (ii) Though there is some evidence of discrimination in access to AIDS medication and food in Zimbabwe, it is not such as to show a real risk of such discrimination.
- (iii) The return to Zimbabwe of a Zimbabwean diagnosed with HIV/AIDS does not place the United Kingdom in breach of its obligations under the Disability Discrimination Act.

RN (Returnees) Zimbabwe CG [2008] UKAIT 00083 (19 November 2008)

This country guidance case was removed from the Upper Tribunal's Country Guidance list on 14 March 2011 and replaced by [EM and Others \(Returnees\) Zimbabwe CG \[2011\] UKUT 98\(IAC\)](#) (see above).

HS (returning asylum seekers) Zimbabwe CG [2007] UKAIT 00094(29 November 2007)

1. Failed asylum seekers do not, as such, face a risk of being subjected, on return to Zimbabwe, to persecution or serious ill-treatment. That will be the case whether the return is voluntary or involuntary, escorted or not.
2. The findings in respect of risk categories in [SM and Others \(MDC – internal flight- risk categories\) CG \[2005\] UKIAT 00100](#), as adopted, affirmed and supplemented in [AA \(Risk for involuntary returnees\) Zimbabwe CG \[2006\] UKAIT 00061](#) are adopted and reaffirmed. The Tribunal identifies one further risk category, being those seen to be active in association with human rights or civil society organisations where evidence suggests that the particular organisation has been identified by the authorities as a critic or opponent of the Zimbabwean regime.
3. The process of screening returning passengers is an intelligence led process and the CIO will generally have identified from the passenger manifest in advance, based upon such intelligence, those passengers in whom there is any possible interest. The fact of having made an asylum claim abroad is not something that in itself will give rise to adverse interest on return.
4. The Tribunal adopts and reaffirms the findings in AA in respect of the general absence of real risk associated with any monitoring of returnees that might take place after such persons have passed through the airport

and returned to their home area or re-established themselves in a new area.

5. Country conditions have continued to deteriorate but are not generally such as to bring about an infringement of Convention rights for returnees or to require the grant of humanitarian protection.

AA (Risk for involuntary returnees) Zimbabwe CG [2006] UKAIT 00061 (1 August 2006)

1. A failed asylum seeker returned involuntarily to Zimbabwe does not face on return a real risk of being subjected to persecution or serious ill-treatment on that account alone.
2. [SM and Others \(MDC – internal flight- risk categories\) CG \[2005\] UKIAT 00100](#) is reaffirmed. Two further risk categories are identified: those whose military history discloses issues that will lead to further investigation by the security services upon return to Harare Airport and those in respect of whom there are outstanding and unresolved criminal issues.
3. A deportee from the United Kingdom who, having been subjected to the first stage interview at the airport, is allowed to pass through the airport is likely to be the subject of some monitoring in his home area by the local police or the CIO but the evidence does not indicate a real risk of persecutory ill-treatment for those who are being monitored solely because of their return from the United Kingdom.
4. The general country conditions are extremely difficult but those difficulties will not generally be sufficiently severe to enable an appellant to rely upon article 3 to resist removal.

SM, TM, MH (MDC - Internal flight - Risk categories) Zimbabwe CG [2005] UKIAT 00100 (11 May 2005)

A summary of the country guidance given in this case is set out in Paragraph 51 of the determination as follows:

- (a) There does continue to be a real risk of persecution for those who are or are perceived to be politically active in opposition to and for this reason of serious adverse interest to the present regime. This can potentially include the categories identified in paragraph 43 [of the determination] but none of these factors by itself is determinative. Each case must be looked at on its own individual facts. Some categories are more likely to be at risk than others such as MDC activists and campaigners rather than supporters but we do not exclude the possibility that in exceptional cases those with very limited political involvement could in their particular circumstances find themselves at real risk.
- (b) The risk to political opponents is increased both before and immediately after elections but this fact is of limited importance and is only likely to have any material bearing in borderline cases.
- (c) There does continue to be a risk for teachers with an actual or perceived political profile of support for the MDC.
- (d) Records are kept by various groups and authorities including the CIO, local police and ZANU-PF party organisations and the war veterans but the existence of these records does not materially add to the assessment

of the risk of persecution in an individual case which depends on the applicant's profile and background. It seems to us unlikely that someone who has been caught up in random and intimidatory violence would without more be regarded as of continuing interest to the authorities. However, the fact that these records exist may indicate that an applicant found to be at risk is unlikely to be able to relocate in safety. In this context it will also be important to take into account whether the risk is from the authorities or from a local branch of ZANU-PF or locally based war veterans.

- (e) The current atmosphere of hostility to the return of failed asylum seekers does not of itself put at risk those who would otherwise not be at real risk but does serve to reinforce the fact that asylum claims must be considered with care and where there is any uncertainty, any doubts must be resolved in the applicant's favour.
- (f) The fact of being a white Zimbabwean does not of itself put an applicant in danger.
- (g) Where an applicant is at risk in his home area, the assessment of internal relocation must take into account the fact that there is a network of information available to the authorities, ZANU-PF and war veterans. An applicant who is regarded as an active political opponent in his home area may not be able to relocate in safety but this is a question of fact to be assessed in the circumstances of each case.
- (h) The use of grain distribution as a way of taking reprisals against political opponents does not arise in this appeal. We do not rule out the possibility of a case succeeding on this ground alone but the evidence would have to be clear and compelling. In so far as this was an issue in [Ndlovu \[2004\] EWCA Civ 1567](#), the case turned on the findings of fact made by the Adjudicator. The Court of Appeal held that the Tribunal was wrong to find that the Adjudicator had erred in law but also emphasised that the adjudicator's decision did not and could not create a factual precedent of any kind.
- (i) There is no general risk for failed asylum seekers of a breach of article 3 as a result of the current hostility towards such returnees.
- (j) This determination is to be treated as updating and superseding all previous country guidance cases most of which were decided in 2002. The following cases are therefore no longer to be regarded as providing country guidance: [LS \(Persecution - CIO\) Zimbabwe \[2002\] UKIAT 03342](#), [LM \(MDC\) Zimbabwe \[2002\] UKIAT 03916](#), [BN \(MDC \) Zimbabwe \[2002\] UKIAT 05518](#), [BS \(Liberty Party - CIO airport\) Zimbabwe \[2002\] UKIAT 06461](#), [AB \(Persecution - CIO\) Zimbabwe \[2002\] UKIAT 03598](#) and [FN \(Risk -relocation -MDC\) \[2003\] UKIAT 00163](#).

3. Main categories of claims

- 3.1** This section sets out the main types of asylum claim, humanitarian protection claim and discretionary leave claims on human rights grounds (whether explicit or implied) made by those entitled to reside in Zimbabwe. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of

protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, humanitarian protection, sufficiency of protection and internal relocation are set out in the relevant asylum instructions, but how these affect particular categories of claim are set out in the instructions below. All asylum instructions can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at [asylum policy instructions](#).

- 3.2** Each claim should be assessed to determine whether there is a reasonable likelihood that the applicant would, if returned, face persecution for a Convention reason, for instance due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in the Court of Appeal's judgment in [Karanakaran](#) should be followed when deciding how much weight to be given to the material provided in support of the claim (see the asylum instruction '[Considering the asylum claim and assessing credibility](#)').
- 3.3** For any asylum cases which involve children either as dependants or as the main applicants, caseworkers must have due regard to section 55 of the Borders, Citizenship and Immigration Act 2009. The Home Office instruction '[Every Child Matters; Change for Children](#)' sets out the key principles to take into account in all the department's activities.
- 3.4** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of humanitarian protection is appropriate. (See asylum instruction on [Humanitarian Protection](#)). Where an application for asylum and Humanitarian Protection falls to be refused, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules. They must also consider whether there are any compelling reasons for granting discretionary Leave (DL) to the individual concerned. (See asylum instruction on [Discretionary Leave](#)).

Consideration of Articles 15(a) and (b) of the Directive/Articles 2 and 3 ECHR

- 3.5** An assessment of protection needs under Article 15(c) of the Directive should only be required if an applicant does not qualify for refugee protection, and is ineligible for subsidiary protection under Articles 15(a) and (b) of the Directive (which broadly reflect Articles 2 and 3 of the ECHR). Caseworkers are reminded that an applicant who fears a return to a situation of generalised violence may be entitled to a grant of asylum where a connection is made to a Refugee Convention reason or to a grant of humanitarian protection because the Article 3 threshold has been met.

Other severe humanitarian conditions and general levels of violence

- 3.6** There may come a point at which the general conditions in the country – for example, absence of water, food or basic shelter – are unacceptable to the point that return in itself could, in extreme cases, constitute inhuman and degrading treatment. Decision makers need to consider how conditions in the country and locality of return, as evidenced in the available country of origin information, would impact upon the individual if they were returned. Factors to be taken into account would include age, gender, health, effects on children, other family

circumstances, and available support structures. It should be noted that if the State is withholding these resources it could constitute persecution for a Convention reason and a breach of Article 3 of the ECHR.

- 3.7** As a result of the [Sufi & Elmi v UK](#) judgment in the European Court of Human Rights (ECtHR), where a humanitarian crisis is predominantly due to the direct and indirect actions of the parties to a conflict, regard should be had to an applicant's ability to provide for his or her most basic needs, such as food, hygiene and shelter and his or her vulnerability to ill-treatment. Applicants meeting either of these tests would qualify for Humanitarian Protection.

Credibility

- 3.8** This guidance is not designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. For guidance on credibility see section 4 – Making the Decision in the Asylum Instruction '[Considering the asylum claim and assessing credibility](#)'.

Caseworkers must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the UK Border Agency file. In all other cases, the caseworker should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matches to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

3.9 MDC supporters, human rights defenders and other perceived opponents of ZANU-PF

- 3.9.1** Applicants may claim asylum based on a fear of violence at the hands of state agents, war veterans or other supporters of ZANU-PF, because of their involvement with the Movement for Democratic Change (MDC), or their involvement with human rights or humanitarian organisations; or because they are otherwise perceived to be opposed to ZANU-PF.

- 3.9.2 Treatment.** President Mugabe and ZANU-PF's monopoly on power was not seriously challenged until the formation of the Movement for Democratic Change (MDC) in 1999. The MDC split in 2005 - the larger faction, MDC-T, led by Morgan Tsvangirai and the smaller, MDC-M, led by Arthur Mutambara. Mutambara was replaced as leader by his party's Secretary-General, Welshman Ncube, in January 2011. In March 2008, for the first time since Independence, ZANU-PF lost its Parliamentary majority and Mugabe lost in the first round of Presidential elections to Tsvangirai (by 47.9% to 43.2%). However, Tsvangirai did not pass the 50% threshold required for outright victory. The run up to the second round of voting held in June 2008 was marred by widespread and orchestrated violence against MDC supporters, leading Tsvangirai to withdraw and leaving Mugabe to stand unopposed. In Parliament, MDC-T became the largest party in the House of Assembly, winning 100 of the 210 seats to ZANU-PF's 99. In the Senate (Upper House), ZANU-PF held a majority. Given the parliamentary stalemate and the disputed presidential election, the Southern African Development Community (SADC) mandated Thabo Mbeki, the then President of South Africa, to broker a power-sharing agreement - the Global Political Agreement (GPA) - between ZANU-PF and the two MDC parties. The GPA was signed in September 2008 and created a coalition government - the Government of National Unity (GNU). Tsvangirai was sworn in as Prime Minister - a newly

created post - in February 2009, with Mutambara as one of his Deputies and an expanded portfolio of Ministerial positions divided between the parties.¹⁸

- 3.9.3** Freedom House's 2012 'Countries at the Crossroads' report noted that there have been some clear achievements under the GNU. The high levels of political violence associated with the contested and controversial 2008 presidential and parliamentary elections had subsided. The Zimbabwean parliament contained several parties that actively vied for power and policy influence. Political reform had begun to open up the political space to media and civil society. The abandonment of the Zimbabwean dollar for the American dollar had helped to stabilise the economy and end hyperinflation. After years of severe economic contraction, the economy grew about 6% in 2010. Investment, mostly from China, has grown significantly. The development of the Marange diamond mines threw an economic lifeline to the country. Despite these generally positive developments, the United States and the European Union have maintained sanctions due to the actions of ZANU-PF in earlier elections and as a means of continued leverage against the government. Zimbabwe remains suspended from the International Monetary Fund due to its debt arrears. Signs of trouble in the agreement were also readily apparent. Mugabe made no secret of his aversion to the unity government. He tried to limit the influence of the MDC through political appointments and the assignment of ministerial responsibilities.¹⁹
- 3.9.4** Mistrust between members of the GNU delayed crucial reforms agreed under the 2008 GPA.²⁰ But a constitutional referendum was held successfully on 16 March 2013. It was widely reported as well-managed and peaceful by the SADC observers and Civil Society Organisations.²¹ The new constitution stipulated all security forces and government institutions, including state media, must be impartial, and genuine reforms on freedom of speech must be implemented. However, by calling for elections to be held at the end of July, Mugabe had made sure there would not be enough time for all reforms to take place.²² Remarks by senior leaders of the army, police and intelligence services stating their preferred election outcome fuelled fears that the security forces – which had been implicated in the 2008 election violence – would again try to influence the next election in favour of ZANU-PF. Mugabe and Tsvangirai publicly spoke out against political violence; however, no concrete measures were taken to end partisan activities of the security forces.²³
- 3.9.5** The US State Department reports that during 2012 "ZANU-PF supporters – often with support from police – continued to assault and torture scores of persons, including suspected and known MDC members, their families, civil society activists, and student leaders, especially in the high-density neighbourhoods of Harare and nearby towns. Violent confrontations between various youth groups aligned with ZANU-PF (known as "Chipangano"), MDC-T, or MDC-N continued,

¹⁸ FCO Country Profile; Zimbabwe April 2012 <http://www.factba.se/fco-page.php?bc=ZW>

¹⁹ Freedom House. Report on civil rights, rule of law, anticorruption and transparency 2012 20 September 2012 <http://www.freedomhouse.org/report/countries-crossroads/2012/zimbabwe>

²⁰ Amnesty International Report 2013 - The State of the World's Human Rights - Zimbabwe 23 May 2013. http://www.ecoi.net/local_link/248081/358373_en.html

²¹ Foreign and Commonwealth Office Human Rights in Countries of Concern: Quarterly Update on Zimbabwe, January to March 2013) 31 March 2013. <http://www.hrdreport.fco.gov.uk/human-rights-in-countries-of-concern/zimbabwe/quarterly-updates-zimbabwe/>

²² The Guardian. Zimbabwe's 2013 elections explained 29 July 2013 <http://www.theguardian.com/global-development/2013/jul/29/zimbabwe-elections-2013-mugabe-tsvangirai>

²³ Amnesty International Report 2013 - The State of the World's Human Rights - Zimbabwe 23 May 2013. http://www.ecoi.net/local_link/248081/358373_en.html

particularly in urban areas. ZANU-PF supporters were the primary instigators of political violence. Police sometimes arrested the victims of the violence rather than the perpetrators. ZANU-PF trained and deployed youths and war veterans to harass and disrupt the activities of MDC members, labour groups, student movements, civic groups, and journalists considered critical of ZANU-PF.²⁴ In April 2012, it was reported that Chipangano has terrorised residents of Mbare suburb in Harare, forcing innocent civilians to reveal their personal details and ordering them to vote for Robert Mugabe in the next election.²⁵ In October 2012, it was reported that ZANU-PF had disbanded Chipangano although some members were said to still be continuing to extort money from kombi crews.²⁶ In a July 2013 report, the International Crisis Group notes the reported growing links between ZANU-PF and with criminal groups, such as the Chipangano gang in Mbare, outside Harare.²⁷

3.9.6 According to Freedom House, ZANU-PF militias operate as de facto enforcers of government policy and have committed assault, torture, rape, extralegal evictions, and extralegal executions without fear of punishment.²⁸ Minority Rights Group reports that the Zimbabwean government was also accused of reintroducing youth militias to create fear among political opponents prior to the 2013 elections.²⁹ In May 2013, the Inter Press Service reported that MDC-T supporters were forced to flee their rural home in Hurungwe district after ZANU-PF militias threatened them for encouraging people to participate in the recently-ended mobile voter registration. Since 2012, the Jochomondo militia has allegedly terrorised residents in Zimbabwe's northern Hurungwe district in Mashonaland West Province, a ZANU-PF -stronghold, making it almost impossible for opposition parties to campaign in the region. ZANU-PF-linked militias who call themselves Al-Shabaab, named after Somalia's Islamic terrorist group, are alleged to have threatened the electorate in Midlands Province. Officials from Marondera, the capital of Mashonaland East Province, situated some 72 km east of Harare, said villagers were forced by suspected ZANU-PF - linked militias to participate in the voter registration process.³⁰

3.9.7 Human Rights Watch reports that the Central Intelligence Organisation (CIO) has no legislative framework guiding its institutional set up and operations. Although it is a department within the President's Office, in practice "the CIO has operated more as a ZANU-PF intelligence agency and has been implicated in serious human rights abuses against ZANU-PF's political opponents and civil society

²⁴ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, 19 April 2013. Section 1. c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and 2 b. Freedom of Peaceful Assembly and Association

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

²⁵ SW Radio Africa. Violent Chipangano Gang Campaigning for Zanu-PF 13 April 2012 <http://www.swradioafrica.com/2012/04/13/violent-chipangano-gang-campaigning-for-zanu-pf/>

²⁶ The Zimbabwean. We have disbanded Chipangano: Midzi. 10 October 2012.

<http://www.thezimbabwean.co.uk/news/zimbabwe/61436/we-have-disbanded-chipangano-midzi.html>

²⁷ International Crisis Group, Zimbabwe's Elections: Mugabe's Last Stand, 29 July 2013

<http://www.crisisgroup.org/~media/Files/africa/southern-africa/zimbabwe/b095-zimbabwes-elections-mugabes-last-stand.pdf>

²⁸ Freedom House, Freedom in the World 2013 - Zimbabwe, 3 June 2013

<http://www.refworld.org/docid/51aefaae27.html>

²⁹ Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2013, 24 September 2013

<http://www.minorityrights.org/12071/state-of-the-worlds-minorities/state-of-the-worlds-minorities-and-indigenous-peoples-2013.html>

³⁰ Inter Press Service, Zimbabwe's Ruling Party Militias Spread Fear of Voting, 21 May 2013

<http://www.ipsnews.net/2013/05/zimbabwes-ruling-party-militias-spread-fear-of-voting/>

activists including torture, beatings, harassment and enforced disappearances”.³¹ Many Zimbabweans think the organisation has a network of informers that extends into the Zimbabwean diaspora.³² The US State Department reports that members of the CIO have been repeatedly identified as perpetrators of violence.³³

- 3.9.8** Human Rights Watch also reports that civil society leaders and the media have reported on the CIO conducting surveillance and intelligence gathering on their work and on other people and groups within civil society and political parties, perceived as hostile to ZANU-PF. Local groups, including Zimbabwe Human Rights NGO Forum and Zimbabwe Peace Project, have since October 2012 documented an increase in the number of politically motivated human rights violations involving CIO agents. Often this involved torture that took place in police detention. In most cases, victims identified the perpetrators as CIO agents as they often introduced themselves as members of the CIO, and the fact that only state agents, or the police, have access to detainees in police custody, for purposes of interrogation.³⁴
- 3.9.9** It was reported that in the build-up to elections there was an increase in low-level intimidation and violence towards political opponents. NGOs and civil society organisations were harassed and threatened and the MDC-T Cabinet Minister for Energy and Power Development was arrested in October 2012 for allegedly insulting the President. The Governor of Masvingo Province accused 29 NGOs of ignoring calls to renew their annual registration and subsequently suspended them, and the Minister for Mines and the Zimbabwe Attorney General accused pro-democracy civil society groups of damaging Zimbabwe’s interests and threatened that this would no longer be tolerated.³⁵
- 3.9.10** Human Rights Watch reported in March 2013 that police harassment and arrests of civil society activists worsened as elections got closer and that police actions against civil society groups appear to have had the approval of the highest levels of the police.³⁶ Amnesty International notes that ZANU-PF was especially suspicious and hostile of human rights groups and other critics of its policies and record in government. The party claimed CSOs were part of a Western conspiracy to effect “illegal regime change” in Zimbabwe. For example, at the party’s 13th National People’s Conference held in Gweru from 5 to 9 December 2012 delegates passed a resolution instructing “the Party to ensure that the Government enforces the de-registration of errant NGOs deviating from their mandate.” Such allegations are often followed by police raids, arrests, prolonged detention and long trials. This discourse has also fuelled impunity for human

³¹ Human Rights Watch, The Elephant in the Room: Reforming Zimbabwe’s Security Sector Ahead of Election, 5 June 2013, V. Zimbabwe’s Security Sector Legal Framework

http://www.hrw.org/sites/default/files/reports/zimbabwe0613webwcover_0.pdf

³² Washington Post. Zimbabwe’s security sector. 28 March 2008.

<http://www.washingtonpost.com/wp-dyn/content/article/2008/03/28/AR2008032802339.html>

³³ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section 1.d Role of the Police and Security Apparatus. 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

³⁴ Human Rights Watch, The Elephant in the Room: Reforming Zimbabwe’s Security Sector Ahead of Election, 5 June 2013, Central Intelligence Organization

http://www.hrw.org/sites/default/files/reports/zimbabwe0613webwcover_0.pdf

³⁵ Foreign and Commonwealth Office: Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Section IX: Human Rights in Countries of Concern - Zimbabwe, April 2013 <http://www.hrdreport.fco.gov.uk/human-rights-in-countries-of-concern/zimbabwe/>

³⁶ Human Rights Watch, Zimbabwe: End Police Crackdown on Civil Society, 19 March 2013

<http://www.hrw.org/news/2013/03/19/zimbabwe-end-police-crackdown-civil-society>

rights violations against human rights defenders, media workers, NGOs and supporters of other political parties creating a narrative in which targeting of perceived critics of ZANU-PF is legitimised.³⁷

- 3.9.611** The GNU came to an end with the presidential and parliamentary elections held on 31 July 2013. Mugabe won the presidential election with a 61.09% share of the votes and former Prime Minister Tsvangirai received a 33.9 % share.³⁸ ZANU-PF won 160 seats in the House of Assembly, MDC-T 49 and one seat was won by an independent candidate.³⁹
- 3.9.12** The African Union (AU) described the elections as 'orderly and peaceful' and the Zimbabwe Electoral Commission (ZEC) claimed the process to be smooth, despite long queues resulting from higher than expected turnout, meaning that some polling stations extended their opening hours.⁴⁰ The Zimbabwe Election Support Network (ZESN), a coalition of NGOs who deployed over 7000 accredited observers across all 210 constituencies in Zimbabwe for the election⁴¹, has reported that the credibility of the elections was 'compromised' as they estimate that one million potential voters were denied the opportunity to vote. The voters' roll of 19 June as provided by the Office of the Registrar General clearly showed that urban voters had systematically been denied the opportunity to register to vote. A total of 99.97% of rural voters were registered while only 67.94% of urban voters were registered. Over 750,000 urban voters were missing on the voters' roll compared to rural voters. More than 25 voters were turned away from 82% of urban polling stations, traditionally MDC strongholds, compared to 39% of polling stations in rural areas. ZESN reports that this was compounded by the massive bias in the state media, the campaign of intimidation in rural areas, the lack of meaningful voter education, the rushed electoral process and the harassment of civil society leaving, the credibility of these elections severely compromised.⁴²
- 3.9.13** The MDC has called the poll fraudulent. The US and UK expressed concern at the poll results amid the opposition's claims of electoral fraud.⁴³ William Hague, the Foreign Secretary, said that the reported irregularities "call into serious question the credibility of the election". ZANU-PF's chances may also have been bolstered by an army of ghost voters according to analysis from the Research and Advocacy Unit. They found 370,000 people with identical names and birthdays, and similar identity numbers, on the voters' roll that was released at the end of May 2013. However, the results were approved by the African Union (AU) and SADC.⁴⁴ According to the BBC, eleven people in Harare and 20 from

³⁷ Amnesty International, "Walk the Talk": Zimbabwe must respect and protect fundamental freedoms during the 2013 harmonized elections, 12 July 2013, 4.1 Human Rights Violations Against Human Rights Defenders <http://www.amnesty.org/en/library/asset/AFR46/009/2013/en/843a7898-1d70-419d-86d1-490a40d08d84/af460092013en.pdf>

³⁸ Kubatana, Results – Harmonised elections 31 July 2013, updated 3 August 2013, http://www.kubatana.net/html/archive/elec/130801kubres.asp?sector=ELEC&year=0&range_start=1

³⁹ Kubatana, Results – Harmonised elections 31 July 2013, updated 3 August 2013, http://www.kubatana.net/html/archive/elec/130801kubres.asp?sector=ELEC&year=0&range_start=1

⁴⁰ BBC News, Zimbabwe election: Votes counted after 'orderly' polls, 1 August 2013, <http://www.bbc.co.uk/news/world-africa-23526355>

⁴¹ Zimbabwe Independent, Polls: Zesn deploys 7 000 observers, 30 July 2013, <http://www.theindependent.co.zw/2013/07/30/polls-zesn-deploys-7-000-observers/>

⁴² Zimbabwe Election Support Network, 2013 Harmonised Elections Preliminary Statement, 1 August 2013, http://www.kubatana.net/docs/elec/zesn_prelim_stmt_election_130801.pdf

⁴³ BBC News, Supporters of Zimbabwe opposition MDC allege attacks, 5 August 2013, <http://www.bbc.co.uk/news/world-africa-23568694>

⁴⁴ Daily Telegraph, Calls for Zimbabwe election rerun as Western pressure grows, 4 August 2013,

Mashonaland Central province say they were attacked by known ZANU-PF supporters after the results were announced.⁴⁵

- 3.9.14** Two members of the Zimbabwe Electoral Commission resigned following the elections. Professor Joe Feltoe returned to his job at the University of Zimbabwe where he was a law lecturer, while Mr Mkhululi Nyathi offered his resignation, citing what he described as the 'unprofessional manner' in which the elections were conducted.⁴⁶
- 3.9.15** It was reported on 9 August 2013 that the MDC had filed a legal challenge to Mugabe's victory seeking an order for the result to be declared null and void and a new election to be called within 60 days. The MDC's 15 grounds included alleged bribery, abuse of "assisted voting" and manipulation of the electoral roll.⁴⁷ However the MDC party subsequently dropped its legal challenge saying it could not get a fair hearing.⁴⁸ It had filed a separate case seeking access to full details of the results from the electoral commission, but the High Court has delayed judgement in the case. The MDC said that without information such as the number of people not on the voters' roll who voted, it cannot prove that the elections were fraudulent. Despite the MDC withdrawing its case, the Constitutional Court ruled that the election was "free, fair and credible." Zimbabwe's opposition leader Morgan Tsvangirai may face contempt of court charges for "disparaging remarks" he made about the judiciary.⁴⁹
- 3.9.16** Amnesty International reported that at least six women with 12 children aged between 16 months and 10 years had been forced to flee their homes in Mukumbura district, Mashonaland Central Province, after being threatened with violence and forcible evictions by local village heads soon after the 31 July election. Some of the women had to leave children behind. The six women alleged they had been targeted for refusing to follow instructions from ZANU-PF supporters to feign illiteracy, blindness or physical injury, which would have allowed someone else to 'assist' them by marking the ballot on their behalf (and thus compromise the secrecy of their vote). One of the women reported that she had first been threatened in her village two weeks before the election and reported the matter to the police but no action was taken. The six displaced political activists told us that there are more families in the same predicament who remain stranded in the district under threat of violence.⁵⁰
- 3.9.17** Similarly SW Radio Africa reported on 5 August that a group of 38 MDC-T supporters, who served as polling agents in the election, were reportedly forced to leave their homes in Mbare high-density suburb of Harare by members of the Chipangano gang who were alleged to have gone door-to-door targeting MDC-T

<http://www.telegraph.co.uk/news/worldnews/africaandindianocean/zimbabwe/10221479/Calls-for-Zimbabwe-election-rerun-as-Western-pressure-grows.html>

⁴⁵ BBC News, Supporters of Zimbabwe opposition MDC allege attacks, 5 August 2013,

<http://www.bbc.co.uk/news/world-africa-23568694>

⁴⁶ Africa Review, Another top Zimbabwe electoral official resigns, 6 August 2013,

<http://www.africareview.com/News/Another+top+Zimbabwe+electoral+official+resigns/-/979180/1938774/-/11bfwpqz/-/index.html>

⁴⁷ BBC News. Zimbabwe's MDC challenges Robert Mugabe election victory. 9 August 2013.

<http://www.bbc.co.uk/news/world-africa-23637580>

⁴⁸ BBC News. Zimbabwe's MDC drops Robert Mugabe election challenge. 16 August 2013. <http://www.bbc.co.uk/news/world-africa-23733748>

⁴⁹ BBC News. Zimbabwe's Tsvangirai may be charged for 'judiciary insult'. 20 August 2013. <http://www.bbc.co.uk/news/world-africa-23771763>

⁵⁰ Amnesty International. Zimbabwe: human rights concerns despite a peaceful election. 8 August 2013.

<http://www2.amnesty.org.uk/blogs/campaigns/zimbabwe-human-rights-concerns-despite-peaceful-election>

supporters in Mbare. The police were reportedly notified but nothing was done.⁵¹

- 3.9.18** The Zimbabwe Peace Project (ZPP) publishes monthly statistics of human rights violations including murder, rape, kidnapping/abduction, assault, theft/looting, discrimination, MDP (malicious damage to property), unlawful detention, harassment/intimidation banned/disrupted political meetings and displacement for each province.⁵² ZPP reports have shown a steady overall decrease in human rights abuses since 2008. ZPP reports show 23,757 incidents in 2008, which fell to 14,725 in 2009; 10,691 in 2010; 11,935 in 2011; 5,098 in 2012. and 3,792 in January to August 2013.⁵³ Caseworkers should refer to the original reports which also provide a detailed explanation of the nature of the violence, the perpetrators, victims, and geographical breakdown.
- 3.9.19** The ZPP report covering August 2013 – the first month after the elections – noted that violations did not rise significantly across the country in August 2013 when compared to July 2013. With a total of 525 incidents having been recorded compared to 496 in July 2013. Manicaland recorded the highest number of violations, 120, followed by Mashonaland Central with 87, Midlands with 82. Matabeleland South and Bulawayo had the least violations recording 5 and 7 cases respectively. An MDC-T activist was found dead on 9 August 2013 near Two Boys Shopping Centre in a suspected case of political violence. The report also recorded that all the Mashonaland Provinces, Manicaland, Masvingo and Midlands witnessed cases of displacements targeting MDC-T candidates and their election agents. Harare, being the most affected with thirty five incidents, followed by Mashonaland Central with eighteen cases. Cases of malicious damage to property also rose as a number of houses belonging to MDC-T members were set on fire or destroyed by suspected ZANU-PF supporters. Traditional leaders violated their constitutional mandate of being neutral and non partisan in their work. For example, Chief Mahenye from Chipinge South summarily dethroned 22 village heads whom he accused of allowing their subjects to vote for MDC-T during elections which caused ZANU-PF to lose the ward. In Gutu North, at Makumbe village ward 12 on 28 August 2013 the village head chased away an MDC-T member from a GMB food distribution scheme saying he and other MDC- T activists will never get food as long as ZANU-PF is in power.⁵⁴
- 3.9.20** In September 2013, SW Radio Africa reported that MDC-T supporters are being denied drought relief food aid. Reports from several areas around the country indicate that post-election retribution is at the heart of these illegal acts by ZANU PF agents.⁵⁵ SW Radio Africa further reported that an attack on Mashonaland East official Silent Dube, who was abducted from his farm in Beatrice and later dumped at a nearby army barracks, was part of a wider campaign of political retribution against the MDC-T. Most recently, about 13 families accused of

⁵¹ SW Radio Africa. MDC-T polling agents evicted from Mbare. 5 August 2013.

<http://www.swradioafrica.com/2013/08/05/mdc-t-polling-agents-evicted-from-mbare/>

⁵² Zimbabwe Peace Project report archive

http://www.kubatana.net/html/archive/archorg_index.asp?orgcode=zim028

⁵³ Zimbabwe Peace Project. National Reports.

http://www.zimpeaceproject.com/index.php?option=com_phocadownload&view=category&id=13:2012-reports&Itemid=5

⁵⁴ Zimbabwe Peace Project. National Report August 2013, 31 August 2013,

http://www.zimpeaceproject.com/index.php?option=com_phocadownload&view=category&download=127:zp-august-2013-monthly-report&id=6:latest-national-report&Itemid=157

⁵⁵ SW Radio Africa, MDC-T supporters denied drought relief food aid, 10 September 2013

<http://allafrica.com/stories/201309100227.html>

supporting the MDC were reportedly evicted from a farm owned by ZANU PF Minister Nicolas Goche in Shamva.⁵⁶

See also: [Actors of protection](#) (section 2.2 above)

[Internal relocation](#) (section 2.3 above)

[Caselaw](#) (section 2.4 above)

- 3.9.21 Conclusion.** The Supreme Court held in [RT \(Zimbabwe\)](#) that the rationale of the decision in [HJ \(Iran\)](#) extends to the holding of political opinions. An individual should not be expected to modify or deny their political belief, or the lack of one, in order to avoid persecution.
- 3.9.22** Following the elections in July 2013 the situation on the ground has not changed significantly from that considered by the Tribunal in the country guidance cases of [EM & others](#) (and re-stated in [CM](#)). As was the case before the elections, the security apparatus is controlled by ZANU-PF and there continue to be reports of ill-treatment of perceived MDC supporters particularly in ZANU-PF dominated areas namely Mashonaland West, Mashonaland Central, Mashonaland East, Manicaland, Masvingo and Midlands provinces and high density areas of Harare. In those places opponents, or perceived opponents, of ZANU-PF would face a real risk of persecution because of a continuing risk of being required to demonstrate loyalty to ZANU-PF. There are few incidents of similar difficulties being faced by MDC supporters or activists in MDC dominated areas - namely Matabeleland North, Matabeleland South, low density areas of Harare or in Bulawayo.
- 3.9.23** Assessing who may be at real risk from politically motivated violence is not simply a matter of the level of political activity in which the individual has engaged. Violence tends to be targeted at those with a perceived political profile, not necessarily of a high level, and those perceived to be active in MDC politics, human rights defenders and other perceived opponents of ZANU-PF
- 3.9.24** Following an assessment of the risk on return to Harare airport (see country guidance caselaw of [HS](#) read with [AA](#) and [SM and Others](#)), the assessment of risk on return to a home area will also very much depend on the place in Zimbabwe to which the particular individual would return. There are differences between urban and rural areas (and the situation is not uniform across the rural areas). In general those returning to MDC dominated rural areas of Matabeleland North or Matabeleland South would generally be highly unlikely to face significant difficulty from ZANU-PF elements, including the security forces. Those returning to all other rural areas from the UK without ZANU-PF connections after a significant absence would face a real risk of persecution because of a continuing risk of being required to demonstrate loyalty to ZANU-PF, with the prospect of serious harm in the event of failure. However in such circumstances internal relocation to Harare or, in particular, Bulawayo may be a viable option for a person facing risk of persecution in rural Zimbabwe subject of course to the requirements that such relocation should not be unduly harsh. As a general matter, it is unlikely that a person with a well-founded fear of persecution in a major urban centre such as Harare will have a viable internal relocation alternative to a rural area in the Eastern provinces. Relocation to Matabeleland

⁵⁶ SW Radio Africa, MDC-T slam 'political attacks' on supporters, 17 September 2013 <http://allafrica.com/stories/201309180259.html>

(including Bulawayo) may be negated by discrimination, where the returnee is Shona.

- 3.9.25** As regards major urban areas, a returnee to Harare will face difficulties living in high density areas not faced by those living in other urban areas and those persons perceived to be active in MDC politics may face the risk of targeted reprisals. However, at the present time, although a person having no significant MDC profile returning to a high-density area of Harare is likely to face more difficulties than someone returning to a low-density area, he or she would not at present face a real risk of having to prove loyalty to ZANU-PF in order to avoid serious ill-treatment. Returnees to Bulawayo will in general not suffer the adverse attention of ZANU-PF, including the security forces, even if he or she does have a significant MDC profile.
- 3.9.26** MDC supporters, human rights defenders and other opponents of ZANU-PF, or those perceived to be such, who are able to establish that their political opinions or perceived political activities in Zimbabwe and/or the UK mean that they are at real risk of coming to the attention of ZANU-PF or its supporters and who cannot avoid that risk by internally relocating will have a well-founded fear of persecution and should be granted asylum.
- 3.10 Teachers**
- 3.10.1** Applicants may claim fear of discrimination or violence due to actual or imputed political sympathy with the opposition to ZANU-PF, their role as election officers/polling agents or the implication that their professional position will be used to influence students.
- 3.10.2 Treatment.** Around 45,000 teachers left Zimbabwe between 2004 and 2008 to escape the economic crisis or political violence. Many thousands more were reportedly afraid to leave their homes in 2008 due to the political violence, which halted education in most schools, particularly in the rural areas.⁵⁷ Teachers were specifically targeted in post-election violence and some schools were taken over as torture bases.⁵⁸
- 3.10.3** Education International reported on 30 March 2011 that Zimbabwe's teachers were 'experiencing increased political threats and serious violent attacks'. Teachers, especially in rural areas, have been the victims of political violence and extortion by war veterans and ZANU-PF supporters who accuse them of supporting the MDC, with some reports of teachers being targeted to join ZANU-PF.⁵⁹
- 3.10.4** The Zimbabwe Peace Project (ZPP) report for May 2011 noted that: "Harassment and intimidation of teachers was reported at Nyamandi Methodist School in Gutu District where the headmaster was threatened with unspecified action and accused of being an MDC-T activist."⁶⁰

⁵⁷ United Nations Educational, Scientific, and Cultural Organisation (UNESCO) Education under attack: 2010. (page 101) <http://unesdoc.unesco.org/images/0018/001868/186809e.pdf>

⁵⁸ FCO Annual Human Rights report 2008; Zimbabwe <http://www.fco.gov.uk/resources/en/pdf/pdf15/human-rights-2008>

⁵⁹ Education International, Teachers under fire in Zimbabwe, 30 March 2011 http://www.ei-ie.org/en/news/news_details/1755

⁶⁰ Zimbabwe Peace Project, Summary on politically motivated human rights and food related violations: May 2011, 24 June 2011 http://www.zimpeaceproject.com/index.php?option=com_phocadownload&view=category&download=106:zp

- 3.10.5** Zimeye reported on 23 June 2011 that the PTUZ reported that its teachers had been "... harassed in some areas for taking part in the strike action that started Wednesday (22nd June 2011). PTUZ President, Takavafira Zhou, told SW Radio Africa that youth militia, intelligence agents and school heads aligned with ZANU-PF, are intimidating teachers and making threats.⁶¹
- 3.10.6** In August 2011 teachers at Gombakomba and Dangare schools in Zimunya district said that they were living in fear as they were being forced to buy ZANU-PF cards, as a way of showing allegiance to ZANU-PF, by war veterans (PF). A teacher at Gombakomba secondary school said that 'the situation is terrible here. We are on holiday but they are coming to our houses forcing us to buy the ZANU-PF cards. They also told us to assure them that ZANU-PF will not lose in the forthcoming elections'. 'They (war veterans) have all the names of teachers at our school and they have made sure that everyone has a ZANU-PF card,' said another teacher at Dangare primary school.⁶²
- 3.10.7** The Zimbabwe Peace Project noted that in September 2011, "In Zvimba West Constituency, teachers from schools under Chief Chirau were reportedly forced to buy ZANU-PF party cards. Those who declined and were suspected of belonging to the MDC-T were threatened with transfers"⁶³. In October 2011, it was reported that rural schools in Manicaland were suffering harassment and intimidation from ZANU-PF militia, who were ordering teachers to vacate their schools, accusing them of supporting the MDC.⁶⁴ It also found in November 2011, that teachers in Masvingo province, continued to be the "target of political violence."⁶⁵
- 3.10.8** In August 2012, the Zimbabwe Peace Project reported that in Matabeleland South "The Census exercise saw the harassment of teachers in some training stations as they were unceremoniously dismissed by senior police officers from their training stations".⁶⁶ In September 2012, a teacher from Mutoko was beaten by soldiers who accused him of attending a MDC rally and of being an activist masquerading as a teacher.⁶⁷ In September 2012, in Mutasa South, teachers were forced against their will to join the ZANU-PF by war veterans.⁶⁸
- 3.10.9** In January 2013, Newton Kachepa, the MP from Mudzi North, reportedly fired all school teachers in his constituency who were not ZANU-PF supporters and were

[p-may-2011-report-summary&id=5:zpp-2011-reports&Itemid=107](http://www.zimeye.org/?p=31383)

⁶¹ Zimeye. Union says militia & CIOs harassing striking teachers, 23 June 2011.

<http://www.zimeye.org/?p=31383>

⁶² The Zimbabwean, 'Teachers forced to support' 26 August 2011

<http://www.thezimbabwean.co.uk/news/zimbabwe/52132/teachers-forced-to-support.html>

⁶³ Zimbabwe Peace Project, Summary on politically-motivated human rights and food-related violations - September 2011, 28 October 2011

http://www.kubatana.net/docs/hr/zpp_summary_hr_food_violations_111028.pdf

⁶⁴ The Zimbabwean, Teachers flee rural schools: ZIMTA, 20/10/2011. <http://reliefweb.int/node/454092>

⁶⁵ Zimbabwe Peace Project, Summary on politically-motivated human rights and food-related violations - November 2011, 23 December 2011

http://www.kubatana.net/docs/hr/zpp_summary_hr_food_violations_111223.pdf

⁶⁶ Zimbabwe Peace Project, Summary on politically-motivated human rights and food-related violations - August 2012, 17 September 2012

http://www.kubatana.net/docs/hr/zpp_monthly_monitor_aug_2012_120917.pdf

⁶⁷ The Zimbabwean, Mutoko teacher living in fear after army attack, 25 September 2012

<http://www.thezimbabwean.co.uk/news/zimbabwe/61001/mutoko-teacher-living-in-fear.html>

⁶⁸ SW Radio Africa, Teachers forced to join ZANU PF structures in Mutasa South, 18 September 2012

<http://www.swradioafrica.com/2012/09/18/teachers-forced-to-join-zanu-pf-structures-in-mutasa-south/>

not raised in the area.⁶⁹ In 2011, Kachepa was accused of transporting ZANU-PF supporters who attacked a MDC-T group gathering for a rally at Nyamukoko Business Centre, causing the death of the MDC-T ward 1 chairman.⁷⁰

- 3.10.10** A report in the Standard on 6 October 2013 stated that ZANU-PF youths and war veterans in Masvingo had started a witch-hunt, haunting teachers perceived to be sympathetic to the MDC-T and ordering their transfer from Masvingo West constituency. A petition that was set to be handed to the Ministry of Education was circulated in and around Masvingo town, where people were urged to sign, denouncing about 13 teachers at different schools.⁷¹
- 3.10.11** In May 2013, the Zimbabwe Independent reported that ZANU PF was targeting teachers in rural areas and intimidating and coercing them to support the party.⁷² Community Tolerance Reconciliation and Development (COTRAD) reported in July 2013 that the CIO was targeting teachers “in Mwenezi district and has since started victimizing teachers in the areas around Maranda, Neshuro and Saraure of Mwenezi East Constituency. The victimization has included the de-listing of particular teachers from participating in the voter registration.”⁷³ In July 2013, teachers at a rural school in Nyanga North were threatened by state security agents after they refused to grant Zanu-PF permission to hold the party’s primary elections at the school premises during learning time.⁷⁴ IRIN reports that in the run up to the July 2013 elections, Heal Zimbabwe Trust (HZZT), an NGO working to promote peace, reported cases of soldiers assaulting MDC supporters, death threats being issued against teachers, villagers being forced to attend Zanu-PF rallies and even abductions of political opponents.⁷⁵
- 3.10.12** The Zimbabwe Peace Project reports that “On Election Day, incidences of voters being shepherded to polling stations by ZANU-PF activists such as traditional leaders, war veterans and youths were reported throughout the country. Very articulate and educated people like teachers were forced to vote as assisted voters. In areas such as Mutare South, Mazowe, and other areas, ZANU-PF leaders and traditional leaders had books “Zanu PF supervisor’s election data book” where voters were entered after voting. According to Zimbabwe Electoral Commission figures the number of assisted voters nationally amounted to a massive 206 901 regardless of the fact that Zimbabwe boasts of a 96% literacy rate. This high number of assisted voters compromised the integrity and secrecy of the ballot”.⁷⁶

See also: [Actors of protection](#) (section 2.2 above)

⁶⁹ SW Radio Africa, Teachers fired and ordered to leave by ZANU PF MP Kachepa, 11 January 2013 <http://www.swradioafrica.com/2013/01/11/teachers-fired-and-ordered-to-leave-by-zanu-pf-mp-kachepa/>

⁷⁰ SW Radio Africa, Teachers fired and ordered to leave by ZANU PF MP Kachepa, 11 January 2013 <http://www.swradioafrica.com/2013/01/11/teachers-fired-and-ordered-to-leave-by-zanu-pf-mp-kachepa/>

⁷¹ The Standard. Zimbabwe: Zanu-PF After Teachers With Links to MDC-T. 6 October 2013. <http://allafrica.com/stories/201310060133.html>

⁷² Zimbabwe Independent, Zanu PF intimidates teachers, 17 May 2013 <http://www.theindependent.co.zw/2013/05/17/zanu-pf-intimidates-teachers/>

⁷³ Community Tolerance Reconciliation and Development (COTRAD), Intimidation resurfaces, 11 July 2013 http://www.kubatana.net/html/archive/demgg/130711cotrad.asp?sector=EDUTRA&year=0&range_start=1

⁷⁴ The Standard, Nyanga teachers threatened for refusing Zanu PF access to school, 7 July 2013 http://www.kubatana.net/html/archive/edutra/130707zimstand6.asp?sector=EDUTRA&year=0&range_start=1

⁷⁵ IRIN, Zimbabwe's elections maybe peaceful, but fair?, 30 July 2013 <http://www.irinnews.org/report/98499/zimbabwe-s-elections-may-be-peaceful-but-fair>

⁷⁶ Zimbabwe Peace Project, Monthly Monitor July 2013, 24 June 201115 August 2013 http://www.zimpeaceproject.com/index.php?option=com_phocadownload&view=category&download=126:july-2013-monthly-report&id=9:2013-reports&Itemid=107

Internal relocation (section 2.3 above)**Caselaw (section 2.4 above)**

- 3.10.13 Conclusion.** In the country guidance case of [EM & others](#) (as modified by [CM](#)) the Upper Tribunal confirmed that those who are or have been a teacher are at a heightened risk of ill treatment. The heightened risks associated with being a teacher should be considered alongside the individual circumstances of each case, including their previous employment, any adverse interest by the authorities and an assessment of the risk to them on return to Zimbabwe whether or not they seek to resume their career as a teacher. Caseworkers should also note that in the country guidance case of [NN](#), the Upper Tribunal confirmed that the “geographical filter” identified in [EM & others](#) and [CM](#) is equally applicable to teachers. Thus, a teacher will generally not face a heightened risk on return to Zimbabwe, on account of his or her occupation or former occupation alone, if his or her destination of return is Matabeleland North or Matabeleland South, where a returnee will in general not face a real risk of harm from ZANU-PF elements, including the security forces, even if he or she is a MDC member or supporter; or (b) Bulawayo, where the returnee will in general not face such a risk, even if he or she has a significant MDC profile.
- 3.10.14** Teachers who are able to establish that their perceived political opinion or activities mean that they are at real risk of persecution or serious harm and who cannot avoid that risk by internally relocating will have a well-founded fear of persecution and should be granted asylum.
- 3.11 Gay men, lesbians, bisexual and transgender persons**
- 3.11.1** Some applicants may make an asylum and/or human rights claim based on ill-treatment amounting to persecution at the hands of the state as gay men, lesbians, bisexual or transgender persons in Zimbabwe.
- 3.11.2 Treatment.** According to the country’s criminal code “any act involving physical contact between males 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 [£3,250]. There were no known cases of charges being brought to prosecute 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.⁷⁷
- 3.11.3** Leadership in both ZANU-PF and MDC-T, including President Mugabe and Morgan Tsvangirai, have publicly criticised the LGBT community and have spoken against the inclusion of LGBT rights in the constitution. Moreover, the significantly increased harassment and scrutiny of the Gays and Lesbians in Zimbabwe (GALZ) organisation by the government was, as in years past, attributed to political machinations surrounding the constitution-making progress.⁷⁸ IRIN noted in September 2012 that “Same-sex relationships are considered a breach of the traditional family structure, in which marriage and

⁷⁷ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity. 19 April 2013. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

⁷⁸ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

procreation help perpetuate a system of care for elders. In Zimbabwe, regard for tradition is used to stir up populist sentiment during elections”.⁷⁹ GALZ director, Chesterfield Samba, told IRIN that “Usually when anything political is happening, the vilification of the [gay] community begins [...] It is a fearful time, and it becomes difficult to go about daily life as normal.”⁸⁰

- 3.11.4** In 2011 Mugabe publicly blamed the LGBT community for Africa’s ills and declared its members to be worse than “pigs and dogs.” In February Mugabe said that same-sex marriage was “insanity” and “satanic”, while in May 2012 he was reported as stating that “homosexuality will lead to the extinction of the human race”⁸¹. Shortly before the July 2013 elections, Mugabe reportedly stated that if his ZANU PF party wins “he will make the country a “hell” for gays and lesbians”.⁸² In May 2013 local government Minister Ignatius Chombo urged traditional chiefs to “banish people who support homosexuality from their communities and take away their land”.⁸³ However, in an apparent shift of position, Tsvangirai declared in a 2011 press interview that LGBT rights were a human right that should be enshrined in the country’s constitution.⁸⁴ Yet in March 2013, shortly before a referendum on the new constitution was held, Tsvangirai reportedly denounced homosexuality and said that marriage “should be between a man and a woman”.⁸⁵ In February 2012 the co-chairs of the Constitution Select Committee, representing all major parties, specifically opposed antidiscrimination clauses for gays and lesbians in the draft constitution. LGBT activists who sought sexual orientation as a protected class eventually settled for language offering a “right to privacy.”⁸⁶ In March 2013, the new constitution was approved which continues to outlaw homosexuality and ban same-sex marriage.⁸⁷
- 3.11.5** The situation was further exacerbated by rhetoric surrounding the 2013 elections. A Radio Netherlands Worldwide report of 2 September 2013, stated that during the 2013 election period LGBT persons were a target of politicians, particularly Mugabe and, by extension, the police. No political party has ever come out in support of LGBT persons but ZANU-PF is very clear on the subject: they do not want gay men or lesbians in the country because they “disturb the African moral

⁷⁹ Integrated Regional Information Networks (IRIN), Zimbabwe: The mean season for gays, 25 September 2012

<http://www.irinnews.org/report/96377/ZIMBABWE-The-mean-season-for-gays>

⁸⁰ Integrated Regional Information Networks (IRIN), Zimbabwe: The mean season for gays, 25 September 2012

<http://www.irinnews.org/report/96377/ZIMBABWE-The-mean-season-for-gays>

⁸¹ Amnesty International, Making love a crime: Criminalization of same-sex conduct in sub-Saharan Africa, 5.4 Incitement to discrimination and hatred, April 2013,

<http://www.amnesty.org/en/library/asset/AFR01/001/2013/en/9f2d91b7-bc0e-4ea7-adae-7e51ae0ce36f/af010012013en.pdf>

⁸² GlobalGays.com, Zimbabwe: Mugabe seeks life in prison for homosexuals, 17 June 2013,

<http://archive.globalgayz.com/africa/zimbabwe/zimbabwe-mugabe-seeks-life-in-prison-for-homosexuals/>

⁸³ SW Radio Africa, Zimbabwe: Minister Urges Eviction of People Who Support Gays, 15 May 2012,

<http://allafrica.com/stories/201205160217.html>

⁸⁴ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

⁸⁵ Pink News, Zimbabwean PM Morgan Tsvangirai accused of ‘hate speech’ by gay rights group, 8 March 2013, <http://www.pinknews.co.uk/2013/03/08/zimbabwean-pm-morgan-tsvangirai-accused-of-hate-speech-by-gay-rights-group/>

⁸⁶ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

⁸⁷ International Lesbian, Gay, Bisexual, Trans and Intersex Association, Zimbabwe Approves New Anti-Gay Constitution, 22 March 2013, <http://ilga.org/ilga/en/article/o0ObQZc1Kv>

fabric". During Mugabe's election rallies he is reported as saying that homosexuals were "worse than pigs, goats and birds...If you take men and lock them in a house for five years and tell them to come up with two children and they fail to do that, then we will chop off their heads."⁸⁸

- 3.11.6** Amnesty International 2013 Annual Report noted that hostility directed at non-gender-conforming individuals and discrimination against LGBTI people has continued to be rife in the country. The media contributed to public prejudices against LGBTI individuals by publishing hostile comments about LGBTI people made by political leaders, particularly within the context of debate around the new Constitution. ZANU-PF and MDC-T accused each other of "harbouring" LGBTI people. Politicization of the debate on outlawing discrimination on the basis of sexual orientation or gender identity fuelled harassment and intimidation of LGBTI people by police.⁸⁹
- 3.11.7** According to the US Department of State, members of GALZ, the primary organisation dedicated to advancing the rights of the country's LGBT community, experienced assault, harassment, and discrimination during 2012.⁹⁰ Forty-four members of the Gays and Lesbians of Zimbabwe (GALZ) organization were detained overnight at Harare Central Police station on 11 August 2012 when police raided their offices in Harare. The raid followed a meeting convened by GALZ to discuss Zimbabwe's draft Constitution and to launch a report on human rights violations perpetrated against its members. Following the detainees' release, police visited some of their homes and workplaces, risking exposing their sexual orientation and thereby putting them at increased risk of discrimination. On 20 August, 2012 police raided the GALZ offices for a second time and seized computers and pamphlets. On 23 August, GALZ was charged with running an "unregistered" organization in contravention of Section 6(iii) of the Private Voluntary Organisation Act. For the first time in 20 years GALZ was forced to close its offices indefinitely for fear of further police raids.⁹¹ IRIN reported in September 2012 that the detained GALZ members were 'profiled'; detainees' names, addresses, places of work and even details about friends and family were recorded, and with this information police have been pursuing these individuals as well as people close to them.⁹² GALZ director Chesterfield Samba told IRIN that "People are being tracked down in clubs and bars, at their jobs and homes, because they are suspected of being gay."⁹³
- 3.11.8** In March 2012 the UN Committee on the Elimination of Discrimination Against Women (CEDAW) expressed concern about acts of violence, perpetrated by state and non-state actors, against lesbian, bisexual and transgender women.⁹⁴

⁸⁸ Radio Netherlands Worldwide, Zimbabwe: Gay in Zimbabwe - 'Chop Off Their Heads!', 2 September 2013, <http://allafrica.com/stories/201309020884.html>

⁸⁹ Amnesty International Annual Report 2013 - Zimbabwe, 23 May 2013, <http://www.amnesty.org/en/region/zimbabwe/report-2013>

⁹⁰ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

⁹¹ Amnesty International Annual Report 2013 - Zimbabwe, 23 May 2013, <http://www.amnesty.org/en/region/zimbabwe/report-2013>

⁹² Integrated Regional Information Networks (IRIN), Zimbabwe: The mean season for gays, 25 September 2012 <http://www.irinnews.org/report/96377/ZIMBABWE-The-mean-season-for-gays>

⁹³ Integrated Regional Information Networks (IRIN), Zimbabwe: The mean season for gays, 25 September 2012 <http://www.irinnews.org/report/96377/ZIMBABWE-The-mean-season-for-gays>

⁹⁴ UN Committee on the Elimination of Discrimination Against Women, Concluding observations of the Committee on the Elimination of Discrimination against Women, Zimbabwe 01/03/2012 (para 23) <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-ZWE-CO-2-5.pdf>

- 3.11.9** GALZ reported to CEDAW in January 2012 that “Many LBT people are unable to live openly because of their fear of stigma and discrimination. LBT people have been denied employment on the basis of their sexual orientation; women have been denied custody, guardianship or access to their children on the basis of their sexual orientation”.⁹⁵ GALZ further notes that “The mere existence of laws criminalising homosexual acts impacts societal perceptions about ‘female’ sexuality and prevent women from living openly as LBT. In Zimbabwe, not only are the rights of LBT people not recognised, but the violations of LBT people’s rights are often unpunished and justified. In August 2011, a lesbian woman was brutally assaulted with a bottle to the head after receiving threats for practicing homosexuality in a country where the president is opposed to such activities”.⁹⁶
- 3.11.10** The US State Department report that religious leaders in a society that is traditionally conservative and Christian espoused and encouraged discrimination against LGBT individuals. In May 2012 Tom Deuschle, the founder of the largest Pentecostal church in the country, Celebration Ministries, said “[legalising homosexuality] is an insult to the respect that we are supposed to show God. We can’t respect what is dishonourable. We love them but what they are doing is a sin...an abomination.”⁹⁷
- 3.11.11** LGBT individuals reported widespread societal discrimination based on sexual orientation. GALZ reported in January 2012, that lesbian, bisexual and transgender people face systemic discrimination and a “culture of fear, hatred and exclusion”.⁹⁸ In response to social pressure, some families reportedly subjected their LGBT members to “corrective” rape and forced marriages to encourage heterosexual conduct. Such crimes were rarely reported to police. Women, in particular, were subjected to rape by male family members. LGBT persons often left school at an early age due to discrimination and had higher rates of unemployment and homelessness. Many persons who identified as LGBT did not seek medical care for sexually transmitted diseases or other health issues due to fear that health providers would shun them.⁹⁹ However in the country guidance case of [LZ \(homosexuals\) Zimbabwe CG \[2011\] UKUT 487 \(IAC\) \(26 January 2012\)](#) the Tribunal’s assessment at that time was that “corrective rape” was rare. The Tribunal accepted ‘that it does happen, and of its nature must often be a hidden crime, but it does not represent a real risk to homosexuals of either gender.’ (para 58 of the determination).
- 3.11.12** In September 2012, the state owned Herald newspaper reported that a suspected gay couple, one of whom was wearing female clothing were arrested

⁹⁵ Gays and Lesbians of Zimbabwe (GALZ), Report on Discrimination against Women in Zimbabwe based on Sexual Orientation and Gender Identity Submitted to the Committee on the Elimination Discrimination against Women, 6 January 2012 <http://www.iglhrc.org/binary-data/ATTACHMENT/file/000/000/559-1.pdf>

⁹⁶ Gays and Lesbians of Zimbabwe (GALZ), Report on Discrimination against Women in Zimbabwe based on Sexual Orientation and Gender Identity Submitted to the Committee on the Elimination Discrimination against Women, 6 January 2012 <http://www.iglhrc.org/binary-data/ATTACHMENT/file/000/000/559-1.pdf>

⁹⁷ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6.Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity. 19 April 2013. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

⁹⁸ Gays and Lesbians of Zimbabwe (GALZ), Report on Discrimination against Women in Zimbabwe based on Sexual Orientation and Gender Identity Submitted to the Committee on the Elimination Discrimination against Women, 1. Executive Summary, 6 January 2012 <http://www.iglhrc.org/binary-data/ATTACHMENT/file/000/000/559-1.pdf>

⁹⁹ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6.Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity. 19 April 2013. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

in Mashonaland West province and according to the police spokesman there, had appeared before a Kadoma magistrate facing sodomy charges as defined in section 73(i) of the Criminal Law (Codification and Reform) Act.¹⁰⁰ Following a meeting with Navi Pillai, the UN High Commissioner for Human Rights, Patrick Chinamasa, Zimbabwe's justice minister told reporters "We made it clear that in our law homosexual activities are criminalized and that any person who commits homosexual activities will be arrested."¹⁰¹ Radio Vop reported that in August 2012 in Harare a group of suspected ZANU-PF youths "brutalised four young men accusing them of practising homosexuality".¹⁰²

See also: [Actors of protection](#) (section 2.2 above)

[Internal relocation](#) (section 2.3 above)

[Caselaw](#) (section 2.4 above)

- 3.11.13 Conclusion.** Societal hostility, discrimination, stigma, the use of 'corrective rape', as well as state sponsored discrimination, harassment, intimidation, and violence against LGBT persons exist in Zimbabwe. Caseworkers must refer to the country guidance case of [LZ \(homosexuals\) Zimbabwe CG \[2011\] UKUT 487 \(IAC\) \(26 January 2012\)](#) in which the Upper Tribunal concluded that they were 'unable to accept that homosexuals are being persecuted as a generality when concrete examples are few, and when that standpoint is not supported by the best placed local observers' (para 109 of the determination). The Tribunal also noted that personal circumstances do place some gay men and lesbians at risk and, although not decisive on its own, being openly gay may increase risk (para 116 of the determination). Given the continued anti-homosexual rhetoric and reality in Zimbabwe, caseworkers should ensure that they consider the latest country of origin information.
- 3.11.14** Where gay men and lesbians do encounter local hostility they may be able to avoid this by moving elsewhere in Zimbabwe, but only if the risk is not present there and if it would not be unduly harsh to expect them to do so. Caseworkers should also take account that the Supreme Court in the case of [HJ \(Iran\)](#) made the point that internal relocation is not the answer if it depends on the person concealing their sexual orientation in the proposed new location for fear of persecution.
- 3.11.15** Special attention should be placed on lesbian claimants as [LZ](#) found that lesbians "on their own or together, may face greater difficulties than gay men" (para. 116 of the determination). Each case must however be examined on its own merits. Where caseworkers conclude that a claimant's sexual orientation and personal circumstances places them at real risk of persecution in Zimbabwe then they should be granted asylum because gay men, lesbians, bisexuals and transgender persons in Zimbabwe may be considered to be members of a particular social group.
- 3.11.16** If an individual chooses to live discreetly because he/she wants to avoid

¹⁰⁰ The Herald, Zimbabwe: Gay Couple Arrested, 5 September 2012

<http://archive.globalgayz.com/africa/zimbabwe/zimbabwe-gay-couple-arrested/>

¹⁰¹ Pink News, Zimbabwe rejects gay rights, says gay people will be imprisoned, 21 May 2012

<http://www.pinknews.co.uk/2012/05/21/zimbabwe-rejects-gay-rights-says-gay-people-will-be-imprisoned/>

¹⁰² Radio Vop, ZANU(PF) Youths Launch Blitz Against Gays, 26 August 2012

<http://www.radiovop.com/index.php/national-news/9497-zanu-pf-youths-launch-blitz-against-gays.html>

embarrassment or distress to her or his family and friends he/she will not be deemed to have a well founded fear of persecution and will not qualify for asylum. This is because he/she has adopted a lifestyle to cope with social pressures and not because he/she fears persecution due to her or his sexual orientation

- 3.11.17** If an individual chooses to live discreetly because he/she fears persecution if he/she were to live as openly gay, lesbian or bisexual then he/she will have a well founded fear and should be granted asylum. It is important that gay, lesbian and bisexual people enjoy the right to live openly without fear of persecution. They should not be asked or be expected to live discreetly because of their well founded fear of persecution due to their sexual orientation.

3.12 General humanitarian situation

- 3.12.1** Some applicants may state that the general humanitarian situation in Zimbabwe is so poor that it would be a breach of Article 3 of ECHR to return them to Zimbabwe.
- 3.12.2** In March 2013 the country director of the UN World Food Programme (WFP) is reported as having said that Zimbabwe's current food insecurity levels are the worst in three years. "During the peak hunger period of January to March 2013, approximately 19 % of Zimbabwe's rural population - the equivalent of one in five people - are estimated to be in need of food assistance," he told IRIN. Of the country's 13 million people, WFP and the government are providing food aid to 1.58 million in 37 districts across the country. The Zimbabwe Vulnerability Assessment Committee report of 2012 indicated that the worst-affected areas are Masvingo, Matabeleland North and South, and parts of Mashonaland, Midlands and Manicaland provinces. The WFP was mainly providing assistance to subsistence farmers and other food insecure people who were badly hit by last year's drought. "In many parts of the country, particularly in the south, the maize they harvested barely lasted a few months, bringing an early start to the 'hunger season', which will end with the next harvest expected in April," the WFP country director told IRIN. Under the programme, in which the government for the first time provided 35,000 metric tons of maize from the strategic grain reserve, beneficiaries are receiving maize meal, cooking oil and pulses. In selected areas, 250,000 people are receiving cash to buy food.¹⁰³
- 3.12.3** The UN Office for the Co-ordination of Humanitarian Affairs (UNOCHA) 2013 mid-year review reported that the main humanitarian response was to food insecurity mainly caused by drought, the impact of which is more pronounced in the southern parts of the country. During this period, over 1.4 million people were provided with food assistance through joint efforts of the government and humanitarian partners. In addition, vulnerable groups such as the chronically ill, returned migrants, asylum seekers and those affected by floods and storms were assisted.¹⁰⁴
- 3.12.4** About 2.2 million people - one in four of the rural population - are expected to need food assistance during the pre-harvest period between January and March 2014. This is the highest since early 2009 when more than half the population

¹⁰³ IRIN Grim food security outlook for Zimbabwe. 14 March 2013

<http://www.irinnews.org/report/97645/grim%20food-security-outlook-for-zimbabwe>

¹⁰⁴ UNOCHA, Zimbabwe Humanitarian Gaps Mid-Year Review 2013, 9 October 2013

<http://reliefweb.int/report/zimbabwe/zimbabwe-humanitarian-gaps-mid-year-review-2013>

required food support. The current high levels of food insecurity have been attributed to various factors including adverse weather conditions, the unavailability and high cost of agricultural inputs such as seeds and fertilisers and projected high cereal prices due to the poor maize harvest. By June 2013, WFP monitoring in rural markets found grain prices to be 15 per cent higher than those recorded during the same period in 2012.¹⁰⁵

- 3.12.5** IRIN reports that five years after Zimbabwe's political and economic crisis peaked in 2008, the economy continues to perform poorly, with the manufacturing sector still shedding jobs and unemployment estimated at 75 percent. But the real level of unemployment is almost impossible to gauge as countless Zimbabweans are making a living in the informal sector.¹⁰⁶
- 3.12.6** HIV infection can lead to malnutrition, while poor diet can in turn speed the infection's progress.¹⁰⁷ The country's economic collapse in the past decade has significantly strained the ability of poor HIV-positive Zimbabweans to feed themselves and their families when on ARVs.¹⁰⁸ In December 2011 the Zimbabwean reported that NGOs in Zimbabwe have embarked on a feeding programmes to benefit people living with HIV and AIDS in Marange and Bocha but have been affected by the politicisation. The villagers are meant to receive food hampers containing packets of beans, cooking oil, mealie meal, rice, soap and many other items, on a weekly basis. However, some ZANU-PF officials and war veterans in Marange have taken over the programme and are demanding that all beneficiaries join the party if they want to continue receiving the hampers. Some NGOs distributing food aid and medication in the district have suspended their operations following interference by ZANU-PF.¹⁰⁹
- 3.12.7** Freedom House reports that security forces have taken on major roles in crop collection and food distribution, and both the police and the military remain heavily politicized in favour of ZANU-PF despite the GPA.¹¹⁰ According to the U.S. State Department, "Government entities manipulated the distribution of government-provided food aid, agricultural products, and access to other government assistance programs to exclude suspected MDC supporters and to compel support for ZANU-PF".¹¹¹
- 3.12.8** The Zimbabwe Peace Project (ZPP) publishes monthly statistics of food and other forms of aid related violations by province.¹¹² In October 2012, the ZPP reported that "The food situation continued to deteriorate in the provinces of Masvingo, Bulawayo, Matabeleland North and South being the worst affected. Over the past three months, the ZPP has witnessed a nationwide trend where

¹⁰⁵ UNOCHA, Humanitarian Bulletin Zimbabwe, 1 July-31 August 2013
<http://reliefweb.int/sites/reliefweb.int/files/resources/Zimbabwe%20Humanitarian%20Bulletin%20July-August%202013.pdf>

¹⁰⁶ IRIN, Informal employment sustains Zimbabweans, 11 April 2013
<http://www.irinnews.org/report/97825/informal-employment-sustains-zimbabweans>

¹⁰⁷ AVERT, HIV and Nutrition, <http://www.avert.org/hiv-nutrition.htm>

¹⁰⁸ IRIN, [Food voucher scheme benefits HIV-positive people](#), 20 October 2011.

¹⁰⁹ The Zimbabwean, Zanu blocks food aid, 7 December 2011,
<http://www.thezimbabwean.co.uk/news/zimbabwe/55327/zanu-blocks-food-aid.html>

¹¹⁰ Freedom House, Freedom in the World 2013 - Zimbabwe, 3 June 2013
<http://www.refworld.org/docid/51aefaae27.html>

¹¹¹ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, f. Arbitrary Interference with Privacy, Family, Home, or Correspondence, 19 April 2013.
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹¹² Zimbabwe Peace Project report archive
http://www.kubatana.net/html/archive/archorg_index.asp?orgcode=zim028

ZANU-PF officials and traditional leaders aligned to the party are abusing their positions to deny deserving villagers access to government supported and donor funded food relief on political grounds”.¹¹³ In September 2013, SW Radio Africa also reported that MDC-T supporters were being denied drought relief food aid that government is meant to distribute to everyone, regardless of their political affiliation.¹¹⁴

- 3.12.9** IRIN reported in February 2013 that nurses were demanding bribes to ensure that admitted patients received diagnosis and treatment.¹¹⁵ IRIN also reported in January 2013 that “Chronic shortages of generic and antiretroviral drugs, stock-outs, high medication costs, and long distances to clinics are some of the hurdles people face in their quest to access essential medicines in Zimbabwe”.¹¹⁶

See also: [Actors of protection](#) (section 2.2 above)

[Internal relocation](#) (section 2.3 above)

[Caselaw](#) (section 2.4 above)

- 3.12.10 Conclusion.** Economic conditions are poor, but generally stable. There is sufficient food in the shops for those who can pay for it, although grain prices are increasing. There is high food insecurity with 1 in 5 people in need of food aid, which is expected to rise to 1 in 4 in 2014. Generally, poverty and lack of resources will not amount to a breach of Article 3 ECHR, however, each case should be considered on its individual merits taking into account factors including the age and state of health, financial circumstances and support network of the applicant. Although there are reports that in some areas of Zimbabwe there has been discrimination on political grounds in the distribution of food aid, it is not such as to show a general risk.

- 3.12.11** Where the conditions on return will be so extreme that returning the applicant would, taking his or her individual characteristics and circumstances into account, give rise to a real risk of inhuman or degrading treatment, a grant of discretionary leave will be appropriate.

3.13 Women

- 3.13.1** Some applicants may make an asylum and/or a human rights claim based on sexual or gender based violence

- 3.13.2 Treatment.** The US State Department report notes that during 2012 despite laws aimed at enhancing women’s rights, women “remained disadvantaged in society. Economic dependency and prevailing social norms prevented rural women in particular from combating societal discrimination”.¹¹⁷ For example, few women own property due to patriarchal inheritance rights under customary practice and

¹¹³ Zimbabwe Peace Project, ZPP Monthly Monitor October 2012, 16 November 2012

http://www.kubatana.net/docs/hr/zpp_monthly_%20monitor_oct%20_2012_121116.pdf

¹¹⁴ SW Radio Africa, MDC-T supporters denied drought relief food aid, 10 September 2013

<http://allafrica.com/stories/201309100227.html>

¹¹⁵ IRIN, Corruption feeds on Zimbabwe’s poor, 1 February 2013

<http://www.irinnews.org/Report/97391/Corruption-feeds-on-Zimbabwe-s-poor>

¹¹⁶ IRIN, Still struggling with drug shortages, 11 January 2013

<http://www.irinnews.org/Report/97224/Still-struggling-with-drug-shortages>

¹¹⁷ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dldid=204183>

women and children continued to be “adversely affected by the government’s forced evictions, demolition of homes and businesses and takeover of commercial farms”.¹¹⁸ The UK’s Department for International Development 2011 Gender and Social Exclusion Analysis (GSEA) report found that Zimbabwean women “experienced extensive economic discrimination, including in access to employment, credit, pay, and owning or managing businesses, despite being responsible for 53% of all economic activity in the country, including 75 % of all agricultural labour.”¹¹⁹ The Zimbabwe Civil Society’s shadow report to the UN CEDAW Committee, published in January 2012, noted that:

- 3.13.3** The state has not taken sufficient measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women[...] Wives occupy a subordinate role to their husbands and this subordinate status manifests in abuses of various forms such as domestic violence, economic deprivation and exploitation. Discrimination is evident in the way men and women are treated in the laws relating to the rights of guardianship and custody over their children, in the existence of polygamy and lobola [dowry] and in the rules regulating division of property upon divorce.¹²⁰

Sexual and Domestic violence

- 3.13.4** According to the U.S. State Department report, rape, including spousal rape, is criminalized, but “not effectively enforced, and rape remained a widespread problem”.¹²¹ The Zimbabwean Research and Advocacy Unit (Rau), an independent think tank, noted that “marital rape remains underreported and unresolved” with not a single conviction successfully secured in the courts.¹²² The U.S. State Department further highlighted that few cases of rape were reported due to social stigma and “societal perception that rape was simply “a fact of life” that could not be challenged”, with even fewer cases of spousal rape being reported due to victims’ fear of “losing economic support, fear of reprisal, unawareness that spousal rape was a crime, police reluctance to interfere in domestic disputes, and the bureaucratic hurdles involved”.¹²³ The study conducted by Rau found that “Most of the respondents blamed culture for rape and a relatively high number of persons thought that it was always the

¹¹⁸ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹¹⁹ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹²⁰ Zimbabwe Civil Society, Zimbabwe Civil Society’s Shadow Report to the CEDAW Committee, Executive Summary and Article 3 Equality Areas of Concern, January 2012, http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/ZCS_Zimbabwe51.pdf

¹²¹ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹²² Research and Advocacy Unit (Rau), “She probably asked for it!” A Preliminary Study into Zimbabwean Societal Perceptions of Rape, 4.1.6 Marital Rape, April 2013, <http://reliefweb.int/sites/reliefweb.int/files/resources/A-study-into-Zimbabwean-Societal-perception-of-rape.pdf>

¹²³ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

perpetrator's fault if rape occurred".¹²⁴ According to the U.S. State Department, rape victims "seldom received protection in court" and in general "police seldom acted 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".¹²⁵

- 3.13.5** Zimbabwe Lawyers for Human Rights (ZLHR) reported in November 2012 that "according to media reports, domestic violence has been steadily increasing since 2008".¹²⁶ The U.S. State Department report also states that domestic violence was "a serious problem" throughout 2012.¹²⁷ Authorities "generally considered domestic violence to be a private matter and usually arrested an offender only if there was physical evidence of abuse".¹²⁸ Similar to rape cases, cases of domestic violence went "unreported, due to traditional sensitivities, victims' fear of abandonment without support, and police reluctance to intervene".¹²⁹ According to the Zimbabwe Civil Society's shadow report to the UN CEDAW Committee, published in January 2012, the effectiveness of the 2006 Domestic Violence Act is being hampered by lack of resources and victims of domestic violence "have also reported that their efforts to use the Act have been hampered by a chronic shortage of application forms for protection orders, counselling services and shelters for victims".¹³⁰ Similarly, the UN Committee on the Elimination of All Forms of Discrimination against Women expressed its concern in its concluding observations published in March 2012 about the existence of only one shelter for women victims of violence established by the Zimbabwean authorities (two other shelters were established by NGOs) and "that this is not exclusively for women victims of domestic violence".¹³¹

Harmful traditional practices

- 3.13.6** The Zimbabwe Civil Society's shadow report to the UN CEDAW Committee, published in January 2012, noted that "Traditional practices which reinforce the inferior status of women and girls in society, such as witch hunting and virginity testing continues unabated".¹³²

¹²⁴ Research and Advocacy Unit (Rau), "She probably asked for it!" A Preliminary Study into Zimbabwean Societal Perceptions of Rape, Executive Summary, April 2013,

<http://reliefweb.int/sites/reliefweb.int/files/resources/A-study-into-Zimbabwean-Societal-perception-of-rape.pdf>

¹²⁵ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹²⁶ Zimbabwe Lawyers for Human Rights (ZLHR), No to gender based violence, 14 November 2012, http://www.kubatana.net/html/archive/hr/121114zlhrr.asp?sector=GEN&year=2012&range_start=1

¹²⁷ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹²⁸ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹²⁹ US Department of State, Country Report on Human Rights Practices 2012 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹³⁰ Zimbabwe Civil Society, Zimbabwe Civil Society's Shadow Report to the CEDAW Committee, General Recommendation 19 Violence Against Women Areas of Concern, January 2012, http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/ZCS_Zimbabwe51.pdf

¹³¹ UN Committee on the Elimination of All Forms of Discrimination against Women, Concluding observations of the Committee on the Elimination of Discrimination against Women, paragraph 23, 1 March 2012, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-ZWE-CO-2-5.pdf>

¹³² Zimbabwe Civil Society, Zimbabwe Civil Society's Shadow Report to the CEDAW Committee, Article 5

3.13.7 Similarly, the UN Committee on the Elimination of All Forms of Discrimination against Women expressed its “serious concern” in its concluding observations published in March 2012 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, as well as the State party’s limited efforts to address such discriminatory practices. These include, in particular, polygamy, bride price (lobola), and in certain regions, virginity testing and witch hunting. The Committee is concerned that such customs and practices perpetuate discrimination against women and girls and that they are reflected in women’s disadvantageous and unequal status in many areas, including education, public life, decision-making and in the persistence of violence against women, and that, thus far, the State party has not taken sustained measures to modify or eliminate stereotypes and harmful practices.¹³³

Trafficking

3.13.8 According to the US State Department 2013 Trafficking report Zimbabwe is a source, transit, and destination country for men, women, and children subjected to forced labour and sex trafficking. Women and girls from Zimbabwean towns bordering South Africa, Mozambique, and Zambia are subjected to prostitution in brothels that cater to long-distance truck drivers on both sides of the borders. The number of prostitution rings in Zimbabwe continued to rise, with many young women and girls sold into prostitution by their parents. Zimbabwean men, women, and children are subjected to forced labour in agriculture and domestic service in the country’s rural areas, as well as domestic servitude and sex trafficking in cities and towns. Family members recruit children and other relatives to travel from rural areas to cities, where they are subjected to domestic servitude or other forms of forced labour after arrival; some children, particularly orphans, are lured with promises of education or adoption. Children are forced to labor in the agricultural and mining sectors, or to carry out illegal activities, including drug smuggling. Additionally, the practice of *ngozi*, or giving of a family member to another family to avenge the spirits of a murdered relative, creates a vulnerability to trafficking. The individuals given to the wronged family, often girls, are sometimes forced to labour or to marry a member of the new family.¹³⁴

3.13.9 The same report also notes that Zimbabwean women are lured into exploitative labor situations in Angola, Botswana, Mozambique, the United Arab Emirates, Malaysia, Nigeria and South Africa and lured to China, Egypt, the UK and Canada where they are subjected to forced prostitution.¹³⁵

3.13.10 According to the US State Department 2013 Trafficking report, despite a national awareness campaign on trafficking in November 2012, tangible efforts to investigate and prosecute trafficking offenses, including those allegedly involving

Addressing Social and Cultural Attitudes and Gender Stereotypes Areas of Concern, January 2012, http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/ZCS_Zimbabwe51.pdf

¹³³ UN Committee on the Elimination of All Forms of Discrimination against Women, Concluding observations of the Committee on the Elimination of Discrimination against Women, paragraph 21, 1 March 2012, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-ZWE-CO-2-5.pdf>

¹³⁴ US Department of State, Trafficking in Persons Report 2013: Zimbabwe, 19 June 2013, <http://www.state.gov/documents/organization/210742.pdf>

¹³⁵ US Department of State, Trafficking in Persons Report 2013: Zimbabwe, 19 June 2013, <http://www.state.gov/documents/organization/210742.pdf>

government officials, and to protect victims remained minimal.¹³⁶ It further states that “the Zimbabwean government made minimal efforts to protect trafficking victims during the year, continuing to rely on NGOs and IOM to identify and assist victims without support for such work”.¹³⁷

See also: [Actors of protection](#) (section 2.2 above)

[Internal relocation](#) (section 2.3 above)

[Caselaw](#) (section 2.4 above)

- 3.13.11 Conclusion.** There is widespread discrimination against women in Zimbabwe, especially in rural areas with discriminatory customary laws remaining in force. Sexual and gender based violence is widespread, especially rape and domestic violence, but the crime is seriously underreported and authorities do not provide effective protection or assistance. Women are subjected to internal and international human trafficking. The government’s efforts to investigate and prosecute trafficking are minimal and there is a lack of shelters and services for victims of trafficking. Women are also subjected to harmful traditional practices, such as witch hunting, virginity testing, polygamy, and bride price, with no sustained measures in place to combat these discriminatory practices against women and girls.
- 3.13.12** The unwillingness of the police to act on reports of rape and domestic violence and the government’s very limited efforts to tackle trafficking and harmful traditional practices suggests that many women applicants will not be able to obtain effective state protection. Applicants may be able to escape persecution by internally relocating to another area of Zimbabwe, but it needs to be noted that women, especially single women with no support network, are likely to be vulnerable and may be subjected to destitution. The reasonableness of internal relocation must be assessed on a case by case basis taking full account of the individual circumstances of the particular claimant.
- 3.14 Prison conditions**
- 3.14.1** Applicants may claim that they cannot return to Zimbabwe due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Zimbabwe are so poor as to amount to torture or inhuman treatment or punishment.
- 3.14.2** The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of humanitarian protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.
- 3.14.3 Consideration.** The 2012 US State Department Human Rights Report stated that prison conditions remain harsh, largely due to overcrowding in older urban remand facilities, although the Zimbabwe Prison Services (ZPS) made some

¹³⁶ US Department of State, Trafficking in Persons Report 2013: Zimbabwe, 19 June 2013, <http://www.state.gov/documents/organization/210742.pdf>

¹³⁷ US Department of State, Trafficking in Persons Report 2013: Zimbabwe, 19 June 2013, <http://www.state.gov/documents/organization/210742.pdf>

improvements during 2012. There were approximately 16,900 prisoners, including 500 women and 200 juveniles spread across 46 main prisons and 26 satellite prisons. The prison system was designed for a maximum of 17,000 prisoners. While prisons operated below capacity, NGOs reported that overcrowding continued due to dilapidated infrastructure, lengthy pre-trial detentions, and prolonged trials. Prison guards occupying cells in each prison also contributed to overcrowding. Prison guards beat and abused prisoners.¹³⁸

- 3.14.4** Poor sanitary conditions resulted in disease, including diarrhoea, measles, tuberculosis, and HIV/AIDS-related illnesses. Medical care, lighting, and ventilation were inadequate. There were insufficient mattresses, warm clothing, sanitary supplies, and hygiene products. Like most citizens of the country, prisoners had no access to potable water. The sale of prison farm products allowed authorities to address some shortages, and authorities provided each prisoner with two uniforms during the year.¹³⁹
- 3.14.5** The ZPS offered peer education on HIV/AIDS and only tested prisoners for HIV when requested by the prisoners or prison doctors. Due to inadequate facilities, outdated regulations, and the lack of medical personnel and medication, prisoners suffered from routine medical conditions such as hypertension, tuberculosis, diabetes, asthma, and respiratory diseases. There were some cases of prisoners with HIV/AIDS denied access to antiretroviral drugs, and a court case was pending on the issue at year's end. NGOs also reported isolated cases of pellagra, an illness caused by a deficiency in protein and aggravated by poor lighting and ventilation.¹⁴⁰
- 3.14.6** Neither the ZPS nor NGOs provided information on the prisoner death rate during the year. NGOs confirmed that they no longer tracked death rates given the significant decrease in prisoner deaths since 2009, when an estimated 40 prisoners died monthly as a result of malnutrition and disease, particularly HIV/AIDS.¹⁴¹
- 3.14.7** In April 2012 the MDC urged the government to urgently look at the "deplorable conditions" at the country's prisons where they said prisoners across the country have been condemned to starvation and nutrition related sickness. The party was reported to be disturbed by a recent report by the Parliamentary Thematic Committee on Human Rights which said that prisoners are "living in hell holes where they lack basic necessities such as clothing, blankets, towels and soap among other day to day requirements."¹⁴²
- 3.14.8** Also in April 2012 it was reported that Justice and Legal Affairs Minister, Patrick Chinamasa, described prison conditions in Zimbabwe as being "appalling" and that

¹³⁸ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section C. Prison and Detention Centre Conditions. 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹³⁹ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section C. Prison and Detention Centre Conditions. 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹⁴⁰ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section C. Prison and Detention Centre Conditions. 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹⁴¹ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section C. Prison and Detention Centre Conditions. 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹⁴² Movement for Democratic Change (MDC). Government should look into the plight of prisoners 19 April 2012 http://www.kubatana.net/html/archive/polpar/120419mdc.asp?sector=PRISON&year=0&range_start=1

there is need for stakeholders to collectively improve them. The minister said his ministry had been carrying out an exercise on the prison conditions and the findings showed that the standards and conditions were very low. He said that conditions in the prisons are not good even though they have slightly improved from three years back.¹⁴³

3.14.9 In January 2013, the Mail and Guardian newspaper cited an anonymous prison official as stating that delays in the prosecution of cases also lead to prison overcrowding, "There are cases where the state applies for an accused person to be remanded in custody for months while it gathers evidence".¹⁴⁴ In February 2013, it was reported that one man has spent 15 years on remand awaiting trial, having purchased a stolen car in 1998.¹⁴⁵ The same article cites Zimbabwe Prison Service (ZPS) Commissioner General Paradzai Zimondi as stating that they are overwhelmed by overcrowding in the country's remand prisons.¹⁴⁶ According to the U.S. State Department, prolonged pretrial detention remained a problem, and some detainees were incarcerated for several months before trial or sentencing due to a critical shortage of magistrates and court interpreters, poor bureaucratic procedures, and political reasons. Other prisoners remained in prison because they could not afford to pay bail, which remained exorbitant given economic conditions in the country.¹⁴⁷

3.14.10 In January 2013, it was reported that Zimbabwe Lawyers for Human Rights (ZLHR) had documented evidence of people being tortured and killed after being arrested.¹⁴⁸ ZLHR claims to have documented more than a dozen cases over the past two years in which suspects have died in suspicious circumstances with member Tawanda Zhuwarara noting "a disturbing pattern, and the similarities cannot be mere coincidence. Suspects are arrested, injured while in custody [and] suddenly they are allegedly shot while allegedly attempting to escape."¹⁴⁹ The FCO reports that there is currently no specific crime of torture defined in Zimbabwean law. Allegations of torture are regularly made against police for their interrogation practices, and the security sector allegedly continues to use torture during politically motivated interrogations. Many human rights defenders claim to have experienced torture by members of the police force. For instance, in another WOZA case 17 members were arrested on 19 January and were allegedly tortured by officers at Donnington police station. Six members were made to sit on "air chairs" and police put a plastic bag over the head of one. We welcome the announcement in February by the Minister for Justice Patrick Chinamasa that the government will ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).¹⁵⁰

¹⁴³ The Herald. Zimbabwe: Call to Improve Prison Conditions. 28 April 2012.
<http://allafrica.com/stories/201204290308.html>

¹⁴⁴ Mail and Guardian, Zim prisoners have no food or soap, 25 January 2013
<http://mg.co.za/article/2013-01-25-zim-prisoners-have-no-food-or-soap>

¹⁴⁵ Daily News, Man spends 15 years in remand prison, 3 February 2013
<http://www.dailynews.co.zw/article/News/d34a23b0-29ea-4f89-9468-03e149e1df5f>

¹⁴⁶ Daily News, Man spends 15 years in remand prison, 3 February 2013
<http://www.dailynews.co.zw/article/News/d34a23b0-29ea-4f89-9468-03e149e1df5f>

¹⁴⁷ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section C. Prison and Detention Centre Conditions. 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹⁴⁸ Mail and Guardian, Alarm over Zim deaths in custody, 11 January 2013
<http://mg.co.za/article/2013-01-11-alarm-over-zim-deaths-in-custody>

¹⁴⁹ Mail and Guardian, Alarm over Zim deaths in custody, 11 January 2013
<http://mg.co.za/article/2013-01-11-alarm-over-zim-deaths-in-custody>

¹⁵⁰ Foreign and Commonwealth Office, Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Zimbabwe, 15 April 2013

- 3.14.11** The U.S. State Department reports that police used excessive force in apprehending, detaining, and interrogating criminal suspects. Security forces assaulted and tortured citizens in custody, particularly perceived opponents of ZANU-PF. Human rights groups noted that physical and psychological torture perpetrated by security agents and ZANU-PF supporters continued. Torture methods included beating victims with sticks, clubs, whips, cables, and sjamboks (an improvised cattle prod); burning; falanga (beating the soles of the feet); solitary confinement; and sleep deprivation.¹⁵¹
- 3.14.12** In June 2013, Human Rights Watch stated that, since October 2012, local groups have “documented an increase in the number of politically motivated human rights violations involving Central Intelligence Organization (CIO) agents. Often this involved torture that took place in police detention. In most cases, victims identified the perpetrators as CIO agents as they often introduced themselves as members of the CIO, and the fact that only state agents, or the police, have access to detainees in police custody, for purposes of interrogation”.¹⁵² Amnesty International noted that in 2012 at least eight people died in police custody in circumstances that suggest that they were tortured or summarily executed.¹⁵³
- 3.14.13** There is one juvenile prison. Juveniles also were held in adult prisons throughout the country while in remand, or when older juveniles would benefit from remaining closer to their families. Officials generally tried to place juvenile inmates in separate cells. Juveniles generally were sent to prison instead of to reformatory homes, as stipulated in the Children’s Act. Juveniles were particularly vulnerable to abuse by prison officials and prisoners.¹⁵⁴
- 3.14.14** The Foreign and Commonwealth Office report that Zimbabwe still has the death penalty but has observed a moratorium since 2005 when the last execution was carried out. The last death sentence issued was in 2010. There were 58 people on death row at the end of 2012. The current draft constitution abolishes the death sentence for women altogether, and for men under 21 and above 70 years old.¹⁵⁵
- 3.14.15 Conclusion** Prison conditions in Zimbabwe are in general harsh and taking into account the levels of poor sanitation, overcrowding and disease; inadequate medical facilities; the extensive use of lengthy pre-trial detention; deaths in detention facilities, and the regular use of torture and other forms of ill-treatment, are likely to reach the article 3 threshold in most cases. However, each

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/186688/Cm_8593_Accessible_complete.pdf

¹⁵¹ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section C. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹⁵² Human Rights Watch, The Elephant in the Room: Reforming Zimbabwe’s Security Sector Ahead of Election, 5 June 2013, Central Intelligence Organization

http://www.hrw.org/sites/default/files/reports/zimbabwe0613webwcover_0.pdf

¹⁵³ Amnesty International, Amnesty International Report 2013 - The State of the World's Human Rights – Zimbabwe, 23 May 2013

¹⁵⁴ US Department of State: Country Report on Human Rights Practices 2012 - Zimbabwe, Section C. Prison and Detention Centre Conditions. 19 April 2013.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183>

¹⁵⁵ Foreign and Commonwealth Office, Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Zimbabwe, 15 April 2013

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/186688/Cm_8593_Accessible_complete.pdf

assessment must be done on a case by case basis. The individual circumstances of each case should be considered to determine whether detention will cause a particular individual to suffer treatment contrary to Article 3, relevant factors being the likely length of detention, the likely type of detention facility and the individual's age, gender and state of health. Where individual applicants are able to demonstrate a real risk of imprisonment on return to Zimbabwe (and exclusion is not justified), a grant of humanitarian protection is likely to be appropriate

4. Unaccompanied minors claiming in their own right

- 4.1** Unaccompanied minors claiming in their own right who have not been granted asylum or humanitarian protection can only be returned where the Secretary of State is satisfied that safe and adequate reception arrangements are in place in the country to which the child is to be returned.
- 4.2** At present the Home Office does not have pre-approved arrangements in place with NGOs or other organisations in Albania to provide alternative adequate reception arrangements in cases where the minor cannot be returned to their family. Those who cannot be returned should be considered for leave as unaccompanied asylum seeking children (UASC).
- 4.3** Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005 imposes a duty on the Secretary of State to try to trace the families of UASC as soon as possible after the claim for asylum is made, while making sure that those endeavours do not jeopardise the child's and/or their family's safety. Information on the infrastructure within Zimbabwe which may potentially be utilised to assist in trying to trace the families of UASC, can be obtained from the Country of Origin Information Service (COIS).
- 4.4** Caseworkers should refer to the asylum instruction: [Processing an Asylum Application from a Child](#), for further information on assessing the availability of safe and adequate reception arrangements, UASC leave and family tracing. Additional information on family tracing can be obtained from the [interim guidance](#) on Court of Appeal judgment in [KA \(Afghanistan\) & Others \[2012\] EWCA civ1014](#).

5. Medical treatment

- 5.1** Individuals whose asylum claims have been refused and who seek to remain on the grounds that they require medical treatment which is either unavailable or difficult to access in their countries of origin, will not be removed to those countries if this would be inconsistent with our obligations under the ECHR. Caseworkers should give due consideration to the individual factors of each case and refer to the latest available country of origin information concerning the availability of medical treatment in the country concerned. If the information is not readily available, an information request should be submitted to COIS.
- 5.2** The threshold set by Article 3 ECHR is a high one. It is not simply a question of whether the treatment required is unavailable or not easily accessible in the country of origin. According to the House of Lords' judgment in the case of [N \(FC\) v SSHD \[2005\] UKHL31](#), it is "whether the applicant's illness has reached such a critical stage (for instance he is dying) that it would be inhuman treatment to deprive him of the care which he is currently receiving and send him home to an early death unless there is care available there to enable him to meet that fate

with dignity". That judgment was upheld in May 2008 by the European Court of Human Rights.

- 5.3 That standard continues to be followed in the Upper Tribunal (UT) where, in the case of [GS and EO \(Article 3 – health cases\) India \[2012\] UKUT 00397\(IAC\)](#) the UT held that a dramatic shortening of life expectancy by the withdrawal of medical treatment as a result of removal cannot amount to the highly exceptional case that engages the Article 3 duty. But the UT also accepted that there are recognised departures from the high threshold approach in cases concerning children, discriminatory denial of treatment, the absence of resources through civil war or similar human agency.
- 5.4 The improvement or stabilisation in an applicant's medical condition resulting from treatment in the UK and the prospect of serious or fatal relapse on expulsion will therefore not in itself render expulsion inhuman treatment contrary to Article 3 ECHR. All cases must be considered individually, in the light of the conditions in the country of origin, but an applicant will normally need to show exceptional circumstances that prevent return. Namely that there are compelling humanitarian considerations, such as the applicant being in the final stages of a terminal illness without prospect of medical care or family support on return.
- 5.5 Where a caseworker considers that the circumstances of the individual applicant and the situation in the country would make removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a senior caseworker for consideration before granting discretionary Leave. Caseworkers must refer to the asylum instruction on [Discretionary Leave](#) for the appropriate period of leave to grant.
6. **Returns**
 - 6.1 There is no policy which precludes the enforced return to Zimbabwe of failed asylum seekers who have no legal basis of stay in the United Kingdom.
 - 6.2 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the [Immigration Rules](#).
 - 6.3 Any medical conditions put forward by the person as a reason not to remove them which have not previously been considered must be fully investigated against the background of the latest available country of origin information and the specific facts of the case; and a decision made as to whether removal remains the correct course of action, in accordance with [chapter 53.8 of the Enforcement Instructions and Guidance](#).
 - 6.4 Zimbabwean nationals may return voluntarily to any region of Zimbabwe at any time in one of three ways. Leaving the UK:
 - (a) by themselves, where the applicant makes their own arrangements to leave the UK,
 - (b) through the voluntary departure procedure, arranged through the UK Immigration service, or
 - (c) under one of the assisted voluntary return (AVR) schemes.
 - 6.5 The AVR schemes are implemented on behalf of the Home Office by Refugee

Action which will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance in Zimbabwe. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Zimbabwean nationals wishing to avail themselves of this opportunity for assisted return to Zimbabwe should be put in contact with Refugee Action. Details can be found on Refugee Action's web site at: www.choices-avr.org.uk.

**Country Specific Litigation Team
Immigration and Border Policy Directorate
Home Office**

November 2013