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Situation of Human Rights for LGBT Persons

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This is a joint submission of GALZ (The Association of LGBTI People in Zimbabwe) and Stockholm Human Rights Lab (SHRL).

GALZ is an association of LGBTI/MSM/WSW persons in Zimbabwe that seeks to promote, protect and represent the rights of LGBTI persons as equal citizens through Advocacy, Empowerment, Education, Research and Provision of safe spaces.

SHRL is a non-aligned and collaborative think tank working to protect and promote human rights through research, advocacy, and empowering grassroots activism. SHRL has a particular interest in the welfare and human rights of LGBT persons.

Introduction

1. In the five years since Zimbabwe's last Universal Periodic Review (UPR), incidents of human rights violations against LGBT persons have decreased in number. This is due, in part, to the paradigm shift the nation witnessed with the end of Robert Mugabe's decades-long presidency. Nevertheless, oppressive structural and societal barriers towards realising the rights of LGBT persons remain in various areas. Under President Mnangagwa's administration, an opportunity has been presented for comprehensive protection of LGBT persons in the country. However, this advent of a new administration did not preclude the perpetration of further abuses against Zimbabweans on the basis of their real or perceived sexual orientation and gender identity. It is therefore imperative that the State, as a human rights duty-bearer, address the different forms of discrimination, marginalisation and violence to which Zimbabweans have been, and continue to be, subjected on the basis of their actual or imputed sexual orientation or gender identity.
2. Under both international and regional human rights law, Zimbabwean authorities are obligated to respect the human rights of LGBT persons, to protect them against human rights violations perpetrated by non-State actors, and to provide redress for any violations which have occurred.

National legal framework

3. The Zimbabwean Constitution, adopted in 2013, includes the nation's most comprehensive Declaration of Rights to date. It enshrines the right to have one's human dignity respected,ⁱ the right to equality and the principle of non-discrimination,ⁱⁱ and the right to privacy.ⁱⁱⁱ Although sexual orientation, gender identity and gender expression are not included in the prohibited grounds of discrimination in the Constitution's equality clause, the inclusion of "on such grounds as" in section 56(3) indicates that the enumerated grounds are not a closed list but an illustrative list. Moreover, in a 2019 High Court case which awarded delictual damages to a transgender woman after the Zimbabwe Republic Police subjected her to malicious arrest, detention, and cruel, inhuman and degrading treatment, in the High Court it was established that discrimination against transgender persons is not constitutionally permissible.^{iv} There is therefore room to accommodate the human right to equality of not only transgender persons, but also lesbian, gay, and bisexual persons within the constitutional framework.
4. Laws remain in effect in Zimbabwe which directly discriminate against persons based on their real or imputed sexual orientation. These include:
 - 4.1. Section 78 of the Constitution, which restricts marriage rights to heterosexual relationships;
 - 4.2. Section 73 of the Criminal Law (Codification and Reform) Act [Chapter 9:23], which criminalises consensual same-sex sexual relations regardless of the age of the persons involved, and imposes a penalty of up to one year imprisonment and/or a fine;
 - 4.3. Section 14(1)(f) of the Immigration Act [Chapter 4:02], which classifies "homosexuals" as prohibited persons, and sections 17(1) and 18(1)-(2) of the same Act, which ban prohibited persons from entering or remaining in the country, and empower immigration officers to ban persons from entering the country or to deport them based on their actual or imputed sexual orientation.
5. There are also laws which indirectly discriminate against LGBT persons. Although neutral *prima facie*, these laws have been weaponised by law enforcement against persons based on their actual or

imputed sexual orientation or gender identity, especially in cases where the persons targeted cannot be charged with “sodomy”. These include:^v

- 5.1. Section 41 of the Criminal Law (Codification and Reform) Act, on disorderly conduct; and
- 5.2. Section 46 of the same act, on criminal nuisance.

International Law

6. Zimbabwe has ratified most core international human rights law instruments, including but not limited to, the International Convention on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Convention on Economic Social and Cultural Rights (ICESCR), with the notable exceptions of the Convention Against Torture (CAT) and International Convention for the Protection of All Persons from Enforced Disappearance.^{vi} Crucially, Zimbabwe has not ratified CAT, and while the Zimbabwean Constitution, customary international law and the ICCPR prohibits it, torture has been frequently perpetrated by State actors during the reporting period.^{vii} With specific reference to application of international human rights law to LGBT persons, the Universal Declaration on Human Rights guarantees all humans the rights to freedom, equality and non-discrimination.^{viii} Likewise, the ICCPR and ICESCR ensuring non-discrimination in the application of the covenants.^{ix} Crucially, the ICCPR guarantees the right to life, privacy, liberty, freedom from arbitrary arrest and detention, recognition and equality under the law and freedom of expression, association and expression.^x The ICESCR secures the right to healthcare, education, food and water, adequate housing, livelihood and work.^{xi} The Yogyakarta Principles provide non-binding guidance on interpretation of the above rights and other human rights standards specifically to the LGBT community.^{xii} For instance, Principle 33 confers the right to be free to criminalization and sanction based on sexual orientation and gender identity. Additionally, Principle 30 requires the State to protect LGBT and persons from violence, discrimination, and other harm. Yet, in both of these abovementioned principles, Zimbabwe has not met the required standard. While international law has a robust protection of LGBT persons, Zimbabwe has fallen well below their obligations, and knowingly in some instances.

Decriminalisation of consensual same-sex sexual relations

7. During the 2nd Cycle of the UPR, Zimbabwe received five recommendations to decriminalise consensual same-sex relations between adults (Uruguay, 133.7; France, 133.8; Spain, 133.10; Canada, 133.11; Brazil, 133.13).^{xiii} All five recommendations were noted. Section 73 of the Criminal Law (Reform and Codification) Act states:

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...

8. Section 73's criminalisation of consensual same-sex relations lies at the heart of the human rights violations perpetrated against LGBT persons in the country. Its direct effect is to leave same-sex attracted persons at constant, heightened risk of arbitrary arrest and detention because they are essentially "unapprehended felons".^{xiv} In addition to discriminating unfairly against same-sex attracted persons because of whom they love, the inclusion of "*or any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act*" in section 73(1) creates ambiguity as the scope of acts which would be considered indecent by a "reasonable person" is unclear. This leaves same-sex attracted persons in a position where even the simple act of holding hands in private could put them at risk of arrest if witnesses see fit to report them to the police. Moreover, given the lack of legal gender recognition in the country, the same risk even applies to different-gender couples where one person is transgender as that person's gender identity may not be accepted or respected by law enforcement.
9. In 2019 alone, five men in different parts of Zimbabwe were charged with "sodomy". One couple's home was raided by the police (ZRP) without a warrant. The two men were viciously assaulted by the police before being arrested, brought before a Magistrate and remanded into custody. They were only released after a State witness failed to make an appearance at the criminal trial. The State ultimately advised that it shall proceed by way of summons.^{xv}
10. Even in instances when they are not arrested, the threat of exposure to a homophobic public leaves LGBT persons vulnerable to exploitation through blackmail and other forms of extortion by third parties or law enforcement officials, themselves. In February 2019, a gay man based in Beitbridge was entrapped by another man who had conspired with the police to catch him in a compromising position. They threatened to charge him with sodomy unless he paid them ZAR 1,000.00 the next day.^{xvi} He ultimately paid the bribe out of fear. In March of that same year, another man was connected by his police officer friend to a married man who was looking for an intimate male partner. The victim was compelled to pay a bribe under threat of exposure and criminal charges. He fled the country instead, as he felt he had no other option.^{xvii}

Marginalisation and discrimination

11. Zimbabwe received five recommendations to eliminate or prohibit all forms of discrimination against LGBT persons (Canada, 133.15; Chile, 133.16; Italy, 133.18; Brazil, 133.13; Israel, 133.14). All five recommendations were noted.
12. While the Declaration of Rights in the Zimbabwean Constitution contemplates the limitation of the human rights and fundamental freedoms set out therein, it also establishes absolute rights and dictates that national laws cannot violate, *inter alia*, the right to life, the right to human dignity and the right not to be subjected to cruel, inhuman or degrading treatment or punishment. Despite these established confines for human rights limitations, national laws and policies continuously abrogate the rights of LGBT persons, particularly in terms of employment, healthcare, and access to domestic violence protections^{xviii}

Employment

13. Zimbabwe has been experiencing an economic decline since 2016. Hyperinflation and mass unemployment have left many in poverty and with little access to disposable income. In such

environments, the hardest hit are groups already experiencing discrimination and marginalisation. There are no protections against discrimination in employment based on sexual orientation or gender identity.

14. The anti-discrimination clause of the Labour Act [Chapter 28:01] does not prohibit discrimination based on sexual orientation or gender identity. The vulnerability of LGBT persons in employment is best illustrated by the case of Mr. Neal Hovelmeier who, at the end of September 2018, was forced to resign from his position as Deputy Headmaster of St. John's College in Harare after he came out to his students at a school assembly.^{xxix} On the 25th of September, a law firm hired by a group of parents/guardians demanded in writing that Mr. Hovelmeier retract his statement, that members of the school board resign and that an independent enquiry into the matter be carried out by the Ministry of Primary and Secondary Education. The group claimed that Mr. Hovelmeier's announcement was "ancillary to sodomy", and they threatened to lay charges against him under section 73 of the Criminal Law (Codification and Reform) Act. The threat of a criminal trial along with the multiple death threats and threats of physical violence he was already receiving prompted Mr. Hovelmeier to resign immediately after having served at the school for fifteen years. At no point during all of this, did the State intervene to protect Mr. Hovelmeier from the abuse to which he was subjected, despite the clear violations of his human rights under national and international law.

Access to adequate healthcare

14. Impressive strides have been made in including LGBT persons in the provision of healthcare services. In June 2018, the Ministry of Health issued a training manual for use by all healthcare professionals in the country in treating LGBT persons, as well as sex workers. The manual identifies male and female sex workers, men who have sex with men (MSM), transgender persons and intersex persons as vulnerable groups prevented from accessing healthcare services because of negative social and cultural attitudes towards them. The manual establishes that there is a link between marginalisation, stigmatisation and discrimination against these groups and their increased risk of HIV infection, which makes awareness raising amongst healthcare professionals and the removal of socio-political barriers essential to combatting the spread of HIV.^{xx}
15. MSM are at a significantly higher risk of HIV infection (31%) than the national average (12.8%).^{xxi} The Extended National Zimbabwe HIV and AIDS Strategic Plan III (ZNASP3) 2015-2020 took a more comprehensive approach to HIV prevention and treatment by expanding the groups included in the term "key populations" from sex workers, MSM and their clients in the previous plan^{xxii} to "gay men and other men who have sex with men, sex workers and their clients, transgender people and people who inject drugs as the four main key population groups".^{xxiii} Despite this inclusion, however, there is no national data on the percentage of transgender persons living with HIV in Zimbabwe, which curtails national efforts aimed at HIV prevention and the treatment of HIV-infected transgender persons.^{xxiv}
16. Until consensual same-sex relations are decriminalised, MSM and other same-sex attracted men will remain in the margins of society, discouraged from visiting testing and treatment clinics out of fear of being stigmatised or discriminated against by healthcare professionals. There is also the perennial risk of exposure to a hostile public, for example, when a gay couple went for HIV testing at mobile clinic, their privacy was not respected. They were in full view of staff members and members of the public, some of whom took pictures and filmed videos of them. The men were also given ART immediately without their consent, further testing or counselling.^{xxv}

Domestic violence

17. In domestic violence situations, LGBT persons may not feel comfortable seeking assistance from the police or from the judicial system out of fear that their sexual orientations or gender identities will be publicised. Although the Domestic Violence Act [Chapter 5:16] extends protection against perpetrators of domestic violence to complainants who are in intimate relationships with them regardless of gender, GALZ has documented at least one case in which a man was assaulted by his intimate partner but elected not to report the assault to the police because it was known in the community that they lived together as a couple. GALZ had to intervene and counsel the victim and inform him of his right to obtain a protection order against his partner.^{xxvi}

Public awareness education

18. In 2016, Zimbabwe received one recommendation from Czechia on the promotion of public dialogue, to *“Eliminate discrimination, stigmatization and violence against persons based on their sexual orientation and gender identity and, through public dialogue, promote tolerance and a culture of non-discrimination”*.^{xxvii} The recommendation was noted.
19. Emboldened by section 73 of the Criminal Law (Codification and Reform) Act, Zimbabweans across the country have expressed homophobic and transphobic sentiments. To a large extent, popular social attitudes towards LGBT persons in Zimbabwe have also been influenced by the opinions of political figures as disseminated by news media. Former President Robert Mugabe had a decades-long history of unquestionably homophobic rhetoric, regularly making bigoted statements about same-sex attracted persons on both local and international platforms.^{xxviii} In the past decade, senior figures in the ruling party, Zanu-PF, would use “gay” as an accusation and a pejorative during political infighting.^{xxix}
20. The treatment of Mr. Hovelmeier demonstrates the levels of hate speech and harassment to which LGBT persons may be subjected if they live their lives in the open. There is an all too pervasive culture of silence, caused by fear, which exists in Zimbabwe. It is therefore essential to educate the public on the human rights of LGBT persons and the challenges they face as a result of their marginalisation.

Civil and Democratic Space for the LGBT community

21. During the Second Cycle of the UPR, Zimbabwe supported the recommendation from Czechia to *‘Protect civil society actors, including human rights organizations, against any harassment or persecution, including arbitrary arrest or enforced disappearance, and improve the legal framework so that it encourages and facilitates the operation of non-governmental organizations.’*^{xxx} Yet, since the Second Cycle of the UPR, the civic and democratic space has deteriorated through a culture of repression against those who speak out against the government or advocate for human rights, specifically towards LGBT persons. There is a trust deficit between the structures of government and those within the LGBT community due to the conscious unwillingness of the government to protect and promote the rights and the outward rebuke of their identity. As such, from past and present indicators, it is evident the civil society space for the LGBT community and affiliated civil society organizations is eroding, leaving little room for the realisation of the rights to freedom of expression, association and assembly.^{xxxi}

22. Successive governments have attempted to stymie the rights of LGBT persons, during which LGBT persons and human rights defenders have been subjected to torture^{xxxii}, assaults and violence^{xxxiii}, rape based on their sexual orientation^{xxxiv}, arbitrary arrested and unlawful detained^{xxxv}, extortion of valuables in exchange for non-disclosure of their gender identity or sexual orientation and charged with 'shadow crimes'.^{xxxvi} Additionally, law enforcement authorities have harassed civil society organizations through arbitrary monitoring and surveillance, disruption of organised events^{xxxvii} and conducting raids.^{xxxviii} In fact, political leaders including former President Robert Mugabe, politicians and religious leaders have hurled vitriolic insults amounting to hate speech at LGBT persons, openly denied their identity, and specifically denied their human rights.^{xxxix} This discrimination and heteronormativity is embedded within structures of government and society, perpetuating stigmas against LGBT individuals which persist to the present day.^{xl} For instance, a survey conducted across ten universities found that LGBT students feel unable to express their opinions in public or openly acknowledge their sexuality or gender identity.^{xli} Many surveyed indicated they faced harassment, insults, violence and discrimination which they were unable to seek remedies for due to fear of reprisals or being outed.^{xlii} Ultimately, the survey found *'Zimbabwean state universities reinforce heteronormativity and appear to mirror the homophobic utterances witnessed at national levels as pronounced by some influential political and religious leaders'*.^{xliii} This can be extrapolated out to generally reflect societies treatment of the LGBT community, who faced blackmail, assault and ill-treatment during the reporting period by State and non-State actors, having a chilling effect on fundamental freedoms and the ability of the LGBT community to conduct collective activities.
23. The domestic legal system is weaponised against human rights defenders in Zimbabwe.^{xliv} Yet, during the Second Cycle of the UPR, Zimbabwe supported the recommendation from Denmark to *'Guarantee freedom of assembly and association, including through immediate alignment of national legislation, in particular the Public Order and Security Act, with international standards'*^{xlv} Broadly worded legislation, such as the crime of Public Indecency under Section 77 of Criminal Law (Codification and Reform) Act 2004, could be misappropriated to criminalise public displays of affection of between LGBT or gatherings or protests. Furthermore, Zimbabwe's Maintenance of Peace and Order (MOPB) 2019, which replaced the Public Order and Security Act (POSA), incorporated many provisions of the previous law and introduced more repressive provisions, rehashing many of the encroachments on fundamental freedoms present in the MOPB law.^{xlvi} Similarly to the previous law, MOPB severely restricts freedom of assembly, which forces organisers to notify the police prior to any public meeting and failure to do so may result in both criminal and civil charges.^{xlvii} At any moment, civil society activities or demonstrations could be declared illegal, demonstrators could be arrested and detained, curtailing citizens' freedom of assembly, association and expression.^{xlviii} Furthermore, gatherings and meetings 'of a political nature' are specifically restricted under the law, with the wording broad enough to include LGBT organisations advocating activities. Sweeping powers are given to police officers to disperse crowds, issue spot fines, restrict gatherings around public buildings and spaces, and using necessary force – with no criminal repercussions for excessive use of force.^{xlix} GALZ has experienced significant harassment and discrimination as a result of Zimbabwe's discriminatory laws and policies.^l Generally, the brutal crackdown on protesters in 2019 and 2020 highlight the hostile climate for anyone wishing to challenge policies and practices of government through peaceful protest.^{li} In 2021, Freedom House downgraded Zimbabwe's freedom designation to 'Not Free', due to these severe restrictions on fundamental freedoms reflected in the law and the actions by the government on the streets.^{lii} Thus, a double bind exists for LGBT human rights defenders, restricted from activities for being part of civil society and at risk of discrimination based on their identity.

Zimbabwe Human Rights Commission

24. One main ally for the LGBT community and civil society should be the National Human Rights Institution (NHRI). NHRIs should assist in increasing the visibility of LGBT persons and to educate the public on human rights specific to the LGBT community, and overall, be a watchdog over government compliance with human rights law.^{liii} While the Zimbabwe Human Rights Commission (ZHRC) conducts activities for the promotion and protection of the rights of human rights defenders, including during the anti-government protests in 2020, it often does so without mainstreaming the rights of the LGBT community.^{liv} Especially given the disproportionate harassment, marginalisation and violence faced by members of the LGBT community.^{lv} Thus, the ZHRC needs to redouble its efforts to promote and protect the rights of LGBT persons, and be more inclusive through engagement with civil society. The Paris Principles require NHRIs to examine legislation, proposed bills and administrative policies to ensure their alignment with the international human rights law obligations of the State, and then provide recommendations to amend or repeal laws to ensure compliance.^{lvi} Yet, as has been illustrated, many discriminatory laws discussed remain unaddressed by the ZHRC and government. GALZ has recommended for the ZHRC establish a monitoring and reporting mechanism to provide for the systematic tracking of LGBT issues and rights, which would be a platform for recommendations to be furnished to the government.^{lvii}

Covid-19

25. Many of the restrictions on the rights to freedom of expression, assembly and association became more acute during the Covid-19 pandemic, with LGBT persons unable to move freely for fear of being questioned or targeted by increasingly visible law enforcement.^{lviii} Furthermore, caustic hate speech against the LGBT community, such as blaming them for the spread on gay people attempt to further marginalize the LGBT community.^{lix} Compounding the abrogation of these civil and political rights are the significant hardships faced during Covid-19 in terms of the rights to healthcare, adequate housing, education, food and water and livelihood guaranteed under ICESCR.^{lx}

Women within the LGBT community

26. During the reporting period, the CEDAW Committee was particularly concerned with the violence perpetrated by the State and non-State actors against lesbian, bisexual and transgender women.^{lxi} Instances of women being subjected to ‘corrective rape’ and violence have been reported, and even though they are not common, reporting of violence and sexual and gender-based violence is low for fear of being ‘outed’ or other reprisals.^{lxii} While same sex consensual sex is not criminalised for women, law enforcement will use shadow crimes such as public indecency to arbitrarily arrest and unlawfully detain lesbian and bisexual women.^{lxiii} For transwomen, the absence of a legal framework for their recognition, serves to dehumanise trans people and leave them vulnerable to ill-treatment by both State and non-State actors.^{lxiv} Tragically, impunity for crimes committed against the LGBT community, particularly for trans people is rife.^{lxv} Without justice and accountability, LGBT persons in Zimbabwe will continue to live in the shadows and on the margins of society.
27. During the 2nd Cycle of the UPR, Zimbabwe received recommendations from Chile (133.16), Italy (133.18), Uruguay (133.7), France (133.8), Argentina (133.9), Spain (133.10), Canada (133.15), Brazil (133.13), Czechia (133.17), and Israel (133.14) on the strengthening human rights for members of the LGBT community but did not support any of these, exemplifying complete disengagement.^{lxvi} There exists irreconcilable differences between the Zimbabwe’s obligations under international law

to the LGBT community, such as the ICCPR and CEDAW, and the actions of the Zimbabwean government. While the rhetoric of political leaders against members of the LGBT community may have subsided, the omissions of the government in upholding the rights of LGBT human rights defender and the positive duty they owe to ensure non-discrimination in the enjoyment of civil and political rights under the ICCPR, must be rectified. Oppression through law, the apparatus of the State and actions of State and non-State actors actively prevents members of the LGBT community from freely exercising their fundamental freedoms, and subsequently pushes them into the shadows.

Gender Markers

28. During the 2nd cycle of the UPR, Israel made a recommendation to Zimbabwe, who noted this recommendation, to *'Adopt measures to prevent discrimination and violence based on sexual orientation and gender identity, both by State officials and non-State actors, and allow the change of gender markers on government-issued documentation.'*^{lxvii} Currently, Zimbabwe does not have a specific law that allows transgender people to change their gender marker on their birth certificates, passports or other identification.^{lxviii} Yet, Article 25(c) of the ICCPR has the right to access to public services without discrimination and Article 16 requires States to provide legal recognition to LGBT persons through access to identification documentation.^{lxix} A transgender man has identification that states he is a woman but to change this would result in significant legal and administrative obstacles.^{lxx} Also, he believes authorities may claim he is impersonating someone else when using his current identification.^{lxxi} He is not alone, as illustrated during the 2018 elections when transgender women and men faced the same issue concerning matching their identification to their gender identity or expression.^{lxxii} Concerted efforts need to be made to align domestic law concerning gender markers with the Yogyakarta Principles.

Conclusion

28. During the reporting period, a decline in the instances of human rights violations against LGBT persons reflects a lessening of outward attacks. However, this has been replaced by a mixture of indifference and wilful support for the continuation of repressive laws and policies within the structures and administration of government, and other sectors of society including education, healthcare, and employment. The government has not taken conscious steps towards respecting, protecting, and fulfilling the rights of LGBT persons during the reporting period. Additionally, the erosion of civil society and democratic space in Zimbabwe has pushed LGBT persons further into the shadows, silencing them so they are unable to freely express themselves. Through the mechanisms of the State, their identity is criminalised or unacknowledged which is echoed within broader society through homophobia and transphobia. Overall, there is a considerable gap between Zimbabwe's human rights obligations towards to LGBT persons and their application on the ground. For LGBT persons, these issues touch every aspect of their lives, constantly fearing discrimination and knowing their position within Zimbabwean society is in peril and their personal safety is at risk. Meaningful actions and concerted steps must be taken by the Zimbabwean government and the ZHRC to reverse course and realise the inherent dignity and human rights of LGBT persons.

Recommendations

29. To the Zimbabwe Government:

- 29.1. Repeal the crime of sodomy as fully described under section 73 Criminal Code and Reform Act, 2006, to ensure that same-sex activity between consenting adults is not subject to criminal sanctions.
 - 29.2. Reform repressive domestic law, including the Constitution, Maintenance of Peace and Order 2019, Criminal Law (Codification and Reform) Act 2004, Miscellaneous Offences Act, Private Voluntary Organizations Act and the Electoral Act, that targeted at LGBT community, and harmonize reform with international human rights law standards.
 - 29.3. Repeal all laws and policies which discriminate against LGBT persons and amend laws to effectively combat discrimination against them in immigration, employment, healthcare and education.
 - 29.4. Adopt legislation criminalising hate speech and violence based on, inter alia, sexual orientation and gender identity.
 - 29.5. Enact legislation to prevent discrimination based upon sexual orientation and gender identity, including provisions to mainstream LGBT issues through education of government officials, law enforcement and the wider public.
 - 29.6. Amend legislation to allow the change of gender markers on government issued documentation in line with human rights principles.
 - 29.7. Conduct sensitivity training for law enforcement agents and other government actors focusing on the rights and needs of LGBT individuals, including funding for the Zimbabwe Human Rights Commission to conduct public awareness campaigns.
 - 29.8. Launch public awareness campaigns to sensitise the public to the human rights of LGBT persons and the challenges they face in that regard.
 - 29.9. Fully incorporate the International Covenant on Civil and Political Rights into domestic law, ensuring non-discrimination of LGBT community members and enjoyment of fundamental freedoms.
 - 29.10. Ensure the implementation of the rights conferred to women under the Convention on the Elimination of All Forms of Discrimination Against Women, and promote a gendered perspective on issues concerning lesbians, bisexual and transgender women.
 - 29.11. Condemn human rights violations, by both State and non-State Actors, based on sexual orientation, gender identity and expression and take measures to ensure protection of human rights for marginalised people.
 - 29.12. End impunity for crimes committed against LGBT community members, especially against those within the structures of government and law enforcement.
 - 29.13. Pledge your commitment to ratify the Convention Against Torture and International Convention for the Protection of All Persons from Enforced Disappearance.
30. To the Zimbabwean Human Rights Commission:
- 30.1. Strengthen the promotion and protection of human rights for the LGBT community, through advocacy, awareness, and education.

30.2. Engage with LGBT civil society organisations in undertaking your mandate, in alignment with the Paris Principles relating to the Status of National Institutions and the Yogyakarta Principles.

30.3. Establish a monitoring and reporting mechanism to provide for the systematic tracking of LGBT issues and rights from which to provide the government recommendations.

ⁱ Constitution of Zimbabwe (2013), section 51.

ⁱⁱ Constitution of Zimbabwe (2013), section 56.

ⁱⁱⁱ Constitution of Zimbabwe (2013), section 57.

^{iv} *Nathanson v Mteliso & Ors.* (HB 176/19, HC 1873/14) [2019] ZWBHC 135 (14 November 2019).

^v Global Press Journal “Zimbabwe’s Same-sex Marriage Ban Used to Justify Harassment of LGBT Community”, <https://globalpressjournal.com/africa/zimbabwe/zimbabwes-sex-marriage-ban-used-justify-harassment-lgbt-community/> (26 June 2017).

^{vi} Ratifications of Zimbabwe, UN Treaty Body Database. Available at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=195&Lang=EN

^{vii} ‘Zimbabwe – Events of 2020’, Human Rights Watch. Available at <https://www.hrw.org/world-report/2021/country-chapters/zimbabwe>, ‘UN Calls on Zimbabwe to end Torture, Abductions’, *AA News*, 10 June 2020. Available at <https://www.aa.com.tr/en/africa/un-calls-on-zimbabwe-to-end-torture-abductions/1872172>

^{viii} Universal Declaration on Human Rights, Articles 1 and 2.

^{ix} Article 2 ICCPR and Article 2 ICESCR.

^x Also important are the rights to equality before the courts and a fair trial. Article 6, 9, 14, 16, 17, 18, 19, 21, 22 and 26 ICCPR

^{xi} Articles 6, 10, 11, 12, 13 ICESCR.

^{xii} ‘Yogyakarta Principles plus 10’ Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles’, Adopted 10 November 2017. Available at <http://yogyakartaprinciples.org/principles-en/yp10/>

^{xiii} Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, 2 November 2016, A/HRC/34/2. Available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ZWIndex.aspx>

^{xiv} Edwin Cameron “Sexual orientation and the Constitution: A Test Case for Human Rights” (1993) 110 *South African Law Journal* 450, 455.

^{xv} Gays and Lesbians of Zimbabwe (GALZ) *An analysis of human rights violations against LGBTI persons in Zimbabwe, 2019 edition* (2020), p. 15.

^{xvi} Gays and Lesbians of Zimbabwe (GALZ) *An analysis of human rights violations against LGBTI persons in Zimbabwe, 2019 edition* (2020), p. 14.

^{xvii} Gays and Lesbians of Zimbabwe (GALZ) *An analysis of human rights violations against LGBTI persons in Zimbabwe, 2019 edition* (2020), p. 11.

^{xviii} Constitution of Zimbabwe (2013), section 86(3).

^{xix} BBC News, “Gay Zimbabwe teacher resigns after death threats”, <https://www.bbc.com/news/world-africa-45665906> (27 September 2018).

^{xx} Ministry of Health & Child Care, *Key Populations Manual for Healthcare Providers* (1 ed) (June 2018), p. 4.

^{xxi} Avert.org, HIV and AIDS in Zimbabwe, <https://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/zimbabwe> (24 August 2020).

^{xxii} Zimbabwe National HIV and AIDS Strategic Plan [ZNASP II] 2011-2015, p. 28.

^{xxiii} Extended National Zimbabwe HIV and AIDS Strategic Plan III (ZNASP3) 2015-2020, p. 23.

^{xxiv} Avert.org, HIV and AIDS in East and Southern Africa Regional Overview, <https://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/overview> (25 August 2020).

^{xxv} Gays and Lesbians of Zimbabwe (GALZ) An analysis of human rights violations against LGBTI persons in Zimbabwe, 2019 edition (2020), p. 12.

^{xxvi} Gays and Lesbians of Zimbabwe (GALZ) An analysis of human rights violations against LGBTI persons in Zimbabwe, 2019 edition (2020), p. 10.

^{xxvii} Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, 2 November 2016, A/HRC/34/2 at para 133.17. Available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ZWIndex.aspx>

^{xxviii} BBC News “Homosexual and hated in Zimbabwe”, http://news.bbc.co.uk/2/hi/programmes/crossing_continents/143169.stm (12 August 1998); France 24 “Video: ‘We are not gays’ in Zimbabwe says Mugabe at UN”, <https://www.france24.com/en/20150929-video-we-are-not-gays-mugabe-declares-united-nations-zimbabwe> (29 September 2015); Thomson Reuters “Worse than dogs and pigs: life as a gay man in Zimbabwe”, <https://www.reuters.com/article/us-zimbabwe-rights-lgbt-idUSKCN1BF03Z> (4 September 2017).

^{xxix} News Day “Mliswa labels rivals ‘gay gangsters’”, <https://www.newsday.co.zw/2014/09/mliswa-labels-rivals-gay-gangsters/> (30 September 2014); New Zimbabwe “Lumumba to Mliswa: Bring your wife and I prove I am not gay”, <https://www.newzimbabwe.com/lumumba-to-mliswa-bring-your-wife-and-i-prove-i-am-not-gay/> (13 April 2018).

^{xxx} Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, 2 November 2016, A/HRC/34/2 at para 132.94. Available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ZWIndex.aspx>

^{xxxi} ‘Actus Reus: An analysis of human rights violations against LGBTI persons in Zimbabwe’, GALZ, 2019.p.19. Available at https://galz.org/wp-content/uploads/2018/08/Violations-Report_Print_Final-1-1.pdf.

^{xxxii} Ibid.

^{xxxiii} Ibid. Also see ‘Country Police and Information Note Zimbabwe: Sexual Orientation and Gender Identity’, Home Office of the United Kingdom, Version 3.0, 2018.

^{xxxiv} ‘Submission to the UN Committee on the Elimination of Discrimination Against Women 75th Session’, Pakasipiti, 10-28 February 2020. Available at <https://www.ecoi.net/en/document/2023287.html>

^{xxxv} Ratifications of Zimbabwe, UN Treaty Body Database. Available at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=195&Lang=EN.

^{xxxvi} GALZ *Violations* Report, Note iv. <https://www.hrw.org/news/2012/08/27/zimbabwe-end-attacks-lgbt-people>

^{xxxvii} Ibid

^{xxxviii} Ibid. Also see, ‘An Assessment of the Impact of State Sanctioned and Unsanctioned Raids on GALZ premises and gatherings’, GALZ, 2015. Available at <https://galz.org/resources/>

^{xxxix} ‘Country Police and Information Note Zimbabwe: Sexual Orientation and Gender Identity’, Home Office of the United Kingdom, Version 3.0, 2018. Para 4. Also see, ‘An Assessment of the Impact of State Sanctioned and Unsanctioned Raids on GALZ premises and gatherings’, GALZ, 2015. Available at <https://galz.org/resources/>

^{xl} ‘LGBT Rights in Africa and the Discursive role of International Human Rights Law’

^{xli} <https://www.universityworldnews.com/post.php?story=20210418135955423>

^{xlii} Ibid

^{xliii} Ibid

^{xliv} Namely, the Public Order and Security Act, the Miscellaneous Offences Act, the Criminal (Codification and Reform) Act, the Private Voluntary Organizations Act and the Electoral Act.

^{xlv} Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, 2 November 2016, A/HRC/34/2 at para 132.97. Available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ZWIndex.aspx>

^{xlvi} 'An Analysis of the Maintenance of Peace and Order Bill 2019', Zimbabwe Human Rights NGO Forum, 1 July 2019. Available at <https://www.hrforumzim.org/publications/an-analysis-of-the-maintenance-of-peace-and-order-bill-2019/>

^{xlvii} Ibid.

^{xlviii} Ibid. 'Actus Reus: An analysis of human rights violations against LGBTI persons in Zimbabwe', GALZ, 2018.pp.19. Available at https://galz.org/wp-content/uploads/2018/08/Violations-Report_Print_Final-1-1.pdf. Also see, 'An Assessment of the Impact of State Sanctioned and Unsanctioned Raids on GALZ premises and gatherings', GALZ, 2015. Available at <https://galz.org/resources/>

^{xlix} 'An Analysis of the Maintenance of Peace and Order Bill 2019', Zimbabwe Human Rights NGO Forum, 1 July 2019. Available at <https://www.hrforumzim.org/publications/an-analysis-of-the-maintenance-of-peace-and-order-bill-2019/>

ⁱ 'Actus Reus: An analysis of human rights violations against LGBTI persons in Zimbabwe', GALZ, 2018.pp.19. Available at https://galz.org/wp-content/uploads/2018/08/Violations-Report_Print_Final-1-1.pdf. Also see, 'An Assessment of the Impact of State Sanctioned and Unsanctioned Raids on GALZ premises and gatherings', GALZ, 2015. Available at <https://galz.org/resources/>.

ⁱⁱ 'Zimbabwe: End Crackdown on Freedom of Assembly and Expression, and Harassment of Human Rights Defenders', Defend Defenders, 30 January 2019. Available at <https://defenddefenders.org/zimbabwe-end-crackdown-on-freedom-of-assembly-and-expression-and-harassment-of-human-rights-defenders/>

ⁱⁱⁱ 'Zimbabwe', Freedom House, 2021. Available at <https://freedomhouse.org/country/zimbabwe/freedom-world/2021>

ⁱⁱⁱⁱ Principles relating to the Status of National Institutions (The Paris Principles) UNGA res. 48/134 of 20 December 1993. Available at <https://www.un.org/ruleoflaw/files/PRINCI~5.PDF>. Global Alliance of National Human Rights Institutions (GANHRI), 'General Comment', Sub-Committee on Accreditation, 21 February 2018. Available at https://www.ohchr.org/Documents/Countries/NHRI/GANHRI/EN_GeneralObservations_Revisions_adopted_21.02.2018_vf.pdf

^{lv} 'Statement on the Rights of Human Rights Defenders in Zimbabwe', Zimbabwe Human Rights Commission, 19 August 2020. Available at <https://www.facebook.com/zhrc.zw/photos/pcb.1590773694433924/1590773354433958/>

^{lv} GALZ *Violations* Report, Note iv.p.40

^{lvi} Principle 3(a)(i), Principles relating to the Status of National Institutions (The Paris Principles) UNGA res. 48/134 of 20 December 1993. Available at <https://www.un.org/ruleoflaw/files/PRINCI~5.PDF>

^{lvii} GALZ *Violations* Report, Note iv.p.41

^{lviii} 'Covid 19 Socio-Economic Impact- LGBTIQ', GALZ, April 2020. Available at <https://galz.org/wp-content/uploads/2020/06/COVID-REPORT-01.pdf>

^{lix} Ibid.

^{lx} Ibid.

^{lxi} Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, 2 November 2016, A/HRC/34/2 at para 133.15, 133.16, 133.18, 133.7, 133.8, 133.9, 133.10, 133.11, 133.13, 133.17 and 133.14. Available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ZWIndex.aspx>

^{lxii} 'Country Police and Information Note Zimbabwe: Sexual Orientation and Gender Identity', Home Office of the United Kingdom, Version 3.0, 2018. Para 2.3.12

^{lxiii} 'Submission to the UN Committee on the Elimination of Discrimination Against Women 75th Session', Pakasipiti, 10-28 February 2020. Available at <https://www.ecoi.net/en/document/2023287.html>

^{lxiv} ‘Injustice Exposed: The Criminalization of Transgender People and its Impacts’, Human Dignity Trust, 2020. Available at <https://www.humandignitytrust.org/wp-content/uploads/resources/Injustice-Exposed-the-criminsalisation-of-trans-people.pdf>

^{lxv} ‘Country Police and Information Note Zimbabwe: Sexual Orientation and Gender Identity’, Home Office of the United Kingdom, Version 3.0, 2018. Para 4. Also see, ‘An Assessment of the Impact of State Sanctioned and Unsanctioned Raids on GALZ premises and gatherings’, GALZ, 2015. Available at <https://galz.org/resources/>

^{lxvi} Ibid. Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, 2 November 2016, A/HRC/34/2. Available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ZWIndex.aspx>

^{lxvii} Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, 2 November 2016, A/HRC/34/2 at para 133.14. Available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ZWIndex.aspx>

^{lxviii} ‘Transgender Rights in Zimbabwe’, The South African Litigation Centre, 27 September 2016. Available at <https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/Transgender-rights-in-Zimbabwe.pdf>

^{lxix} Article 16 – interpreted in conjunction with Principle 31 of the Yogyakarta Principles. Yogyakarta Principles plus 10’ Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles’, Adopted 10 November 2017. Available at <http://yogyakartaprinciples.org/principles-en/yp10/>

^{lxx} Ndhlovu, L ‘Trans People Struggle for Acceptance in Zimbabwe’, *Reuters*, 23 October 2018. Available at reuters.com/article/us-zimbabwe-lgbt-rights-feature-idUSKCN1MX1TW

^{lxxi} Ibid.

^{lxxii} ‘Zimbabwe LGBTI Community Wants Safe Place to Vote’, *DW News*, <https://www.dw.com/en/zimbabwe-lgbti-community-wants-safe-place-to-vote/a-44707244>