

1417831 (Refugee) [2016] AATA 3456 (2 March 2016)

DECISION RECORD

DIVISION: Migration & Refugee Division
CASE NUMBER: 1417831
COUNTRY OF REFERENCE: Zimbabwe
MEMBER: Amanda Goodier
DATE: 2 March 2016
PLACE OF DECISION: Perth
DECISION: The Tribunal affirms the decision not to grant the applicant a Protection visa.

Statement made on 02 March 2016 at 12:09pm

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431 of the Migration Act 1958 and replaced with generic information which does not allow the identification of an applicant, or their relative or other dependant.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicant a Protection visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant who claims to be a citizen of Zimbabwe applied for the visa [in] July 2013 and the delegate refused to grant the visa [in] October 2014.
3. The applicant appeared before the Tribunal on 20 November 2015 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Shona and English languages.

CONSIDERATION OF CLAIMS AND EVIDENCE

4. The Tribunal must consider and decide whether the applicant has a well-founded fear of being persecuted in Zimbabwe for one or more of the five reasons set out in the Refugees Convention and, if not, whether there are substantial grounds for believing that, as a necessary and foreseeable consequence of her being removed from Australia to Zimbabwe, there is a real risk that she will suffer significant harm. In considering these issues, the Tribunal has applied the law set out in Annexure "A" and has carefully considered all of the applicant's claims and evidence in light of the independent material referred to by the applicant and included with her application, the independent material referred to in the delegate's decision which was attached to the application for review as well as the independent country information referred to in this decision as set out in Annexure "B".
5. For the following reasons, the Tribunal has concluded that the decision under review should be affirmed.

Country of reference and home area

6. The applicant claims to be a citizen of Zimbabwe and provided to the Tribunal her Zimbabwe passport, a copy of which is on the Tribunal file. In the absence of any evidence to the contrary, the Tribunal accepts that the applicant is a citizen of Zimbabwe and that Zimbabwe is her country of nationality and receiving country.
7. The Tribunal is satisfied on the evidence before the Tribunal, the applicant does not have a right to enter and reside in any other country, therefore, the Tribunal finds that she is not excluded from Australia's protection obligations under s36(3).

Assessment of claims

8. The applicant claims to fear harm on return to Zimbabwe because of her homosexuality.
9. The applicant provided a number of articles indicating discrimination against homosexuals in Zimbabwe. She also provided copies of newspaper articles on comments made by the Zimbabwe President and other Members of Parliament speaking out against homosexuality in Zimbabwe.
10. She also provided a letter to the Tribunal dated [October] 2015 from [name deleted], [of Organisation 1] requesting the Australian Government to provide protection to their member because of her beliefs as homosexuality is forbidden and her return to Zimbabwe risks her life.

11. The applicant provided a submission to the Tribunal pointing out that human rights in Zimbabwe do not exist and the human rights policies are violated regularly. People who stood up for human rights have disappeared and never walked the earth again. The organization that stood up for homosexuals has been vandalized countless times and people like herself that are registered as a member. The police have raided the homosexual office and detained people and tortured them because they are homosexual. She cannot go to neighboring countries as people are paid to find people like herself and there are many intelligence people from the government that search for people like herself.

Summary application and delegate's decision

12. The applicant states she was born on [date] in [Mashonaland] East Province where she lived until 1984 until the family moved to Harare where she lived until her departure from Zimbabwe to Australia, apart for a few years during her marriage from 1994 to 2001. She speaks, reads and writes Shona and her religion is Christian.
13. The applicant indicates she travelled to [Country 1] and [Country 2] on numerous occasions during 2010, 2011, 2012 and 2013. The Tribunal sighted her passport issued by the Government of Zimbabwe and placed a copy on the Tribunal file.
14. The applicant indicates she attended [a] High School in Harare and completed courses at [a] College. She was employed as [occupation] from December 2011 until her departure from Zimbabwe with [business]. From 2002 to 2009 she was self-employed in her own [business].
15. The applicant claims to have left Zimbabwe as her situation became worse. People in her area started to threaten and throw stones at her house, demanding she should be killed because she was a disgrace to the family/culture and even society. Information was passed around that she did not fit into the area and should not be allowed to associate with any local people. In 2012 she went through a suffering period where there was a campaign against homosexuals. A few people came marching through the streets saying homosexuals must be killed or evicted. They were throwing stones and harassing her. She had to lie that she was not because she had a child. She was beaten and lost her goods and furniture and her [child] suffered verbal abuse being told [he/she] was the [child] of a lesbian and other sort of abuses. According to Zimbabwean culture/society same sex relationships are not tolerated. Her fear is that she would be persecuted by society and other family members. Since threats were sent to where she lived and warnings that people who practice same sex relationships will be torched. She has a text message reporting of her search. There is a high risk she will be mistreated because they want to know where she is right now and why. People of her society and her relatives who do not accept same sex relationship will harm her if she returns to Zimbabwe. This will happen to her because the violence has already been noticed and others are using the political situation to take advantage of such people. Her [child] has already left the house because of the threats and abuse so she believes her presence will accelerate the threats and abuse. She is unable to obtain protection from the authorities because they believe same sex relationships are a disgrace to the nation.
16. The applicant indicates in her Form 80 that she resided at the following addresses in Zimbabwe:
 - [Year] to 1984 at [address];
 - 1984 to 1994 at [Address 1];
 - 1994 to 2001[address];
 - 2001 to 2013 at [Address 1].

17. She also indicates in her Form 80 sworn September 2013 that her father resides at [Address 1]. This address is the one given on her marriage certificate as her residential address. The applicant indicates she was married [in] December 1994. Her [child] was born in [year]. Also provided to the department was a copy of orders made in the [Courts] [in] January 2003 that confirm the applicant's address at [Address 1].
18. A letter dated [March] 2014 from [Reverend A] from [a church] in Zimbabwe was provided confirming that the applicant was married and employed with her then husband as [occupation] from 1994 to 2001. Following their separation they were automatically disqualified [from their work] according to their Church Constitution. The letter asks that the applicant be assisted in any way possible as she has a [child] in her care.
19. The applicant was granted a visitor's visa [in] April 2013 and entered Australia [in] May 2013. She entered Australia with her [family members] who have now returned to Zimbabwe.
20. According to the delegate's decision, the applicant claims to be a lesbian. She married in December 1994 but separated from her husband as she could no longer face him touching her. She has a [child] born in [year] who remains in Zimbabwe. Her husband was [occupation] and they travelled around [Zimbabwe] and she travelled with him so is known as [his] wife in many areas in Zimbabwe. When they divorced he lost his job as divorce is not allowed in their Church. She had a relationship with a female partner after separating from her husband but that partner passed away. She then tried to pursue a relationship with another woman who rejected her advances and told others she was a lesbian. In 2012 there was a campaign against homosexuals and a few people who knew she was a lesbian came marching through the street saying homosexuals must be killed or evicted. Stones were thrown at the applicant and she was harassed and beaten with her goods and furniture broken. She lied and told them she was not a lesbian as she had a [child]. In July 2013 her [child] told her people had come looking for her at their house in Zimbabwe, saying she should stay away otherwise they will kill her. Her parents sold the house in December 2013 due to on-going harassment about the applicant. She fears she will be mistreated and killed if she returns by members of her Church, community, relatives and ZANU-PF party members.
21. Provided was a copy of an agreement of sale indicating the applicant's parents in December 2013 purchased a property in the district of [deleted].
22. The applicant claimed to have been beaten and attacked on 2 occasions while at her parent's house in August and November 2012. They broke in to her parents' house and started to beat her. She did not go to seek medical treatment or report it to the police as the State is against people being gay. She was unable to provide any details as to the number of attackers or how she was beaten. She indicated to the delegate her intention was just to visit Australia and meet her new sister-in-law but when her [child] told her in July 2013 that people had come looking for her and threatened to kill her if she returned, she applied for protection. The delegate noted she travelled to [Country 2] on several occasions between the time she claims to have been beaten and her arrival in Australia and made no attempt to relocate there if she was as fearful as she claimed. The delegate referred to the Agreement for Sale provided dated [December] 2013. The applicant referred to her parents being forced to sell their property because of the harassment. The delegate noted that the document indicates her parents are the purchasers rather than the sellers and is not proof they have sold their old property.
23. The delegate did not accept that the applicant was telling the truth about the two incidents in 2012 or that people were looking for her and found that the applicant was not a credible witness and had contrived her claims.

24. The delegate found her evidence in relation to her sexuality vague and inconsistent. At interview, she claimed to have relationships with woman following her separation from her husband and provided little detail about her claimed first partner. She stated up until her partner's death her sexuality was not widely known. Following her partner's death she actively pursued another woman who rejected her and told members of the community she was a lesbian. She initially claimed that she left her husband in 2001 because of her longing to touch another woman and later stated she realised she was a lesbian in 2004. The delegate noted the country information confirming Zimbabwe does not tolerate gay and lesbian relationships. The delegate found it implausible and had serious concerns that despite claiming that she was subjected to violent attacks because of her sexuality she did not contemplate seeking protection until July 2013. The delegate found on the vague and inconsistent evidence given that the applicant had not been truthful in her claims to be a lesbian.

Tribunal hearing

25. She claims that about 2004 she became aware of her sexual orientation following the breakdown of her marriage in 2001. In about 2005 she claims she was involved in a relationship with a woman that she met at the local bus stop on her way to work. She claims they were just friends at first and as time passed they fell in love. Her friend died in 2010. She lived in [Address 1]. The applicant stated that they saw each other a lot; they were together for the duration of the bus trip and saw each other on weekends. The claimed they spent a lot of time together but did not live together as they were scared of discovery. Her friend rented a room in a house and lived alone. No one knew they were romantically involved but knew they were friends. Her family did not know and only found out in 2012.
26. The applicant stated her family were upset when they found out. She stated they did not support her as they were accused of being the parents of a lesbian and that sense of shame has remained. They tried to talk her out of her sexual orientation but she could not accept what they were saying. She claims they had to sell their home in [Address 1] and downgrade to another and are not happy with her because of this.
27. She told the Tribunal she had difficulties in a relationship with a man and over the years found herself attracted to other women and used to talk to herself and wondered what it would be like to be free to express herself.
28. The applicant told the Tribunal that she formed a friendship with another woman who lived in [Address 1] and who was not married. She thought there was something there but there was not and she moved on. This woman is a member of the ZANU-PF and has told everyone she is a lesbian and that is why she has been targeted. The first instance was in August 2012. There was a campaign against homosexuals, especially in her high density area and they stormed her house, accusing her of being a lesbian. They came to her home carrying placards and yelling lesbian out then they broke into the house, smashed things, carried her out and beat her. She was home with her [child] at the time and while nothing happened to her [child], [he/she] was traumatised by the incident. She was injured but did not report it to the police as she thought they would turn against her as she was a lesbian. She did not go to hospital as she needed a police report. In November 2012 there were a number of rallies and the President made a speech that homosexuals should be killed so they came to her home and harassed and beat her again. She was alone that day and again she did not report it to the police or seek medical treatment. She told the Tribunal that her parents were aware of the incidents in August and November 2012.
29. The applicant told the Tribunal that in July 2013 she called her [child] and her [sibling] was in the house and they told her that they were looking for her, they were asking where the lesbian was and her family told her to stay where she was.

30. The applicant told the Tribunal that she was employed in [industry] while in Zimbabwe and was still in that position when she departed Zimbabwe. As part of her job she regularly travelled to and from [Country 1] and [Country 2]. She told the Tribunal that they did not know about her sexuality but wondered why she was still single.
31. The Tribunal put to the applicant that she claims people stand outside her house and harass her because of her sexuality yet claims her work colleagues do not know. The applicant responded that they definitely know in her community but in her work front they may not have known or if they knew they never harassed her. She told the Tribunal that she did not socialise with her work colleagues. The Tribunal asked why her workplace was so unique as she claims the President was encouraging people to “get” homosexuals, there was anti-homosexual sentiment and yet she claims she was left alone in the workplace. The applicant responded that the dynamics in the workplace was different as everyone focuses on their work so they choose not to do anything about it but it is a large community with a mob mentality. The Tribunal asked if her harassment was so unique to her community, why couldn't she relocate to a safer area and was told that they have worked out she is in Australia and they can still threaten her, so if she relocated word would get around and Zimbabwe is not that large.
32. The Tribunal put to her that she claims the intelligence community were after her but she was not hassled in her workplace. The applicant responded that no-one came to her work, but they came to her house and they would time things to her coming and going. The Tribunal indicated that if they were so intent on getting her, then why would they leave her alone in her workplace.
33. The applicant told the Tribunal that since she has been in Australia she has searched the internet but done nothing else as she is not in a good state of mind and is unable to relax.
34. In relation to the letter provided by [Organisation 1], the applicant stated that she joined in July 2015 following the refusal of her application by the delegate. She thought how best to get her visa and thought she should join them. She obtained their details from the internet, called and explained her story and on the basis of the conversation decided to join. She stated she spoke to people in Zimbabwe but when asked why her membership card had [Country 3] details on it responded that they told her that as she was outside of Zimbabwe to contact [Country 3] about her membership. The Tribunal put to her that she solely joined the [organisation] to obtain a letter to support her claim to be a lesbian in Zimbabwe. The applicant responded that the main reason was to have a conversation about being safe in Zimbabwe or would she face a bleak situation such as her death. She told the Tribunal she first spoke to them in July and they wrote letter in October and she had to provide some basic evidence like her name, details of her parents, addresses and she told them her story and they wrote the letter.
35. The Tribunal asked why she didn't bring any witnesses to the hearing like her [sibling] with whom she is living or [other relatives] as she claims they are all aware of her sexuality. She told the Tribunal that she gets on with her[sibling]. The applicant initially responded that she thought the Tribunal would only be interested in people from Zimbabwe and later said she was unaware that she could bring witnesses.
36. The applicant regularly travelled to [Country 2] and when asked why she didn't relocate to [Country 2], responded as the intelligence of Zimbabwe may reach out and grab her. When asked why they would be interested in her she responded because of the discriminatory and prejudicial nature against homosexuals and the President speaks out against homosexuals who are denied basic human rights and she feels a thief would be better treated than her.

37. The Tribunal put to the applicant that if she was so fearful for her life and she travelled to [Country 2] frequently, why didn't she seek protection in [Country 2]. The applicant responded that she did not think this was an option as there are lots of people in [Country 2] from Zimbabwe and she may be recognised and there are other issues in [Country 2]. They may send her back to Zimbabwe. The Tribunal put to the applicant that she could seek protection in [Country 2] and was told that she was not aware and did not want to stay as she was not confident she would be given protection. The Tribunal put to the applicant country information that [Country 2] has decriminalised homosexuality. The applicant responded that it would be OK for [Country 2] but if they sought her out, she could be extradited to Zimbabwe. The Tribunal asked why the authorities would bother chasing her to [Country 2] as they did not bother her in the workplace. She told the Tribunal that she may have been under surveillance or monitoring. She feels that she was never detained because she was so predictable and was never out of the country for long periods so never created an impression of admitting guilt and running away so they would seek her out.
38. The applicant told the Tribunal she does not want to return, she just wants to survive and fears death if returned to Zimbabwe.

Findings

39. The applicant's claims in regard to the Convention are that she fears serious harm for reasons of her membership of a particular social group, lesbians in Zimbabwe. She fears she will be mistreated and killed if she returns by members of her Church, community, relatives and ZANU-PF party members. She can also be taken to have claimed that she submits that there are substantial grounds to foresee as a consequence of being returned to Zimbabwe as the receiving country, that there is a real risk of significant harm.
40. The Tribunal found the applicant's claims to be a lesbian and in regard to her lesbian relationships were of a general and unconvincing nature. The description of her claimed one and only relationship was unusual and vague. The delegate also found her evidence in relation to her sexuality vague and inconsistent. She provided little detail about her claimed first partner and her description of their relationship was more of friendship in that they travelled together on a bus each day and saw each other on weekends. At no time through the whole application process has the description of this relationship been anything more than that. In a genuine relationship the Tribunal would have expected a description of things that they did together, exchanges of gifts, shared meals and other incidents which make it appropriate to refer to an association as a relationship, especially as the applicant claims the relationship lasted 5 years. The applicant has not done that.
41. Apart from her own statements the applicant has provided no substantiating evidence of her lesbian relationship through the whole process of her application.
42. The Tribunal is mindful that there will be many instances when a protection visa applicant cannot do so and cannot reasonably be expected to. However, that is not the case in this matter. When it was put to her that she had the opportunity to have her [sibling] or [other relatives], who she claimed knew about her situation, attend the Tribunal hearing, she indicated that she was not aware she could have witnesses. This is despite the hearing response clearly indicating that she was able to call witnesses and in the applicant's case marked as n/a.
43. The evidence before the Tribunal indicates that the applicant resided with her parents and continued to do so until she departed Zimbabwe. She travelled to Australia with [relatives] and they stayed with her[sibling]. She gave evidence that she continues to stay with her [sibling]. She stated that her family are aware she has applied for protection and are aware

of the basis on which she is seeking protection. She stated her parents were aware that she was a lesbian, were disappointed and tried to talk her out of her sexual orientation.

44. If, as the applicant has claimed she could face a real chance of serious harm and her[sibling], with whom she is residing, is aware of her situation, the Tribunal does not accept that she would have failed to take the opportunity to substantiate her claims by seeking her[sibling]'s support if they were genuine.
45. The Tribunal considered whether or not anything would be gained by having her [sibling] attend at another date and decided that this would not serve any useful purpose since any evidence would be of no probative value.
46. The Tribunal does not accept the letter the applicant provided from [Organisation 1] is independent evidence that she is a lesbian and at risk of being persecuted in Zimbabwe if she returns on the basis of her sexuality. The applicant's evidence is that she spoke to them, told her story and the letter was written on that basis. She indicated that she obtained the letter following the delegate's decision as she felt she needed some proof. The Tribunal gives no weight to the letter as evidence that the applicant is a lesbian as it was written on the basis of a telephone call where the applicant self-reported and was provided solely because the applicant felt she needed evidence to support her claims.
47. The Tribunal notes the letter provided by [Reverend A] from [a church] in Zimbabwe. The applicant claims that she fears harm from members of her Church because she is a lesbian and the country information referred to below indicates that non-state actors, particularly Churches, have also publicly made anti-homosexual comments. The applicant also claims that everyone in the community is now aware that she is a lesbian yet the letter from [Reverend A] asks for her to be provided with assistance. It makes no mention of the reasons why she should be provided with assistance apart from the fact she has a child in her care. While the Tribunal acknowledges the applicant may not have disclosed her sexuality to her Church, her claims are that everyone knows and she fears harm from members of her Church, yet provides a letter in support. Based on the country information, the Tribunal considers that a Church would not knowingly provide a letter in support of someone who claims to be a lesbian. The letter does confirm that the applicant was married and [worked as an occupation] with the Church with her husband until they separated.
48. The Tribunal does not accept that the applicant would be able to remain employed without incident if she was targeted because of her sexuality. The applicant claimed that those who worked with her and others in the workplace may not have known that she was a lesbian. The Tribunal does not accept her explanation that the workplace and her community were separate, therefore she experienced no discrimination or harassment in the workplace because of her sexuality. She claimed that the woman who rejected her advances spread the information that she was a lesbian and that is why her home was regularly targeted. The applicant has claimed that the Prime Minister of Zimbabwe made damning speeches against lesbianism and homosexuality and provided a wide range of materials that support those claims and that the society of Zimbabwe generally condemns gays and lesbians openly and that the abuse of them is widespread. Country information referred to below supports the applicant's claims of persecution of homosexuals in Zimbabwe.
49. The applicant claimed that the intelligence authorities in Zimbabwe kept her under surveillance and monitored her because she was a lesbian as they would target her when she was in the house and seemed to be aware of her comings and goings so that she was targeted in her home. The Tribunal notes that the applicant claims she was specifically targeted and harmed her on two occasions in August and November 2012. The Tribunal does not accept that if the intelligence authorities in Zimbabwe were interested in her because she was a lesbian they would only target her when she was at her home and leave

her undisturbed in her workplace. The evidence from the applicant was that she was able to freely travel between Zimbabwe and [Country 2] and [Country 1] which she did on a regular basis. The Tribunal does not accept that if the applicant was of any interest to the Zimbabwe intelligence authorities because she was a lesbian or for any other reason, she would have been able to freely depart and re-enter Zimbabwe on the many occasions that she did. The Tribunal also does not accept that if the Zimbabwean intelligence authorities were so interested in her they would only target her when she was at her home. The Tribunal does not accept that if the Zimbabwean intelligence authorities were interested in the applicant, they would turn up at her place looking for her following her departure from Zimbabwe as the Tribunal finds that they would be aware that she has departed the country on her own passport through a lawful port.

50. The Tribunal does not accept that the applicant was able to remain employed without experiencing any discrimination and persecution in a culture that is so strongly homophobic and openly adverse to any gay/lesbian relationships. For the same reasons the Tribunal does not accept that the Zimbabwean authorities, including their intelligence authorities, allowed the applicant to continue to freely travel outside Zimbabwe and return without incident knowing that she was a lesbian. For the same reasons the Tribunal also does not accept that she would only be targeted in her parent's home and not elsewhere such as her workplace or the street or other areas in her community where she claims to be known as a lesbian.
51. The applicant claimed to have been attacked in August then November 2012 and then in July 2013 people came to her home looking for her, sometime after she had departed Zimbabwe for Australia. The Tribunal does not accept as plausible that in a country so strongly homophobic, that once identified as a lesbian, that between November 2012 and July 2013 she was left alone and not sought after.
52. The Tribunal has considered the delay by the applicant in seeking protection. Despite claiming that she was targeted in August 2012 and was fearful for her life, she returned to Zimbabwe after travelling to [Country 2]. When asked why she didn't stay in [Country 2] if she was so genuinely fearful for her life, the applicant responded that she didn't know she could apply for protection and in any event the intelligence authorities would seek her out and have her returned to Zimbabwe. The applicant also told the Tribunal that there were many Zimbabweans living in [Country 2] and she would be recognised and have to return to Zimbabwe. The applicant told the Tribunal that she was fearful for her life after the incident in August 2012 when she was dragged outside and beaten. However, despite travelling to [Country 2] where homosexuality is decriminalised and she would be able to seek protection, she returned to Zimbabwe where she was again attacked and beaten in her home in November 2012. Following that incident she again travelled to [Country 2], returning to Zimbabwe. The applicant told the Tribunal that she researched places where she would be free to be a homosexual, referring to the UK, USA and Australia. The Tribunal does not accept that if the applicant researched countries where homosexuality was decriminalised and she would be free to be a lesbian, that she was unaware that she would be able to be free to be a lesbian in [Country 2]. The Tribunal does not accept the applicant's claim that she would not be safe in [Country 2] as the Zimbabwean intelligence authorities would extradite her back to Zimbabwe. The Tribunal does not accept that in a country as large as [Country 2] she would be recognised by a fellow Zimbabwean and have to return to Zimbabwe simply because she was recognised. The applicant remained in Zimbabwe, continuing in her employment and travelling outside the country for work purposes and returning to her home until May 2013 when she travelled to Australia and sought protection on the basis of her sexuality. The Tribunal finds that this delay undermines the credibility of her claim to fear harm from the Zimbabwean authorities or any person or group on the basis that she is a lesbian. The Tribunal does not accept as plausible that the applicant was

subjected to two violent attacks because of her sexuality yet did not contemplate seeking protection until July 2013 after her arrival in Australia.

53. The applicant claims that her parents had to sell their home and downgrade because of the unwanted attention and stigma with having a daughter who is a lesbian. She provided copies of documents indicating her parents purchased property elsewhere in December 2013. The Tribunal is not satisfied that the documents provided are evidence that her parents had to sell their home in [Address 1] because of the stigma of their daughter being a lesbian. The Tribunal does not accept that the applicant's parents had to sell their home to downsize because she and they were targeted because of her sexuality.
54. After considering all the available information, the Tribunal does not accept that the applicant is a lesbian as claimed. The Tribunal does not accept she tried to commence a relationship with a woman who was a member of the ZANU-PF who then told everyone she was a lesbian. The Tribunal does not accept that she is of any interest to the Zimbabwean intelligence authorities or to any Zimbabwean authorities because she is a lesbian. The Tribunal does not accept that the applicant was of any interest to the Zimbabwean intelligence authorities or was ever monitored or kept under surveillance. The Tribunal does not accept that she will be mistreated and killed if she returns by members of her Church, community, relatives, ZANU-PF party members or any other group or person if she returns to Zimbabwe because she is a lesbian.
55. The Tribunal does not accept that the applicant was harmed in August and November 2012 on the basis that she was a lesbian because the Tribunal does not accept she is a lesbian. For the same reasons the Tribunal does not accept that any person or group or the Zimbabwean intelligence authorities or any other Zimbabwean authority came looking for her in July 2013. The applicant claims to have been badly beaten but did not seek any medical attention and continued to work, travelling to [Country 2] and [Country 1] for her work after both claimed attacks. The Tribunal found the applicant's account of the incidents lacked detail and were general in their description focusing more on the rallies and campaigns against homosexuals in Zimbabwe at the particular times.
56. The Tribunal has taken into account country information referred to by the applicant and the Department of Foreign Affairs and Trade Country Report on Zimbabwe and in particular its commentary that it is not possible to be openly gay in Zimbabwe without attracting societal or official condemnation, harassment and a high risk of violence and arrest. The Tribunal accepts and has taken into account that Zimbabwean gays and lesbians would be very reluctant to be open about their sexuality. However, given the Tribunal's concerns about the applicant's credibility and its findings, this information does not overcome its concerns with her credibility.
57. Having regard to all the evidence before it, the Tribunal is not satisfied that the applicant is in fact a lesbian or that she would genuinely seek to be a lesbian in Zimbabwe now or in the reasonably foreseeable future should she return there. The Tribunal therefore finds that the applicant does not face a real chance of serious harm for reasons of membership of a particular social group as lesbians in Zimbabwe because she is not a member of such a group. The applicant therefore does not meet the requirements prescribed in s.36(2)(a) of the Act.
58. As the Tribunal has found the applicant does not have a well-founded fear of persecution for one or more Convention grounds should she return to Zimbabwe, the Tribunal must now consider whether there are substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to Zimbabwe, there is a real risk that she will suffer significant harm.

59. On the evidence before it, and having regard to its findings in respect of the applicant's claims as already discussed, including her claim to be a lesbian or imputed to be a lesbian, the Tribunal does not find that she will be arbitrarily deprived of her life; or the death penalty will be carried out on her should she return to Zimbabwe. On the evidence before the Tribunal, it finds that the applicant does not face a real risk of significant harm on the basis of her sexuality that is because she is a lesbian. Having regard to all the evidence, the Tribunal find there are not substantial grounds for believing that as a necessary and foreseeable consequence of the applicant being removed from Australia to a Zimbabwe the applicant will be subjected to torture; or to cruel or inhuman treatment or punishment; or to degrading treatment or punishment. For these reasons the Tribunal finds the applicant does not satisfy s.36(2)(aa) of the Act.

Conclusions

60. For the reasons given above, the Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under the Refugees Convention. Therefore the applicant does not satisfy the criterion set out in s.36(2)(a).
61. Having concluded that the applicant does not meet the refugee criterion in s.36(2)(a), the Tribunal has considered the alternative criterion in s.36(2)(aa). The Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under s.36(2)(aa).
62. There is no suggestion that the applicant satisfies s.36(2) on the basis of being a member of the same family unit as a person who satisfies s.36(2)(a) or (aa) and who holds a protection visa. Accordingly, the applicant does not satisfy the criterion in s.36(2).

DECISION

63. The Tribunal affirms the decision not to grant the applicant a Protection visa.

Amanda Goodier
Member

ANNEXURE A

RELEVANT LAW

64. The criteria for a protection visa are set out in s.36 of the Act and Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a protection visa of the same class.

Refugee criterion

65. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
66. Australia is a party to the Refugees Convention and generally speaking, has protection obligations in respect of people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:
- owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.
67. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the Regulations to a particular person.
68. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
69. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve 'serious harm' to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). Examples of 'serious harm' are set out in s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
70. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors.
71. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase 'for reasons of' serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not

satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.

72. Fourth, an applicant's fear of persecution for a Convention reason must be a 'well-founded' fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a 'well-founded fear' of persecution under the Convention if they have genuine fear founded upon a 'real chance' of being persecuted for a Convention stipulated reason. A 'real chance' is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.
73. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence. The expression 'the protection of that country' in the second limb of Article 1A(2) is concerned with external or diplomatic protection extended to citizens abroad. Internal protection is nevertheless relevant to the first limb of the definition, in particular to whether a fear is well-founded and whether the conduct giving rise to the fear is persecution.
74. Whether an applicant is a person in respect of whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

Complementary protection criterion

75. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').
76. 'Significant harm' for these purposes is exhaustively defined in s.36(2A): s.5(1). A person will suffer significant harm if he or she will be arbitrarily deprived of their life; or the death penalty will be carried out on the person; or the person will be subjected to torture; or to cruel or inhuman treatment or punishment; or to degrading treatment or punishment. 'Cruel or inhuman treatment or punishment', 'degrading treatment or punishment', and 'torture', are further defined in s.5(1) of the Act.
77. There are certain circumstances in which there is taken not to be a real risk that an applicant will suffer significant harm in a country. These arise where it would be reasonable for the applicant to relocate to an area of the country where there would not be a real risk that the applicant will suffer significant harm; where the applicant could obtain, from an authority of the country, protection such that there would not be a real risk that the applicant will suffer significant harm; or where the real risk is one faced by the population of the country generally and is not faced by the applicant personally: s.36(2B) of the Act.

Section 499 Ministerial Direction

78. In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration – PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – and any country information

assessment prepared by the Department of Foreign Affairs and Trade expressly for protection status determination purposes, to the extent that they are relevant to the decision under consideration. Reports relevant to this application are DFAT *Country Reports on Zimbabwe*, 25 February 2014.

Credibility

79. The Tribunal's task of fact-finding may involve an assessment of an applicant's credibility. In this context, the Tribunal is guided by the observations and comments of both the High Court and Federal Court of Australia in a number of decisions including *Minister for Immigration and Ethnic Affairs v Wu Shan Liang & Ors* (1996) 185 CLR 259, *Minister for Immigration and Ethnic Affairs v Guo* (1997) 191 CLR 559, *Abebe v The Commonwealth of Australia* (1999) 197 CLR 510, *Randhawa v MILGEA* (1994) 52 FCR 437, *Selvadurai v MIEA & Anor* (1994) 34 ALD 347, *Minister for Immigration and Ethnic Affairs and McIlhatton v Guo Wei Rong and Pam Run Juan* (1996) 40 ALD 445, *Chand v Minister for Immigration and Ethnic Affairs* (unreported, 7 November 1997), *Kopalapillai v Minister for Immigration and Multicultural Affairs* (1998) 86 FCR 547 and *Minister for Immigration and Multicultural Affairs v Rajalingam* (1999) 93 FCR 220. In these and other decisions, the courts have made it clear that it is important that the Tribunal is sensitive to the difficulties faced by asylum seekers and that it adopts a reasonable approach in making its findings of credibility.
80. In *Minister for Immigration and Ethnic Affairs and McIlhatton v Guo Wei Rong and Pam Run Juan* (1996) 40 ALD 445, Foster J stated at 482 that "care must be taken that an over-stringent approach does not result in an unjust exclusion from consideration of the totality of some evidence where a portion of it could reasonably have been accepted." Numerous decisions have endorsed the principle that the benefit of the doubt should be given to asylum seekers who are generally credible but unable to substantiate all of their claims.
81. The Tribunal has also had regard to the decision of *Minister for Immigration and Ethnic Affairs v Wu Shan Liang & Ors* (1996) 185 CLR 259, and the comments of the High Court on the correct approach to determining findings on credibility. Kirby J observed at [25]:
- First, it is not erroneous for a decision-maker, presented with a large amount of material, to reach conclusions as to which of the facts (if any) had been established and which had not. An over-nice approach to the standard of proof to be applied here is undesirable. It betrays a misunderstanding of the way administrative decisions are usually made. It is more apt to a court conducting a trial than to the proper performance of the functions of an administrator, even if the delegate of the Minister and even if conducting a secondary determination. It is not an error of law for a decision-maker to test the material provided by the criterion of what is considered to be objectively shown, as long as, in the end, he or she performs the function of speculation about the "real chance" of persecution required by Chan.
82. The Tribunal is not required to accept uncritically any or all allegations made by an applicant. Nor is it required to have rebutting evidence available to it before it can find that a particular factual assertion by an applicant has not been made out, or obliged to accept claims that are inconsistent with the independent evidence regarding the situation in the applicant's country of nationality. In *Chand v Minister for Immigration and Ethnic Affairs* (unreported, 7 November 1997), the Full Court of the Federal Court observed that "where there is conflicting evidence from different sources, questions of credit of witnesses may have to be resolved. The RRT is also entitled to attribute greater weight to one piece of evidence as against another, and to act on its opinion that one version of the facts is more probable than another." Nevertheless, as Burchett J counselled in *Sundararaj v Minister for Immigration and Multicultural Affairs* [1999] FCA 76, it is necessary to:

... understand that any rational examination of the credit of a story is not to be undertaken by picking it to pieces to uncover little discrepancies. Every lawyer with any practical experience knows that almost any account is likely to involve such discrepancies. The special difficulties of people who have fled their country to a strange country where they seek asylum, often having little understanding of the language, cultural and legal problems they face, should be recognised, and recognised by much more than lip service.

83. Indeed, as the Full Court noted in *Sujeendran Sivalingam v Minister for Immigration and Ethnic Affairs* (unreported, 17 September 1998) "refugee cases may involve special considerations arising out of problems of communication and mistrust, and problems flowing from the experience of trauma and stress prior to arrival in Australia." On this point, the Tribunal also takes into account the comments of Professor Hathaway in *The Law of Refugee Status*" (1991, Butterworths) at pages 84-86. Nevertheless, there is no rule that a decision-maker may not reject an applicant's testimony on credibility grounds unless there are no possible explanations for any delay in the making of claims or for any evidentiary inconsistencies: *Kopalapillai v Minister for Immigration and Multicultural Affairs* (1998) 86 FCR 547 at 558-9. Nor is there a rule that a decision-maker must hold a 'positive state of disbelief' before making an adverse credibility assessment in a refugee case. However, if the Tribunal has 'no real doubt' that the claimed events did not occur, it will not be necessary for it to consider the possibility that its findings might be wrong: *Minister for Immigration and Multicultural Affairs v Rajalingam* (1999) 93 FCR 220 per Sackville J (with whom North J agreed) at 241. In addition, if the Tribunal makes an adverse finding in relation to a material claim made by an applicant but is unable to make that finding with confidence, it must proceed to assess the claim on the basis that the claim might possibly be true: see *MIMA v Rajalingam* (1999) 93 FCR 220. The Tribunal is also mindful of the observations of Gummow and Hayne JJ in *Abebe v The Commonwealth of Australia* (1999) 197 CLR 510 at [191]:

... the fact that an Applicant for refugee status may yield to temptation to embroider an account of his or her history is hardly surprising. It is necessary always to bear in mind that an Applicant for refugee status is, on one view of events, engaged in an often desperate battle for freedom, if not life itself.

APPENDIX B

COUNTRY INFORMATION

On the laws in respect of homosexuality in Zimbabwe

Persons found guilty of homosexual offences are liable for a fine of approximately US\$5,000 and/or a gaol sentence not exceeding one year. Homosexuality was made a criminal offence under *Criminal Law (Codification and Reform) Act 2004* which came into effect on 1 July 2007. Section 73 of this act (Sodomy) states:

(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

Sources indicate that a level 14 fine is approximately equivalent to US\$5,000.² Gay and Lesbians of Zimbabwe (GALZ) note that precise amounts of fines are periodically changed due to 'rampant inflation'.³

A September 2012 article by the government-owned Zimbabwe newspaper *The Herald* reported the arrest of a gay couple in Kadoma.⁴ The couple, one of whom was initially thought to be female, had originally been investigated for dealing in counterfeit currency. After the individual dressed as a female admitted to being a man, the pair were arrested under section 73(1) of the Criminal Law (see Question 1). According to the article, the couple claimed to have been married in a customary marriage ceremony in [Country 2] in 2011.⁵ The veracity of the report is challenged by GALZ who claim the story was fabricated

¹ *Criminal Law (Codification And Reform) Act 2004*, Section 73 (entered into force 1 July 2006), Kubatana <http://www.kubatana.net/docs/legisl/criminal_law_code_050603.pdf> Accessed 13 May 2013

² 'Let us keep Zimbabwe clean' 2012, *The Herald*, 4 July <http://www.herald.co.zw/index.php?option=com_content&view=article&id=45785:let-us-keep-zimbabwe-clean&catid=44:environment-a-tourism&Itemid=136#UYshC0rvmng> Accessed 10 May 2013; 'Biti Orders Massive Crackdown On Tax Evaders' 2009, *Zimbabwe Situation*, 27 March <http://www.zimbabwesituation.com/mar29_2009.html> Accessed 10 May 2013

³ Gay and Lesbians Zimbabwe (GALZ) n.d, *GALZ and the Law*, <http://www.galz.co.zw/?page_id=294> Accessed 13 May 2013

⁴ 'Zimbabwe: Gay Couple Arrested' 2012, *The Herald*, 5 September <<http://allafrica.com/stories/201209050210.html>> Accessed 10 May 2013

⁵ [Information deleted].

to stir up public opinion. Speaking to *Gay Star News*⁶, GALZ director Chesterfield Samba claimed the couple were fictitious. Samba commented:

If 'Chauke' [the individual arrest wearing female clothing] was a trans-woman or gay guy we would know about him, and no one in Kadoma knows a person who goes by that name. The issue of marriage is a just [sic] a convenient attempt to link it to what is happening at the moment in an outrageous way. It is an attempt to support the state agenda on whipping up emotions around the issue. There is a deliberate attempt to bring out the issue of marriage so that the public may voice their disapproval and in turn supporting Zanu Pf's agenda [to ban gay marriage] on the draft constitution.⁷

Samba added that the original article (in *The Herald*) was one of several gay and lesbian stories printed in government newspapers that GALZ have proven to be untrue.⁸

In July 2012, *New Zimbabwe*⁹ reported that two men had been arrested after photos of them kissing were located on a mobile phone.¹⁰ The phone had been left for repair by one of the men; staff at the repair shop 'stumbled upon' the photos and notified police. At the time of the article no charges had been filed and no further information could be located.

In 2012, 44 gay rights activists were arrested for discussing the proposed draft constitution. The activists, members of GALZ, were reportedly beaten by police and detained without access to legal support.¹¹ The 44 were eventually released without charge.¹² In 2010 *Associated Press* reported the arrest of two GALZ members.¹³ The two were arrested for undermining the authority of the president after posting a letter criticising the anti-homosexuality laws.

A May 2012 article by the European-based gay rights news site *Pink News*¹⁴ quoted the Zimbabwe justice minister, Patrick Chinamasa, as stating 'We made it clear that in our law homosexual activities are criminalized and that any person who commits homosexual activities will be arrested.'¹⁵

⁶ Gay Star News is a UK-based website focussing on gay and lesbian news

⁷ 'Activists claim Zimbabwe media invent gay shock stories' 2012, *Gay Star News*, 8 September <<http://www.gaystarnews.com/article/activists-claim-zimbabwe-media-invent-gay-shock-stories080912>> Accessed 10 May 2013

⁸ 'Activists claim Zimbabwe media invent gay shock stories' 2012, *Gay Star News*, 8 September <<http://www.gaystarnews.com/article/activists-claim-zimbabwe-media-invent-gay-shock-stories080912>> Accessed 10 May 2013

⁹ A UK-based weekly newspaper <<http://www.newzimbabwe.com/about/about.aspx>>

¹⁰ Mbanje, P 2012, 'Gay pair held over lurid pictures', *New Zimbabwe*, 3 July <<http://www.newzimbabwe.com/news-8403-Gay%20pair%20held%20over%20lurid%20pictures/news.aspx>> Accessed 10 May 2013

¹¹ Nuland, V 2012, 'Arrest and Harassment of Gay, Lesbian, and Transgender Activists in Zimbabwe', *US Department of State*, 23 August <<http://www.state.gov/r/pa/prs/ps/2012/08/196864.htm>> Accessed 10 May 2013

¹² Littauer, D 2012, 'Zimbabwe riot police arrest 44 gay activists', *Gay Star News*, 12 August <<http://www.thezimbabwemail.com/zimbabwe/12877-zimbabwe-riot-police-arrest-44-gay-activists.html>> Accessed 10 May 2013

¹³ 'Mugabe police arrest gay rights workers in Zimbabwe' 2010, *Associated Press*, 25 May, *The Guardian* <<http://www.guardian.co.uk/world/2010/may/25/gay-rights-workers-arrested-harare>> Accessed 10 May 2013

¹⁴ Pink News is a UK-based site focused on gay news established in 2005. <<http://www.pinknews.co.uk/about-us/>>

¹⁵ Broch, E 2012, 'Zimbabwe rejects gay rights, says gay people will be imprisoned', *Pink News*, 21 May <<http://www.pinknews.co.uk/2012/05/21/zimbabwe-rejects-gay-rights-says-gay-people-will-be-imprisoned/>> Accessed 10 May 2013

On the treatment of homosexuals treated by the authorities (including the police) and non-state actors

No sources could be located establishing a general attitude from authorities in their treatment of homosexuals. One source, *Gay Star News*, claims that gays and lesbians regularly face mistreatment from authorities but does not provide details. Reports were located where police were accused of mistreating gay activists. Additionally, members of the ruling ZANU-PF party including President Mugabe have made derogatory comments about homosexuals.

In a 2012 article on the arrest of four GALZ activists, *Gay Star News* claimed that 'Members of the Zimbabwe's LGBT community have been repeatedly detained, beaten and sometimes even raped by the authorities.'¹⁶ The article does not provide any specific examples or further details. As noted above, police arresting 44 members of GALZ in August 2012 were accused of assaulting the activists. Lawyers for GALZ claimed that the 44 were 'assaulted, detained and denied access to lawyers, before being released without charge.'¹⁷ In May 2012, the Zimbabwe Minister of Justice denied that state authorities torture gay activists stating 'There is no state sponsored violence, these are all lies.'¹⁸

Members of the Zimbabwe government, including President Robert Mugabe, continue to make derogatory comments about homosexuals in Zimbabwe. In November 2011 Mugabe gave a speech where he described homosexuals as 'worse than pigs and dogs' and described suggestions that the United Kingdom may link foreign aid with gay rights as 'satanic'.¹⁹ In May 2012 the Minister of Local Government, Rural and Urban Development reportedly urged tribal chiefs to 'banish' people who support homosexuality.²⁰

Current Zimbabwe Prime Minister and leader of the opposition Movement for Democratic Change (MDC) Morgan Tsvangirai has also made anti-gay and lesbian comments. In March 2013 the government-owned *The Herald* reported that Tsvangirai denounced homosexuality at a Harare speech despite previous comments supporting gay rights.²¹ Tsvangirai reportedly stated 'In the draft Constitution, we said marriage is between a man and a woman and those who want to marry another from the same sex, then they have a problem. Why do you want to sleep with another man?'²²

Non-state actors, particularly churches, have also publicly made anti-homosexual comments. In May 2012 the founder of the largest Pentecostal Church in Zimbabwe, Tom Deuschle stated that '[legalizing homosexuality] is an insult to the respect that we are

¹⁶ Littauer, D 2012, 'Zimbabwe riot police arrest 44 gay activists', *Gay Star News*, 12 August <<http://www.thezimbabweemail.com/zimbabwe/12877-zimbabwe-riot-police-arrest-44-gay-activists.html>> Accessed 10 May 2013

¹⁷ Nuland, V 2012, 'Arrest and Harassment of Gay, Lesbian, and Transgender Activists in Zimbabwe', *US Department of State*, 23 August <<http://www.state.gov/r/pa/prs/ps/2012/08/196864.htm>> Accessed 10 May 2013

¹⁸ Shaw, A 2012, 'Zimbabwe Denies Claims Of State-Sponsored Violence Against Gays', *Associated Press*, 21 May, Huffington Post <http://www.huffingtonpost.com/2012/05/21/zimbabwe-denies-claims-of-antigay-violence_n_1532821.html> Accessed 13 May 2013

¹⁹ 'Mugabe: Gays "worse than pigs and dogs" 2011, *United Press International*, 25 November <http://www.upi.com/Top_News/World-News/2011/11/25/Mugabe-Gays-worse-than-pigs-and-dogs/UPI-37641322204020/> Accessed 13 May 2013

²⁰ Lee, R 2012, 'ZANU-PF unleashes more hate speech', *Open Society Initiative for Southern Africa*, 15 May <<http://www.osisa.org/lgbti/zimbabwe/zanu-pf-unleashes-more-hate-speech>> Accessed 13 May 2013

²¹ 'Tsvangirai denounces homosexuality 2013, *The Herald*, 7 March <http://www.herald.co.zw/index.php?option=com_content&id=69703:tsvangirai-denounces-homosexuality> Accessed 13 May 2013

²² 'Tsvangirai denounces homosexuality 2013, *The Herald*, 7 March <http://www.herald.co.zw/index.php?option=com_content&id=69703:tsvangirai-denounces-homosexuality> Accessed 13 May 2013

supposed to show God. We can't respect what is dishonourable. We love them but what they are doing is a sin...an abomination.¹²³

The US Department of State *Country Reports on Human Rights Practices for 2012* in Zimbabwe states that 'In response to social pressure, some families reportedly subjected their LGBT members to "corrective" rape and forced marriages to encourage heterosexual conduct.'²⁴ The report notes that such crimes are 'rarely' reported to police.

²³ US Department of State 2013, *Country Reports on Human Rights Practices 2012*, 19 April, Section 6 <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183#wrapper>> Accessed 13 May 2013

²⁴ US Department of State 2013, *Country Reports on Human Rights Practices 2012*, 19 April, Section 6 <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204183#wrapper>> Accessed 13 May 2013