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Submission by: GALZ: The Association of LGBTI people in Zimbabwe

GALZ is a universitas, voluntary membership organisation established in 1990 to serve the needs of the LGBTI community in Zimbabwe. It is constituted primarily to provide a service to Lesbian women, gay men, bisexual, transgender and intersex persons (LGBTI). We promote, represent and protect the rights and interests of lesbians, gays, bisexuals, transgender and intersex people through; advocacy, lobbying, empowerment, education, research and provision of safe spaces.

This report is endorsed by The Sexual Rights Centre:



❖ Introduction (Discrimination & Equal Protection under the Law)

(1)-In 2013, Zimbabwe approved a new constitution through referendum, which in accordance with accepted principles of international human rights law, guarantees that “[a]ll persons are equal before the law and have the right to equal protection and benefit of the law,” and that “e]very person has the right not to be treated in an unfairly discriminatory manner on such grounds as their... sex, gender,...or social status...”¹ By joining the International Covenant on Civil and Political Rights (“ICCPR”) and the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), and by ratifying or signing onto the other core international human rights treaties, Zimbabwe has also contracted with the international community that Zimbabwe will secure and maintain the rights set forth in those conventions for all those within their jurisdiction without discrimination based on these same grounds.

(2)-However, Zimbabwe’s treatment of its LGBTI community directly contradicts its commitment to the preservation of equal rights and principles of non-discrimination. While Zimbabwe’s Constitution guarantees equality of its citizens and freedom from unfair discrimination, in reality it fails to prohibit discrimination on the basis of sexual orientation and gender identity.² Homophobia permeates Zimbabwean society unchecked and manifests itself in different forms, ranging from verbal and physical assault, to discrimination of LGBTI people on the basis of their sexual orientation or gender identity. The refusal by duty bearers and policy makers to engage with and rectify Zimbabwe’s flagrantly negative approach to basic human

¹ Zimbabwe Constitution para. 56 (2013).

² Simplified Version of the Declaration of Rights, Constitution of Zimbabwe Amendment (No. 20) Act of 2013, Equality and non-discrimination (listing nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, political affiliation, opinion, custom, culture, sex, gender and marital, economic or social status, disability, age, pregnancy or whether born in or out of wedlock as protected classes).

rights for LGBTI individuals causes public intolerance to become deeply ingrained in Zimbabwean community and reinforces the general stigmatization of sexual minorities in society.

(3)- Zimbabwe has failed to protect LGBTI individuals from numerous human rights abuses within its jurisdiction. By directly curtailing fundamental rights through state action, allowing others to abuse the fundamental rights of the LGBTI community with impunity, and by not protecting sexual minorities from discrimination or guaranteeing their equal protection under law, Zimbabwe is in direct violation of both its own constitution and its international human rights treaty obligations.

❖ **Human Rights Violations of LGBTI Persons in Zimbabwe**

1. Criminalization of Same Sex Activity

(4)-Zimbabwe's criminalization of same sex activity is in direct violation of its treaty obligations under the ICCPR to not subject individuals to arbitrary or unlawful interference with their privacy³; not to arbitrarily detain⁴; and to guarantee equal protection of law for everyone within its jurisdiction.⁵ The ICCPR's Human Rights Committee ("H.R. Comm.") has found that the ICCPR's reference to sex in its equal protection provisions is to be taken as including sexual orientation.⁶ The Committee has also stated that the right to privacy encompasses consensual

³ See ICCPR Art. 17.

⁴ See *id* at Art. 9.

⁵ See *id* at Art. 26.

⁶ See *Toonen v. Australia* No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994).

sexual activity in private, regardless of the sex of the participants; that laws criminalizing same sex activity are in direct violation of the ICCPR; and that adult sodomy laws and their counterparts continuously and directly interfere with individuals' privacy and there is no reasonable or proportionate justification for the maintenance of such laws.⁷

(5)-In 2006, Zimbabwean Parliament quietly amended its criminal code to proscribe any same sex activity (including sodomy), calling it “sexual deviancy” and noting that a “reasonable person” would regard it to be “an indecent act.”⁸ Previously, Zimbabwe’s criminal code only included proscriptions of sodomy; however, the 2006 amendments which created the current law— *Criminal Law (Codification and Reform) Act (Effective 8 July 2006)*—specifically, Section 73, added to the already strict sodomy laws, including the more expansive prohibition and criminalization of any activity perceived as homosexual in nature.⁹ The current sexual deviancy laws carry a penalty of up to one year imprisonment and a fine of up to \$5,000.¹⁰

(6)-There are documented cases of arrests based directly on Section 73—both under charges of sodomy and under charges of indecent aggravated assault.¹¹ However, aside from arrests and/or

⁷ See *id.*

⁸ See “Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity,” Bureau of Democracy, Human Rights, and Labor: Country Reports on Human Rights Practices for 2014: Zimbabwe, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>. See also ILGA; Zimbabwe 2004, Art. 73; Zimbabwe's Criminal Law (Codification and Reform) Act.

⁹ See “Zimbabwe,” Sodomy Laws, (Apr. 23, 2007), available at <http://www.glapn.org/sodomylaws/world/zimbabwe/zimbabwe.htm>.

¹⁰ See “Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity,” Bureau of Democracy, Human Rights, and Labor: Country Reports on Human Rights Practices for 2014: Zimbabwe, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>.

¹¹ Section 73. Sodomy

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

detention based explicitly off of Section 73, many LGBTI individuals also experience arbitrary detention by authorities at a disproportionate rate simply due to their identity as sexual minorities. While some examples of detention may not be a result of laws directly criminalizing same sex activity, many other instances of Zimbabwe’s arbitrary detention of LGBTI individuals are a result of the adverse consequence of the highly stigmatized and discriminatory environment which these laws create. LGBTI individuals are often detained ultimately simply for not conforming with hetero- or cis-normative ideals.¹²

(7)- Furthermore, at police stations and detention facilities, LGBTI individuals are intimidated and physically assaulted by police officers.¹³ LGBTI individuals in Zimbabwe are often detained for hours at a time, without access to judicial recourse.¹⁴ LGBTI individuals are frequently beaten, mocked, and forced to pay bribes in order to escape custody.¹⁵

(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; *see also* “Justice Patel suspends sodomy trial,” *The Zimbabwean*, (Nov. 18, 2011, 9:18 A.M.),

<http://www.thezimbabwean.co/2011/11/justice-patel-suspends-sodomy-trial/>.

¹² *Id.* (The issue of nonconformity typically arises in the bar or club social scene, where the police are brought to the attention of an individual who does not display heteronormative ideals).

¹³ *See* GALZ 2012-2013 Violations Report, p. 33; GALZ 2014 Violations Report, p. 30.

¹⁴ ICCPR, Art. 9, para. 3 (“anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.”); General Comment 35 (“more precise time limits are fixed by law in most States parties and, in the view of the Committee, delays must not exceed a few days”).

¹⁵ *See* GALZ 2012-2013 Violations Report, p. 31; GALZ 2014 Violations Report, p. 44-47.

(8)-The actual motivation for the criminalization of same-sex activity is also unclear. President Robert Mugabe has waged a vitriolic campaign against homosexuality, claiming it is a colonial import.¹⁶ It has been suggested that sodomy laws have been used by the government in power to build popular support, distract from other instances of corruption, and punish or sideline political adversaries; for example, just after Zimbabwe first banned homosexual acts in 1995, a court found Mugabe's predecessor, Canaan Banana, guilty of eleven counts of sodomy.¹⁷

(9)-Whatever the reason, such treatment of LGBTI individuals directly contravenes Zimbabwe's treaty obligations under the ICCPR to protect the right of privacy and to not subject individuals to arbitrary arrest or detention¹⁸; the Committee on the Convention Against Torture ("CAT")—the object and purpose of which Zimbabwe must comply as a signatory—has also stated that the discriminatory treatment of LGBTI individuals in arrest and detention is inconsistent with CAT treaty provisions.¹⁹

¹⁶ See Bernardine Evaristo, "The idea that African homosexuality was a colonial import is a myth," *The Guardian*, (Mar. 8, 2014, 6:00 A.M.), available at <http://www.theguardian.com/commentisfree/2014/mar/08/african-homosexuality-colonial-import-myth>.

¹⁷ See Andrew Meldrum, "Canaan Banana, president jailed in sex scandal, dies," *The Guardian*, (Nov. 10, 2003, 9:17 P.M.), available at <http://www.theguardian.com/world/2003/nov/11/zimbabwe.andrewmeldrum>. Banana served one year in prison for his homosexual acts in 1999; see also Report of the Special Rapporteur to the General Assembly on hate speech and incitement to hatred, Promotion and Protection of the right to freedom of opinion and expression, A/67/357 (Sept. 7 2012) (noting that "[a]s with all human rights, . . . the exercise of the right to freedom of expression should not be aimed at the violation of any of the rights and freedoms of others, including the right to equality and non-discrimination."

¹⁸ ICCPR, Art. 9, para. 1 (Under the ICCPR, "no one shall be subjected to arbitrary arrest or detention").

¹⁹ CAT, Art. 10, para. 1 ("[E]ach State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment."); see also CAT, Art. 11 ("[E]ach state party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction. . .").

2. Violence against LGBTI Persons

(10)-International law, regardless of sexual orientation or gender identity, calls for states to protect every individual's right to security of the person and to protection against violence or bodily harm from both state and non-state actors. Article 9 of the ICCPR explicitly grants every individual the right to security of the person. The H.R. Comm. interpreted this article to ensure people's freedom from injury to the body and the mind as well as bodily and mental integrity.²⁰ The committee further interpreted this right to explain that the word “everyone” in this article refers to girls, boys, persons with disabilities, lesbian, gay, bisexual, and transgender persons as well as other distinct categories.²¹ Article 9 requires States parties to take appropriate measures to protect individuals from threats to life or bodily integrity from any governmental or private actors.²²

(11)-Additionally, Article 7 of the ICCPR prohibits the use of torture or cruel, inhuman, or degrading treatment or punishment against any individual. The aim of this article is to once again protect an individual’s dignity as well as physical and mental integrity.²³ The Committee interpreted this right to require states to provide legislative and other measures necessary to protect this right and imposes a special protection of particularly vulnerable persons.²⁴ Additionally, this right is not subject to derogation, and there is no justification or extenuating circumstances that can be invoked to excuse a violation of this article.²⁵ Furthermore, CAT’s

²⁰ Human Rights Committee, ICCPR General Comment 35 para. 3.

²¹ *See id* at para. 3.

²² *See id* at 35 para. 7.

²³ Human Rights Committee, ICCPR General Comment 20 para. 2.

²⁴ *See id* at para. 2,11.

²⁵ *See id* at para 3.

Article 4 requires states to ensure that all acts of torture are criminalized under state law and Article 5 calls on states to take necessary measures to establish its jurisdiction over Article 4 offenses.

(12)-In Zimbabwe, there have been a number of reports citing incidents of violence against LGBTI persons. In many cases, the violence in question is perpetrated directly by state actors. Just in the last few years, there have been multiple reported instances where LGBTI individuals in Zimbabwe have been physically assaulted by police officers while in police custody.²⁶ Furthermore, there have been a number of instances where the state has also directly committed acts of violence towards individuals who were not detained for criminal matters.²⁷ The state also allows violence to occur against LGBTI individuals with impunity. Since Zimbabwe's last UPR cycle, a number of violent incidents have occurred against LGBTI individuals either in social settings, such as neighborhood bars, or after having their sexual orientation revealed to family members or neighbors—and in none of these reported cases have perpetrators been brought to justice.²⁸

3. Extortion

(13)-According to the Zimbabwean Criminal Law, an individual is liable to a fine or twice the value of the property obtained as a result of the committed act of extortion, whichever is greater;

²⁶ See GALZ 2014 Violations Report, p. 24. In December 2014 a transgender woman reported that she was physically assaulted by 3 police officers while in police custody after being arrested for defamation of character.

²⁷ See GALZ 2012-2013 Violations Report, p. 31. In December 2013, police officers attacked 15 GALZ members at an end of the year party for wearing t-shirts with "same love" in rainbow colors written on it.

²⁸ See GALZ 2014 Violations Report, p. 20. In January 2014, a 20-year-old lesbian fell victim to a physical assault by her partner's husband when he attacked her with a golf club after finding out about their relationship. In February 2014, a transgender women was attacked by security personnel and other patrons at a bar after arriving dressed in drag.

or imprisonment for a period not exceeding fifteen years.²⁹ Yet extortion with impunity against LGBTI individuals in Zimbabwe has been documented on both a state-based and privatized level. Extortion has taken the form of demands for money, personal belongings, or other valuables in order to keep the blackmailer silent.³⁰ LGBTI individuals often succumb to such extortions due to a fear of being discriminated against, being disowned by their family, or being faced with the possibility of criminal charges due to Section 73 or other relevant laws which discriminate against LGBTI people. By allowing such flagrant extortion to occur without bringing perpetrators to justice, Zimbabwe is denying LGBTI individuals equal protection of the law in direct contravention of its own laws and its obligations under the ICCPR.³¹

(14)-Compounding this problem, when members of the community do not give in to the extortionist's demands and are subsequently outed, many of these LGBTI individuals then must face a plethora of physical and mental hardships, which sometimes even include spiritual cleansing and/or eviction or disownment.³² In some cases, outed individuals have even been subjected to illegal "corrective measures" such as forced marriages³³ or forced rape,³⁴ also perpetrated without consequences from the state.

²⁹ Zimbabwean Criminal Law Act 6, Section 134.

³⁰ See GALZ 2012-2013 Violations Report, p. 31; GALZ 2012-2013 Violations Report p. 44-47.

³¹ ICCPR, Art. 26.

³² See GALZ 2012-2013 Violations Report, p. 17, 40-42; GALZ 2014 Violations Report, p. 7, 49 ; See also Zimbabwe 2013 State Report, p. 50; Zimbabwe 2014 State Report, p. 51.

³³ *Id.*

³⁴ *Id.*

4. Restrictions of Economic, Social, and Cultural Rights

(15)-LGBTI individuals in Zimbabwe are also experiencing violations of their economic, social, and cultural rights in contravention of the many protections afforded under the ICESCR and other relevant conventions. For example, ICESCR Article 12 recognizes the right of everyone to enjoy the highest standard of physical and mental health, and the Committee on Economic, Social, and Cultural Rights (“CESCR”) has called on States parties to take a number of necessary steps to achieve full realization of this right, including the creation of conditions which would assure appropriate medical services. In Zimbabwe, many LGBTI individuals have found themselves treated poorly when visiting public health institutions, therefore making it difficult for them to seek out and receive healthcare at the same level as heterosexual and cisgender individuals.³⁵

(16)- Similarly, ICESCR Article 6 requires States parties to take appropriate measures to protect every individual’s right to work. CESCR states that this right is essential for realizing other human rights and is an inherent part of human dignity.³⁶ The Committee interprets this right to include the right to freely choose and accept work, including the right not to be deprived of work unfairly.³⁷ Yet, since the last UPR reporting cycle, numerous LGBTI individuals have reported having their employment discontinued after supervisors and colleagues discovered their sexual

³⁵ See GALZ 2014 Violations Report, p.32. In December of 2014, a 28-year-old gay man reported that he was chastised by a health professional at a public health institution about his same sex activities from a public health institution after seeking treatment for an STI. GALZ 2012-2013 Violations Report, p. 37. In August 2013, two gay men reported negative attitudes from a receptionist while seeking Sexual and Reproductive Health services at a local health clinic.

³⁶ CESCR, ICESCR General Comment 18 para. 1.

³⁷ See *id* at para. 4.

orientation.³⁸ Outing has resulted in a number of instances where LGBTI individuals have been fired once their employers became aware of their status, and Zimbabwe has provided no means for reinstatement or other remedy.³⁹

(17)- ICESCR Article 11 recognizes the right of everyone to an adequate standard of living which includes housing. Article 11 requires states to take appropriate actions to ensure the full realization of this right. The committee has interpreted this right to also protect against unlawful forced evictions.⁴⁰ However, the LGBTI population in Zimbabwe has reported high rates of eviction and homelessness.⁴¹ In some cases, state officers forcibly evict individuals from their homes and intimidate them with violence or threats of violence.⁴²

(18)- ICESCR Article 13 secures the right of everyone to education and recognizes that education enables all persons to effectively participate in a free society. The Committee has interpreted this right to explain that educational institutions must be accessible to all persons, especially vulnerable groups, in law and fact, without discrimination.⁴³ LGBTI persons in Zimbabwe have reported expulsions due to their sexual orientation or gender identity at both secondary and tertiary education levels; even without expulsion, many LGBTI individuals withdraw from school at an early age due to the effects of discrimination.⁴⁴

³⁸ See GALZ 2014 Violations Report, p. 50. In September of 2014, a 24-year-old gay man was fired from his job at a local accounting firm after his colleagues learnt about his relationship with another man.

³⁹ See GALZ 2014 Violations Report, p. 32. In July, a 33-year old gay man was unfairly dismissed by his employer after he was publicly outed in a local newspaper.

⁴⁰ CESCR, ICESCR General Comment 7 para. 1.

⁴¹ Zimbabwe 2014 State Report, p. 51-52.

⁴² See GALZ 2012-2013 Violations Report, p. 20.

⁴³ CESCR, ICESCR General Comment 13 para. 6(b).

⁴⁴ Zimbabwe 2014 State Report, p. 51.

5. Violations of Freedom of Expression, Association, and Assembly

(19)-Zimbabwe's violations of freedom of expression, association and assembly are in direct violation of related ICCPR's Articles 19, 21, and 22.⁴⁵ The H.R. Committee has clearly stated that derogations from protecting freedom of expression must not only be written in law, but must also be for a specific enumerated purpose, and must be necessary, proportional, and most narrowly tailored. Zimbabwe's government has persistently obstructed human rights organizations from standing up for the rights of LGBTI individuals.

(20)-Zimbabwe severely restricts freedom of expression and press. For example, Zimbabwe's *Censorship and Entertainments Control Act* prohibits the dissemination of "undesirable" publications, which is defined as "indecent or obscene or is offensive or harmful to public morals or is likely to be contrary to public health."⁴⁶ These laws have routinely been used to harass Zimbabwe's LGBTI population.

(21)-In 2002, Zimbabwe also passed the *Access to Information and Protection of Privacy Act*, which requires journalists and media companies to register with a government commission.⁴⁷ The Act gives the government the power to deny people to work as journalists and allows authorities to prosecute journalists and newspapers that oppose the government or that are

⁴⁵ See ICCPR Arts. 19, 21, 22.

⁴⁶ See World Report: Libraries and Intellectual Freedom, Zimbabwe, IFLA/FAIFE, (Dec. 1998), available at <http://www.ifla.org/files/assets/faife/publications/ifla-world-report/zimbabwe.pdf>.

⁴⁷ See Access to Information and Protection of Privacy Act (AIPPA), Jun. 11, 2003, available at <http://archive.kubatana.net/html/archive/legisl/030611aippaamd.asp>.

independent.⁴⁸ As a part of President Mugabe's campaign against homosexuality, state media sources consistently report unfavorably about same sex relationships; Mugabe has also threatened to expel foreign diplomats who "promote" homosexuality.⁴⁹ As such, local media outlets also often cover LGBTI issues negatively.⁵⁰ Zimbabwe's *Censorship Act* has also been invoked to confiscate materials intended for use or addressed to LGBTI human rights organizations.

(22)-Freedoms of association and assembly have also been severely restricted by the Zimbabwean government in recent years. NGOs must comply with strict registration and funding requirements in order to operate in the country. In 2004, the Zimbabwean Parliament passed the *Non-Governmental Organizations Act*, which bars the registration of foreign NGOs engaged in "issues of governance," including human rights organizations, and bars domestic "governance" NGOs from receiving foreign funding.⁵¹ This impacts the work of LGBTI rights organizations. The government also uses the state-controlled media to threaten NGOs, which it believes to be aligned with the political opposition or with Western interests such as the

⁴⁸ "Zimbabwe," Freedom House, 2006, <https://freedomhouse.org/report/freedom-world/2006/zimbabwe?page=22&year=2006&country=7092>.

⁴⁹ See "Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity," Bureau of Democracy, Human Rights, and Labor: Country Reports on Human Rights Practices for 2014: Zimbabwe, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>; see also *supra* note 16.

⁵⁰ GALZ 2014 Violations Report, p. 52. Some news headlines from 2014 include "Gay Shemale causes stir in court," "Protruding manhood exposes gay activity," and "Rally behind President in fight against homosexuality." *Id.* (listing news articles from January 21, 2014 from the Chronicle, January 22, 2014 from the Chronicle, and March 9, 2016 from the Sunday Mail).

⁵¹ "Freedom of Association Under Threat: The New Authoritarians' Offensive Against Civil Society," Freedom House, <https://freedomhouse.org/report/freedom-association-under-threat-new-authoritarians-offensive-against-civil-society/zimbabwe>.

protection of sexual minorities.⁵² Members of NGOs perceived as such are routinely arrested, imprisoned, and assaulted.⁵³

(23)-Zimbabwe's *2002 Public Order and Security Act* also severely restricts freedom of assembly.⁵⁴ The Act forces organizers to notify the police prior to any public meeting and failure to do so may result in both criminal and civil charges.⁵⁵ Security forces in the country often use the Act to declare demonstrations illegal, arrest or detain demonstrators, or curtail citizens' freedom of assembly and expression.⁵⁶ GALZ has experienced significant harassment and discrimination as a result of Zimbabwe's discriminatory policies.⁵⁷ In 2012, the police raided GALZ's offices several time and arrested GALZ members, charging them, including its

⁵² *Id.*

⁵³ *Id.* For example, in 2014, one transgender female board members of the Bulawayo-based Sexual Rights Center, an organization dedicated to advancing the rights of sexual minorities, was arrested and subjected to degrading treatment, including a nonconsensual medical examination. See "Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity," Bureau of Democracy, Human Rights, and Labor: Country Reports on Human Rights Practices for 2014: Zimbabwe, *available at* <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>.

⁵⁴ "Freedom of Association Under Threat: The New Authoritarians' Offensive Against Civil Society," Freedom House, <https://freedomhouse.org/report/freedom-association-under-threat-new-authoritarians-offensive-against-civil-society/zimbabwe>.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ See generally GALZ 2014 Violations Report; see also "Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity," Bureau of Democracy, Human Rights, and Labor: Country Reports on Human Rights Practices for 2014: Zimbabwe, *available at* <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>.

chairperson, with running an unregistered organization.⁵⁸ Another attack on the GALZ offices occurred in 2013.⁵⁹

❖ Summary

(24)-Zimbabwe is violating many of the fundamental human rights of LGBTI individuals within its jurisdiction. Furthermore, since the last UPR cycle, Zimbabwe has made virtually no effort to improve the lives of LGBTI citizens and has continued to systematically persecute them through discriminatory laws and practices, including allowing others to also violate the rights of the LGBTI community with impunity. State actors continue to arbitrarily arrest and detain sexual minorities. Various acts of violence are committed by both state actors and others the state allows to act with impunity. The state refuses to address extortion of LGBTI individuals. Rights to health, work, housing, and education are consistently abridged. Freedom of expression, association, and assembly are constantly curtailed. And most egregiously, Zimbabwe continues to criminalize same sex activity—which provides direct and indirect justification for all of the other rights violations.

⁵⁸ See “Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity,” Bureau of Democracy, Human Rights, and Labor: Country Reports on Human Rights Practices for 2014: Zimbabwe, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>. The foundation for the charges was an alleged violation of the Public Order and Security Act; however, a local magistrate ruled in favor of GALZ’s chairperson, citing the High Court’s order that the law did not oblige GALZ to register under the law; *Id.* During one of the raids, the police confiscated property, including computers and documents, belonging to GALZ. Following prolonged trials, the High Court ruled the raid to be illegal and ordered the Ministry of Home Affairs to return the illegally confiscated property to GALZ. Additionally, a magistrate judge ruled in favor of Tholanah, holding that GALZ was not obligated to register the organization.

⁵⁹ While a meeting was in progress, five men violently forced their entry into the GALZ office. The five men gathered all of the GALZ staff and board members and locked them up. While the staff was detained, the men vandalized and robbed the GALZ office, collecting personal items, such as cell phones, laptops, and others. As of the 2013 GALZ violations report, GALZ’s attorneys are following up on the situation.

Recommendations

1. Repeal the crime of sodomy as fully described under section 73 Criminal Code and Reform Act, 2006, (Chapter 9:23), to ensure that same-sex activity between consenting adults is not subject to criminal sanctions.
2. Sensitize law enforcement agents and other government actors about the rights and needs of LGBTI individuals.
3. Condemn human rights violations based on sexual orientation, gender identity and expression and take measures to ensure protection of human rights for marginalized people.
4. End the use of hate speech by government officials that promotes violence or discrimination against LGBTI community members.
5. Prosecute perpetrators of extortion/assault of LGBTI individuals.
6. Create measures to protect the economic, social and cultural rights of the LGBTI community, including access to healthcare, employment, housing, and education.
7. Repeal POSA and AAIPA to protect freedom of expression, association, and assembly by discontinuing restrictions on LGBTI advocacy.
8. Revise policies that hinder LGBTI individuals from accessing their rights.
9. Encourage dialogues with LGBTI advocacy groups concerning human rights violations facing LGBTI people in Zimbabwe.