



Home Office

Country Policy and Information Note **Zimbabwe: Sexual orientation and gender identity**

Version 2.0

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Preface

This note provides country of origin information (COI) and policy guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the policy guidance contained with this note; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country information

The COI within this note has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

Feedback

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

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. IAGCI may be contacted at:

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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Policy guidance

Updated: 21 November 2016

1. Introduction

1.1 Basis of claim

1.1.1 Fear of persecution or serious harm by the state and/or non-state actors due to a person's actual or perceived sexual orientation/gender identity.

1.2 Points to note

1.2.1 For the purposes of this note, sexual orientation or gender identity means gay men, lesbians, bisexual and transgender (LGBT) persons although the experiences of each group may differ.

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2. Consideration of issues

2.1 Credibility

2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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

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

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2.2 Particular social group

2.2.1 Lesbian, gay, bisexual and transgender (LGBT) persons form a particular social group (PSG) in Zimbabwe within the meaning of the Refugee Convention. This is because they share a common characteristic that cannot be changed and have a distinct identity which is perceived as being different by the surrounding society.

2.2.2 Although LGBT persons form a PSG, this does not mean that establishing such membership is sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular person will face a real risk of persecution on account of their membership of such a group.

2.2.3 For further guidance on particular social groups, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.3 Assessment of risk

- 2.3.1 Decision makers must establish whether or not the person, if returned to Zimbabwe, will live freely and openly as a LGBT person. This involves a wide spectrum of conduct which goes beyond merely attracting partners and maintaining relationships with them. If it is found that the person will conceal aspects of his or her sexual orientation/identity if returned, decision makers must consider why. If this will simply be in response to social pressures or for cultural or religious reasons of their own choosing and not because of a fear of persecution, then they may not have a well-founded fear of persecution. Decision makers should also consider if there are individual or country specific factors that could put the person at risk even if they choose to live discreetly because of social or religious pressures.
- 2.3.2 But if the reason why the person will resort to concealment is that they genuinely fear that otherwise they will be persecuted, it will be necessary to consider whether that fear is well founded.
- 2.3.3 For further guidance, see the [Asylum Instruction on Sexual Identity Issues in the Asylum Claim](#).
- i. State treatment
- 2.3.4 Same-sex sexual relations between men are criminalised and can result in custodial sentences. However, prosecutions are very rare. Same-sex relationships between women are not criminalised. There is no legislation regarding gender identity and transgender people are not legally acknowledged. As a result, a transgender woman is prosecuted as if they were a man (see [legal rights](#)).
- 2.3.5 Reportedly, the authorities more commonly harass LGBT persons on the grounds of loitering, indecency and public order offences. They have also raided the premises of and events organised by NGOs supporting LGBT persons (see [treatment by, and attitudes of, state authorities](#)).
- 2.3.6 In the country guidance case of [LZ \(homosexuals\) Zimbabwe CG \[2011\] UKUT 487 \(IAC\) \(26 January 2012\)](#), the Upper Tribunal held that although some gay men and lesbians suffer discrimination, harassment, intimidation, violence and blackmail from the police, it does not represent a general risk although personal circumstances may place some persons at risk (para 116).
- 2.3.7 Personal circumstances that may increase this risk include, but are not limited to, LGBT rights activists and other persons who openly campaign for LGBT rights in Zimbabwe. Such people face the risk of arbitrary arrests by the police, and harassment by state agents and may be at increased risk of persecution (see [Treatment by, and attitudes of, state authorities](#)).
- 2.3.8 The situation for LGBT persons has not significantly changed since [LZ](#) was promulgated. In general the state treatment of LGBT persons in Zimbabwe, even when taken cumulatively, does not reach the level of being persecutory or otherwise inhuman or degrading treatment.
- 2.3.9 Decision makers must consider each case on its facts. The onus will be on the person to demonstrate why, in their particular circumstances, they would be at real risk from the authorities.

ii. Societal treatment

- 2.3.10 Government and religious rhetoric limits people's ability to openly express their homosexuality or bisexuality. LGBT persons generally do not openly express their sexuality or gender identity in their workplaces, or within their families. Zimbabwe is deeply religious and traditional, and sexuality generally (homo- or hetero-sexual) is inhibited and unlikely to be publically expressed. LGBT persons experience a climate of intimidation, stigma and discrimination which may exclude them from society, public services and job opportunities. They may also find it difficult to access information about and treatment for HIV. However, reported cases of violence against LGBT persons are infrequent and do not appear to follow a set pattern of victimisation (see [societal treatment and attitudes](#)).
- 2.3.11 In the country guidance case of [LZ](#), the Upper Tribunal held that although some gay men and lesbians suffer discrimination, harassment, intimidation, violence and blackmail from the general public, there is no general risk to gay men or lesbians, and "corrective rape" is rare, and does not represent a general risk (para 116).
- 2.3.12 However, the Upper Tribunal went on to say that personal circumstances place some gay men and lesbians at risk. Although not decisive on its own, someone who is openly gay, as compared a person who chooses to be discreet, may be at an increased risk. A positive HIV/AIDS diagnosis may increase the likelihood of a person facing difficulties such as discrimination, harassment and intimidation (para 116).
- 2.3.13 The situation has not significantly changed since [LZ](#) was promulgated. In general the societal treatment of LGBT people in Zimbabwe, even when taken cumulatively, does not reach the level to constitute persecution or inhuman or degrading treatment. Each case must however be considered on its facts. The onus is on the person to demonstrate why, in their particular circumstances, they would be at real risk from non-state actors.
- 2.3.14 For guidance on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.4 Protection

- 2.4.1 Where the person's fear is of persecution or serious harm at the hands of the state, they will not be able to avail themselves of the protection of the state.
- 2.4.2 Where the person's fear is of persecution or serious harm from non-state actors, the Upper Tribunal in [LZ](#) found that the police and other state agents are not willing to provide protection (para 116).
- 2.4.3 For further guidance on assessing the availability or not of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.5 Internal relocation

- 2.5.1 Homophobic attitudes are prevalent throughout the country. Where LGBT persons 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.
- 2.5.2 The Upper Tribunal in [LZ](#) confirmed that a gay man or lesbian at risk in his or her community can move elsewhere, either in the same city or to another part of the country. He or she might choose to relocate to where there is relatively greater tolerance, such as Bulawayo, but the choice of a new area is not restricted. The option is excluded only if personal circumstances present risk throughout the country (para 116).
- 2.5.3 Special attention should also be given where the person is a lesbian or perceived as a lesbian, as [LZ](#) found that lesbians “on their own or together, may face greater difficulties than gay men” (paragraph 116).
- 2.5.4 Decision makers must also take account that in the case of [HJ \(Iran\)](#) the Supreme Court made the point that internal relocation is not suitable if it depends on the person concealing their sexual orientation in the proposed new location for fear of persecution.
- 2.5.5 For further guidance on internal relocation, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.6 Certification

- 2.6.1 Where a claim is refused, it is unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 2.6.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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3. Policy summary

- 3.1.1 Although same-sex sexual relations between men are illegal in Zimbabwe, prosecutions are rare. However, there are no specific laws criminalising same-sex relationships between women or legislating on gender identity.
- 3.1.2 Although LGBT persons may face discrimination and harassment by the state and societal hostility there is little reported violence against LGBT persons in Zimbabwe. Caselaw has found that that there is no general risk to LGBT persons.
- 3.1.3 Personal circumstances do however place some gay men and lesbians at risk and, although not decisive on its own, being openly gay may increase the risk.
- 3.1.4 Lesbians, living on their own or together, may face greater difficulties than gay men.
- 3.1.5 A person who has a positive HIV/AIDS diagnosis may also face an increased risk.

- 3.1.6 Gay rights activists and other persons who openly campaign for gay rights in Zimbabwe are at risk of arbitrary arrest and harassment which may amount to persecution.
- 3.1.7 Where there is a real risk, no effective protection is provided by the authorities.
- 3.1.8 Where LGBT persons do encounter local hostility they may be able to avoid this by relocating elsewhere in Zimbabwe if it would not be unduly harsh to expect them to do so.
- 3.1.9 Where a claim falls to be refused, it is unlikely to be certifiable.

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4. Legal rights

4.1.1 Section 73 of the Criminal Law (Codification and Reform) Act which became effective from July 2006 criminalises same sex male behaviour:

“73 Sodomy

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

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

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

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

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

(c) who is of or above the age of twelve years but below the age of sixteen years and with the consent of such young male person, shall be performing an indecent act with a young person.”¹

4.1.2 The US State Department’s Country Report on Human Rights Practices covering 2015 (‘the 2015 USSD report’) noted:

‘The constitution does not prohibit discrimination based on sexual orientation and gender identity. According to the country’s criminal code “any act involving physical contact between men that would be regarded by a reasonable person to be an indecent act” carries a penalty of up to one year in prison or a fine up to \$5,000. Despite that, there were no known cases of prosecutions of consensual same-sex sexual activity. Common law prevents gay men and, to a lesser extent, lesbians from fully expressing their sexual orientation. In some cases, it criminalizes the display of affection between men.’²

¹ Zimbabwe: Act No. 23/2004 of 2005 on Criminal Law (Codification and Reform) [Zimbabwe], 3 June 2005, available at: <http://www.refworld.org/docid/4c45b64c2.html> [date accessed 8 August 2014]

² US Department of State Country Report on Human Rights Practices 2015 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender

- 4.1.3 This repeated its assessment from the 2014 USSD report³.
- 4.1.4 The UN Committee on the Rights of the Child noted in its report dated 7 March 2016 that:
- ‘While welcoming the inclusive non-discrimination provision in the Constitution, the Committee is concerned that national legislation remains inconsistent with the non-discrimination provisions of the Convention. It reiterates its concern about high levels of discrimination against [...] lesbian, gay, bisexual, transgender and intersex children and children affected or infected by HIV/AIDS.’⁴
- 4.1.5 An August 2014 Report of the Southern Africa Transgender Advocacy and Capacity Building Summit by the group, Transgender and Intersex Africa, noted that:
- ‘Transgender people are not acknowledged in Zimbabwe [...] There are sodomy laws but it is specific to two biological men having sex, anal sex between a man and a woman is allowed. As a transgender woman you are prosecuted as a man for example Ricky’s court case where she was arrested for using the women’s bathroom, the magistrate did not rule against her and she is currently counter suing the people that prosecuted her.’⁵

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5. Treatment by, and attitudes of, state authorities

5.1 Use of the law

- 5.1.1 The Australian Department of Foreign Affairs and Trade (DFAT) in its Country Information Report on Zimbabwe, published 11 April 2016, stated, ‘In practice, prosecutions of consensual same-sex sexual conduct are rare.’⁶

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5.2 Other forms of harassment

- 5.2.1 The DFAT also noted, ‘The authorities more commonly harass LGBTI persons using loitering, indecency and public order statutes, although

Identity. 13 April 2016. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>
Accessed 27 September 2016

³ US Department of State Country Report on Human Rights Practices 2014 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity 25 June 2016 <http://www.state.gov/j/drl/rls/hrrpt/2014humanrightsreport/index.htm#wrapper>
Accessed 31 October 2016

⁴ UN Committee on the Rights of the Child, Concluding observations on the second periodic report of Zimbabwe, 7 March 2016, para 26, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/47/pdf/G1604447.pdf?OpenElement> Accessed 4 November 2016

⁵ Transgender and Intersex Africa, Report of the Southern Africa Transgender Advocacy and Capacity Building Summit, 15-17 August 2014, p11, <http://transgenderintersexafrica.org.za/wp-content/uploads/2014/10/summit-report.pdf> Accessed 4 November 2016

⁶ DFAT, Zimbabwe, Sexual Orientation and Gender Identity 11 April 2016, Copy available on request.

violations are under-reported because of the stigma attached to the LGBTI community.’⁷

- 5.2.2 The country of concern report for Zimbabwe taken from the Foreign and Commonwealth Office 2014 Human Rights and Democracy Report, published 12 March 2015, stated, ‘Before and after the 2013 election, members of local LGB&T rights group Gays and Lesbians of Zimbabwe (GALZ) were subjected to state harassment. Police raided their offices and the state alleged that GALZ were running an unregistered organisation and “engaging in gay and lesbian activities”.’⁸
- 5.2.3 Freedom House⁹ and Human Rights Watch¹⁰ both noted that the police and security forces regularly harassed LGBT people.
- 5.2.4 However, Freedom House reported that in May 2015 the Labour Court ruled in favour of a civil servant who was unfairly dismissed on the grounds of his presumed sexual orientation¹¹.
- 5.2.5 In a report dated 25 August 2016, the UN Human Rights Council noted that: ‘The Committee on the Elimination of Discrimination against Women expressed concern about acts of violence perpetrated by State and non-State actors against lesbian, bisexual and transgender women. It urged Zimbabwe to provide effective protection against violence and discrimination for women, including lesbian, bisexual and transgender women’.¹²
- 5.2.6 The UN Human Rights Council gathered stakeholder submissions for the November 2016 Universal Periodic Review, two of which are listed here:
- ‘JS5 [joint submission by The Sexual Rights Centre, Ottawa, Canada, GALZ – An Association of LGBTI People in Zimbabwe, Harare, Zimbabwe, COC Nederland, Amsterdam, Netherlands] stated that lesbian, gay, bisexual, transgender and intersex individuals, particularly transgender women and men, reported cases of arbitrary detention and torture by law enforcement officials, which were frequent and harmful.

⁷ DFAT, Zimbabwe, Sexual Orientation and Gender Identity 11 April 2016, Copy available on request.

⁸ FCO The country of concern report for Zimbabwe, Foreign and Commonwealth Office 2014 Human Rights and Democracy Report, 12 March 2015.

<https://www.gov.uk/government/publications/zimbabwe-country-of-concern--2/zimbabwe-country-of-concern> Accessed 27 September 2016

⁹ Freedom House, Freedom in the World 2016 - Zimbabwe, 14 July 2016, <http://www.refworld.org/docid/57985a1124.html> Accessed 27 September 2016

¹⁰ Human Rights Watch, SADC: Reverse Downward Slide on Rights, 30 August 2016, <http://www.refworld.org/docid/57c57cfc4.html> Accessed 27 September 2016

¹¹ Freedom House, Freedom in the World 2016 - Zimbabwe, 14 July 2016, <http://www.refworld.org/docid/57985a1124.html> Accessed 27 September 2016

¹² UN Human Rights Council, Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21, 25 August 2016, paras 34-35, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/188/94/pdf/G1618894.pdf?OpenElement> Accessed 4 November 2016

- ‘GALZ stated that there was a disproportionately high rate of arbitrary detentions of lesbian, gay, bisexual, transgender and intersex individuals due to them being sexual minorities.’¹³

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5.3 Public statements/rhetoric

- 5.3.1 The country of concern report for Zimbabwe taken from the Foreign and Commonwealth Office 2014 Human Rights and Democracy Report, published 12 March 2015, stated:
- ‘LGB&T people continued to be harassed and intimidated by the state. President Mugabe has repeatedly said that gay rights are not human rights. Mugabe publicly supported the Ugandan Anti-Homosexuality Act [of February 2014, which was subsequently annulled by the Ugandan Constitutional Court in August 2014], saying it was “fighting a just fight”. In a statement, the President said he was keen to know the members of GALZ and said he would “deal with the organisation”. In April, he also publicly warned that Zimbabwe would expel diplomats who promoted gay rights.’¹⁴
- 5.3.2 On 28 September 2015, the president stated, “we are not gays” during his remarks at the UN General Assembly and rejected the promotion of LGBTI rights, which he said “were contrary to the country’s values, norms, traditions, and beliefs.”¹⁵
- 5.3.3 Robert Mugabe, using a speech at a celebration of his 92nd birthday in 2016, spoke about his attitude to Western views of gay marriage, “If aid [to help pay for grain and other food], as I understand, is to be given on the basis that we accept the principle of gay marriages, then let that aid stay were it is. We don’t want it. It is rotten aid, filthy aid and we won’t have anything to do with it.”¹⁶
- 5.3.4 A December 2014 post by GALZ on ‘76 Crimes’ (a LGBT campaigning site) commented, ‘Whilst the existence of LGBTI people in Zimbabwe cannot be disputed anymore, thanks largely to the powerful help of President Mugabe’s rhetoric, this has created a climate and culture of impunity and lawlessness

¹³ The UN Human Rights Council Stakeholder submissions for the forthcoming November 2016 Universal Periodic Review, 23 August 2016 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/187/32/PDF/G1618732.pdf?OpenElement> Accessed 12 October 2016

¹⁴ FCO The country of concern report for Zimbabwe, Foreign and Commonwealth Office 2014 Human Rights and Democracy Report, 12 March 2015. <https://www.gov.uk/government/publications/zimbabwe-country-of-concern--2/zimbabwe-country-of-concern> Accessed 27 September 2016

¹⁵ US Department of State Country Report on Human Rights Practices 2015 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity. 13 April 2016. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> Accessed 27 September 2016

¹⁶ Reuters Mugabe birthday bash riles critics in drought-hit Zimbabwe, 27 February 2016 <http://www.reuters.com/article/us-zimbabwe-mugabe-idUSKCN0W00GP> Accessed 28 September 2016

as evidenced by the actions of these thuggish men to hunt down LGBTI people in our communities, vicinities, and homes to inflict harm.’¹⁷

- 5.3.5 The HRW world 2016 report also stated that the authorities disparaged lesbian, gay, bisexual, and transgender (LGBT) people. The report further noted that ‘Authorities continued to violate rights of LGBT people. A Zimbabwe Human Rights Commission report published in July showed continued hostility and systematic discrimination by police and politicians against LGBT people, driving many underground.’¹⁸
- 5.3.6 The DFAT 2016 report noted, ‘The authorities are more sympathetic towards intersex persons; intersex issues have been covered in the media and are generally treated as medical rather than identity issues.’¹⁹
- 5.3.7 The UN Human Rights Council gathered stakeholder submissions for the November 2016 Universal Periodic Review, which included:
- ‘Joint submission [JS] 5 [The Sexual Rights Centre, Ottawa, Canada, GALZ – An Association of LGBTI People in Zimbabwe, Harare, Zimbabwe, COC Nederland, Amsterdam, Netherlands] stated that political leaders and state-sponsored media regularly incited hatred towards gays and lesbians by depicting same-sex relations as immoral.’²⁰

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5.4 Treatment of rights groups

- 5.4.1 The country of concern report for Zimbabwe, taken from the Foreign and Commonwealth Office 2014 Human Rights and Democracy Report, published 12 March 2015, stated:

‘Before and after the 2013 election, members of local LGB&T rights group Gays and Lesbians of Zimbabwe (GALZ) were subjected to state harassment. Police raided their offices and the state alleged that GALZ were running an unregistered organisation and “engaging in gay and lesbian activities”. In January [2014], a Harare Magistrate ruled against the state in favour of GALZ after the state had tried to charge them with running an illegal organisation. In May [2014], GALZ and the Dutch Embassy held an event on International Day against Homophobia and Transphobia to discuss the challenges homosexuals face in Zimbabwe. In a welcome development

¹⁷ 76 Crimes 35 injured in anti-gay attack in Zimbabwe, 22 December 2014 <https://76crimes.com/2014/12/22/report-35-injured-in-anti-gay-attack-in-zimbabwe/> Accessed 28 September 2016

¹⁸ Human Rights Watch, World Report 2016 - Zimbabwe, 27 January 2016, <http://www.refworld.org/docid/56bd990924.html> Accessed 27 September 2016

¹⁹ DFAT, Zimbabwe, Sexual Orientation and Gender Identity 11 April 2016, Copy available on request.

²⁰ The UN Human Rights Council Stakeholder submissions for the forthcoming November 2016 Universal Periodic Review, 23 August 2016 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/187/32/PDF/G1618732.pdf?OpenElement> Accessed 12 October 2016

following the event, a ZANU-PF councillor, Richman Rangwani, publicly championed LGB&T rights.’²¹

5.4.2 Human Rights Watch noted in their World Report 2016 - Zimbabwe, published 27 January 2016, that ‘Police did not conduct serious investigations or arrest any suspects in the December 2014 attack at a Christmas party organized by the activist group Gays and Lesbians of Zimbabwe (GALZ), during which 12 armed men invaded the private party and seriously injured 35 people with chains, sjamboks, and long sticks.’²²

5.4.3 A December 2014 post by GALZ on ‘76 Crimes’ (a LGBT campaigning site) commented on the Christmas party incident:

‘At a private end of year GALZ event held on 19 December [2014], three vehicles forced their way into the venue of the party demanding to join the event. One of the occupants of the vehicles produced a pistol and threatened the GALZ security team that was manning the gate for denying them access to the event. The unidentified men numbering between 12 and 15 entered the venue and started beating people using logs, iron bars, empty beer bottles and clenched fists. The men also demanded cash and gadgets from the members present in the hall whilst attacking them.

‘An estimated 35 members suffered injuries as a result of the indiscriminate attacks by these men. A similar incident occurred at GALZ on 6 June 2013, five unknown men wielding hammers violently forced entry into the GALZ offices disrupting a meeting in progress. Despite the Police acting swiftly in arresting these men, to date, no progress has been made on the case and the men are still to be charged as with this case, this is not a random act of attempted robbery but that of militia acting on someone’s superior orders to orchestrate violence.’²³

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

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

²¹ FCO The country of concern report for Zimbabwe, Foreign and Commonwealth Office 2014 Human Rights and Democracy Report, 12 March 2015.

<https://www.gov.uk/government/publications/zimbabwe-country-of-concern--2/zimbabwe-country-of-concern> Accessed 27 September 2016

²² Human Rights Watch, World Report 2016 - Zimbabwe, 27 January 2016, <http://www.refworld.org/docid/56bd990924.html> Accessed 27 September 2016

²³ 76 Crimes 35 injured in anti-gay attack in Zimbabwe, 22 December 2014 <https://76crimes.com/2014/12/22/report-35-injured-in-anti-gay-attack-in-zimbabwe/> Accessed 28 September 2016

have preferred to abstain from reporting abuse or injustices perpetrated against them.’²⁴

- 5.4.5 The UN Office of the High Commissioner for Human Rights, in its annual report, ‘Discrimination and violence against individuals based on their sexual orientation and gender identity’, published 4 May 2015, noted:

‘The Committee against Torture and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment have continued to express concerns at the torture and ill-treatment of LGBT persons in detention by or with the acquiescence of State officials.

‘Reported cases include the arrest, beating and ill-treatment by police in Zimbabwe of 44 members of an LGBT organization.’²⁵

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6. Societal treatment and attitudes

- 6.1.1 Amnesty International’s 2013 Annual Report, published in May 2013, 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 people²⁶.
- 6.1.2 On 30 April 2016 MDC-T president Morgan Tsvangirai said he had no intentions of persecuting gays and lesbians should he become the country's president. All Africa reported that ‘Tsvangirai told journalists during a discussion at the Bulawayo press club on Friday [29 April 2016] that he was not gay and was not a personal admirer of gays but insisted the latter were entitled to their freedoms under the country's constitution.’²⁷
- 6.1.3 Gay Star News reported on 2 April 2014 on homophobic rhetoric by the leader of the United Family International Church, Emmanuel Makandiwa:
- ‘In a sermon to 50,000 eager followers, a self-declared “prophet” in Zimbabwe has branded gay people to be tools of the devil. Emmanuel Makandiwa pronounced gays to be “mentally sick” and said Satan has a strategy to make it hard for the public to realise LGBTI people are evil. The leader of the United Family International Church (UFIC) said: “What amazes me is that some of these people are billionaires. Some of these people with

²⁴ GALZ, An assessment of the impact of state sanctioned and unsanctioned raids on GALZ premises and gatherings, executive summary, 15 July 2016. http://galz.org/wp-content/files/GALZ_Report_2016_final.pdf Accessed 12 October 2016

²⁵ OHCHR, Discrimination and violence against individuals based on their sexual orientation and gender identity, 4 May 2015, www.ohchr.org/EN/HRBodies/HRC/.../A_HRC_29_23_en.doc

²⁶ Amnesty International <http://www.amnesty.org/AnnualReport2013-Zimbabwe>, 23 May 2013, <http://www.amnesty.org/en/region/zimbabwe/report-2013> Accessed 8 August 2014

²⁷ All Africa Zimbabwe: Tsvangirai Says He Is Not Gay, Will Not Quarrel With Gays If He Becomes President. 30 April 2016 <http://allafrica.com/stories/201605010047.html> Accessed 28 September 2016

reprobate minds are in political positions. Now they are passing laws to support homosexuality.”²⁸

6.1.4 The 2015 USSD report stated:

‘Religious leaders in this traditionally conservative and Christian society encouraged discrimination against LGBTI persons. In March, Walter Magaya, leader of the Healing and Deliverance Ministries, stated that gays and lesbians were “spiritually afflicted and just like all evil spirits, they need deliverance.”

‘LGBTI persons reported widespread societal discrimination based on sexual orientation. In response to social pressure, some families reportedly subjected their LGBTI members to “corrective” rape and forced marriages to encourage heterosexual conduct. Women in particular were subjected to rape by male family members. Victims rarely reported such crimes to police. LGBTI persons often left school at an early age due to discrimination and had higher rates of unemployment and homelessness. Many persons who identified themselves as LGBTI did not seek medical care for sexually transmitted diseases or other health problems due to fear that health providers would shun them or report them to authorities.’²⁹

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

‘The SRC was originally to have a broader sexual rights mandate, but ended up prioritizing work with groups who experience violations and oppression related to sexual rights, including women living with HIV and AIDS, women with disabilities, sex workers, and the lesbian, gay, bisexual, queer, transgender, and intersex (LGBQTI) community. Given the frequency and magnitude of the abuses these groups faced, Sian believed the organization could have a real impact...

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

²⁸ Gay Star News, Gays are tools of the devil, self-declared Zimbabwe 'prophet' tells 50,000, 2 April 2014 <http://www.gaystarnews.com/article/gays-are-tools-devil-self-declared-zimbabwe-prophet-tells-50000020414/> Accessed 28 September 2016

²⁹ US Department of State Country Report on Human Rights Practices 2015 - Zimbabwe, Section 6. Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity. 13 April 2016. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> Accessed 27 September 2016

their congregations and at SRC events about sexual rights, and have provided support to parishioners whose children identify as lesbian or gay.

'The SRC has also organized creative stunts to get people talking about sexual rights. In 2011, it donated 20 pink trash bins to the city of Bulawayo, causing a public sensation. The mayor accepted the gift declaring, "Gays have the right to donate to [the city] council and we have the right to receive from them," and vowing that anyone who vandalized the bins would be held accountable. While some citizens refused to use them, others expressed appreciation and said the donation was a noble gesture.'³⁰

6.1.6 The Australian Department of Foreign Affairs and Trade (DFAT) in its Country Information Report, Zimbabwe, published 11 April 2016, stated:

'Official rhetoric limits people's ability to openly express their homosexuality. LGBTI persons generally do not openly express their sexuality or identity in their workplaces, or within their families. DFAT understands that more privileged LGBTI persons are possibly able to be more open about their sexual orientation and identities, but still only within their like-minded social circles. Deeply embedded, traditional cultural (and religious) factors also inhibit the free expression of sexuality in any form, whether an individual identifies as homosexual, heterosexual or otherwise.'³¹

6.1.7 The same source added, 'Reported cases of violence against LGBTI persons are infrequent and do not appear to follow a set pattern of victimisation.'³²

6.1.8 The UN Human Rights Council gathered stakeholder submissions for the forthcoming November 2016 Universal Periodic Review, some of which are listed here:

- 'GALZ stated that although the 2013 Constitution guarantees equality for all citizens and freedom from unfair discrimination, it fails to specifically prohibit discrimination on the basis of sexual orientation and gender identity. Homophobia permeates Zimbabwean society unchecked and manifests itself in different forms, ranging from verbal and physical assault on, to discrimination of, lesbian, gay, bisexual, transgender and intersex people on the basis of their sexual orientation or gender identity. Refusal by duty bearers and policy makers to address this issue has resulted in the public intolerance of lesbian, gay, bisexual, transgender and intersex persons becoming deeply ingrained in the community and reinforces the general stigmatization of sexual minorities in society.
- 'Joint submission 5 [The Sexual Rights Centre, Ottawa, Canada, GALZ – An Association of LGBTI People in Zimbabwe, Harare, Zimbabwe, COC

³⁰ Open Society Foundations (OSF), No Turning Back: Examining Sex Worker-Led Programs That Protect Health and Rights, 15 September 2016, available at:

<http://www.refworld.org/docid/57da8a284.html> Accessed 28 September 2016

³¹ DFAT, Zimbabwe, Sexual Orientation and Gender Identity, 11 April 2016, Copy available on request.

³² DFAT, Zimbabwe, Sexual Orientation and Gender Identity 11 April 2016, Copy available on request.

Nederland, Amsterdam, Netherlands] stated that lesbian, bisexual and transgender women were particularly at risk of sexual violence in the form of “corrective” or “curative” rape, where those women were raped by family members under the erroneous belief that this will “cure” their sexuality.’³³

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7. Access to healthcare

7.1 General

- 7.1.1 The Sexual Rights Centre, Ottawa, Canada, GALZ – An Association of LGBTI People in Zimbabwe, Harare, Zimbabwe, COC Nederland, Amsterdam, Netherlands in a joint submission to The UN Human Rights Council for their forthcoming November 2016 Universal Periodic Review stated that:

‘Lesbian, gay, bisexual, transgender and intersex persons have reported being threatened, ridiculed, and driven out of health institutions upon disclosing that they have engaged in same-sex relations. This stigmatization prevented sex workers and lesbian, gay, bisexual, transgender and intersex persons from fully disclosing their specific health needs.’³⁴

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7.2 HIV treatment

- 7.2.1 The Zimbabwe National Network of People Living with HIV, Zimbabwe Stigma Index Research Report, published December 2014 stated:

‘It is very difficult for gays, lesbians, bisexuals and transgender people to be open about their sexuality in southern Africa due to stigma and discrimination, which normally faces them upon disclosure of their sexual orientation. Their vulnerability to HIV infection is thus enhanced as HIV and AIDS responses rarely address their sexual needs and concerns. Lack of access to information, along with discrimination in the provision of basic services puts homosexuals, bisexuals and transgender people at particular risk of contracting HIV and facing the double dilemma of stigma and discrimination by society. As these vulnerable groups continue to be prejudiced, transmission of HIV among them is driven underground and will continue uncontrolled. Having to deal with a double disclosure (of being

³³ The UN Human Rights Council Stakeholder submissions for the forthcoming November 2016 Universal Periodic Review, 23 August 2016 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/187/32/PDF/G1618732.pdf?OpenElement>
Accessed 12 October 2016

³⁴ The UN Human Rights Council Stakeholder submissions for the forthcoming November 2016 Universal Periodic Review, 23 August 2016 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/187/32/PDF/G1618732.pdf?OpenElement>
Accessed 12 October 2016

homosexual and HIV positive) may drive many to commit suicide or to spend their final days in misery and much emotional and physical pain.³⁵

7.2.2 This same Zimbabwe Stigma Index Research Report published in December 2014 found that 65.5% of respondents reported that they had experienced one or more forms of HIV-related stigma and discrimination; 31% reported that they had been verbally insulted, harassed and/or threatened; and 19% stated they had been physically harassed and/or threatened³⁶.

7.2.3 Inter Press Service noted in a report dated 18 December 2014:

‘Despite a mandate to eradicate HIV/AIDS under the U.N. Millennium Development Goals (MDGs), Zimbabwe has done little or nothing to reduce the rate of infection among vulnerable gays and lesbians, say activists here. ...“In as far as combatting [sic] HIV/AIDS is concerned, there are no national programmes targeted for minority groups or interventions that can easily be accessible by the LGBTI...community on prevention and care within the public healthcare system,” Samuel Matsikure, Programme Manager of Gays and Lesbians of Zimbabwe (GALZ), told IPS. “There are knowledge gaps of healthcare workers on the needs and best methods on prevention, treatment and care for the HIV-positive LGBTI individuals,” adds Matsikure...

“Most healthcare facilities in Zimbabwe are not friendly to LGBTI persons, hindering disclosures of ailments like anal STIs [sexually transmitted infections] while sexual and reproductive health information for the LGBTI community is non-existent, creating a vacuum with healthcare facilities for minorities,” GALZ director Chester Samba told IPS.

“If you today walk into any government healthcare centre, be sure not to find any information or literature on gays and lesbians in as far as HIV/AIDS is concerned,” he added.

‘And for many Zimbabwean gays like 23-year-old Hillary Tembo, living with HIV/AIDS amounts to a death sentence because he fears accessing medical help from government healthcare centres.

“I’m HIV-positive and ridden with STI-related sores in my anus and truly I’m afraid to show this to health workers, fearing victimisation owing to my sexuality,” Tembo told IPS.

³⁵ The Zimbabwe National Network of People Living with HIV, Zimbabwe Stigma Index Research Report, December 2014

http://webcache.googleusercontent.com/search?q=cache:n_6eK5VxvA4J:http://www.stigmaindex.org/sites/default/files/reports/Zimbabwe%2520People%2520Living%2520with%2520HIV%2520Stigma%2520Index%2520Report_15-12-14pdf.pdf%2BHIV+lgbt+zimbabwe&safe=active&hl=en-GB&gbv=2&ct=clnk Accessed 28 September 2016

³⁶ The Zimbabwe National Network of People Living with HIV, Zimbabwe Stigma Index Research Report, December 2014

http://webcache.googleusercontent.com/search?q=cache:n_6eK5VxvA4J:http://www.stigmaindex.org/sites/default/files/reports/Zimbabwe%2520People%2520Living%2520with%2520HIV%2520Stigma%2520Index%2520Report_15-12-14pdf.pdf%2BHIV+lgbt+zimbabwe&safe=active&hl=en-GB&gbv=2&ct=clnk Accessed 4 November 2016

'But Zimbabwean Health Minister David Parirenyatwa told IPS: "When a person visits a healthcare centre, nothing is asked about one's sexual orientation."³⁷

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

'Even though the Constitution of Zimbabwe acknowledges all citizens' inherent dignity and guarantees the right to have that dignity respected, the law in Zimbabwe also criminalises LGBT people. This climate of criminalisation and intimidation has increased stigma and discrimination against LGBT people, excluding them from society, services and job opportunities. This has increased their vulnerability and the HIV risks they face.

'Zimbabwe's HIV prevalence rate is estimated at 15.2% among the general population. HIV prevalence among men who have sex with men is high. The estimated HIV prevalence among MSM is 17%. Zimbabwe has developed a National HIV and AIDS Strategic Plan that recognises the need to prioritise the needs of key populations. However, the legal framework is not supportive for LGBT people which limits the access to HIV and SRHR (sexual and reproductive health rights) services.'³⁸

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

- '3869 LGBT people are reached with good quality health services (2011-2015).
- 60 staff of health facilities in Harare and Bulawayo were trained to provide LGBT-friendly services (2011-2015)
- 11 community events were organized for LGBT people (2011-2015)
- 4 advocacy tools were developed , including shadow reports, fact sheets, statements (2011-2015)'³⁹

7.2.6 76 Crimes reported on 30 November 2015 about the Zimbabwe authorities' obstruction of an HIV workshop:

'Zimbabwe officials disrupted a workshop for people most at risk of HIV infections over the weekend, seizing documents at the Harare airport and tearing down an exhibition stand displaying materials they found offensive.

³⁷ Inter Press Service, Anti-Gay Legislation Could Defeat Goal to End AIDS in Zimbabwe by 2015, 18 December 2014, <http://www.ipsnews.net/2014/12/anti-gay-legislation-could-defeat-goal-to-end-aids-in-zimbabwe-by-2015/> Accessed 4 November 2016

³⁸ Bridging the Gaps, LGBT People Project Zimbabwe, 2016 <http://www.hivgaps.org/projects/lesbian-gay-bisexual-and-transgender-projects/lgbt-project-zimbabwe/> Accessed 28 September 2016

³⁹ Bridging the Gaps, LGBT People Project Zimbabwe, 2016 <http://www.hivgaps.org/projects/lesbian-gay-bisexual-and-transgender-projects/lgbt-project-zimbabwe/> Accessed 28 September 2016

'The seizure is just the latest example of government obstruction of Aids fighters' attempts to provide health information to sexual minorities...

'Kene Esom, executive director of the LGBTI group African Men for Sexual Health and Rights (AMSHer), said the confiscation of most of their materials by the Zimbabwe Revenue Authority (Zimra) disrupted the group's programs, as reported in Zimbabwe's Newday newspaper.

'In addition, according to ZimEye, suspected Zimbabwe security agents pulled down the AMSHer exhibition stand, which, like the confiscated materials, was prepared for the International Conference on Aids and STIs in Africa (ICASA), which runs through Dec. 4. The exhibitors were later allowed to re-erect the display, following protests and lobbying by local and international human rights groups, ZimEye said.

'Zimbabwe's National AIDS Council intervened to win government agreement to release materials that had been seized, New Zimbabwe reported.'⁴⁰

On 30 April 2016, All Africa News further noted that 'government tried to stop foreign gays and lesbians attending the International Conference on Aids and STI's in Africa (ICASA) in Harare, from displaying their wares, after suspected state security agents pulled down their displays. They were however, allowed to proceed with their exhibition after massive lobbying from local and international human rights organisations.'⁴¹

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7.3 Transgender

- 7.3.1 A joint submission by the Sexual Rights Centre, Ottawa, Canada, GALZ –, Zimbabwe and COC Nederland, Amsterdam, Netherlands to The UN Human Rights Council, for their forthcoming November 2016 Universal Periodic Review stated: 'With regard to transgender individuals, there was a lack of access to gender affirming services including access to hormones, medical equipment such as binders, and to medical procedures such as surgery.'⁴²
- 7.3.2 The Southern Africa Litigation Centre noted in its report dated 27 September 2016 that 'There are no laws or policies that provide for hormonal treatment or any other gender-affirming healthcare for transgender people. Transgender people who want to access hormonal treatment usually look to the black market or travel outside Zimbabwe – mainly to South Africa – to access this medication.'⁴³

⁴⁰ 76 Crimes, Homophobic Zimbabwe obstructs anti-Aids workshop, 30 November 2016 <https://76crimes.com/2015/11/30/homophobic-zimbabwe-obstructs-anti-aids-workshop/> Accessed 28 September 2016

⁴¹ All Africa, Zimbabwe: Tsvangirai Says He Is Not Gay, Will Not Quarrel With Gays If He Becomes President, 30 April 2016, <http://allafrica.com/stories/201605010047.html> Accessed 4 November 2016

⁴² The UN Human Rights Council Stakeholder submissions for the forthcoming November 2016 Universal Periodic Review, 23 August 2016 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/187/32/PDF/G1618732.pdf?OpenElement> Accessed 12 October 2016

⁴³ Southern Africa Litigation Centre, Laws and Policies Affecting Transgender Persons in Southern

Version Control and Contacts

Contacts

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Clearance

Below is information on when this note was cleared:

- version **2.0**
- valid from **21 November 2016**

Changes from last version of this note

- presented in the updated CIG/CPIN template
- updated country information
- rephrased policy guidance

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