

## ZIMBABWE

Zimbabwe, with a population of approximately 11.4 million, is constitutionally a republic, but the government, dominated by President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU-PF) since independence, was not freely elected and was authoritarian. The last four national elections--the presidential election in 2002, parliamentary elections in 2005, harmonized presidential and parliamentary elections in March 2008, and the presidential run-off in June 2008--were not free and fair. In the March 2008 elections, two factions of the opposition Movement for Democratic Change (MDC), known as MDC-T to denote Morgan Tsvangirai's faction and MDC-M for the group led by Arthur Mutambara, gained a parliamentary majority. Mugabe was declared the winner of the June 2008 run-off election after opposing candidate Tsvangirai withdrew due to ZANU-PF-directed violence that made a free and fair election impossible. Negotiations subsequently took place, and in September 2008 the three parties signed the Global Political Agreement (GPA), a power-sharing agreement under which Mugabe would retain the presidency and Tsvangirai would become prime minister. In February 2009 Tsvangirai was sworn in as prime minister, and new cabinet ministers and deputy ministers from MDC-T, MDC-M, and ZANU-PF also were sworn in. Although the constitution allows for multiple parties, ZANU-PF, through the use of government and paramilitary forces, continued to intimidate and commit abuses against members and supporters of other political parties and obstructed their activities. In numerous instances, ZANU-PF leadership took actions and implemented policies that were contrary to the terms set out in the GPA. In February 2009 the National Security Council (NSC) was established to provide policy oversight and guidance to the security forces and direction to the Joint Operation Command (JOC--a group of senior security and civilian authorities). There were instances in which elements of the security forces acted independently of civilian control.

Security forces, police, and ZANU-PF-dominated elements of the government continued to commit numerous, serious human rights abuses. ZANU-PF's dominant control and manipulation of the political process through trumped-up charges, arbitrary arrest, intimidation, and corruption effectively negated the right of citizens to change their government. There were no politically motivated killings by government agents during the year; however, security forces continued to torture, beat, and abuse non-ZANU-PF political activists and party members, student leaders, and civil society activists with impunity. Projections of an early election in 2011 also led to an increase in the number of cases of harassment and

intimidation of civil society, humanitarian organizations, and the media toward the end of the year. Security forces continued to refuse to document cases of political violence committed by ZANU-PF loyalists against members of other political parties. Prison conditions improved but remained harsh and life threatening. Security forces, which regularly acted with impunity, arbitrarily arrested and detained political activists not associated with ZANU-PF, members of civil society, labor leaders, journalists, demonstrators, and religious leaders; lengthy pretrial detention was a problem. Executive influence and interference in the judiciary continued, and the government infringed on citizens' privacy rights. The government continued to use repressive laws to suppress freedom of speech, press, assembly, association, and movement. The government restricted academic freedom. High-ranking government officials made numerous public threats of violence against demonstrators and political activists not associated with ZANU-PF. The government continued to evict citizens and to demolish homes and informal marketplaces. Farm invasions continued, and the government impeded nongovernmental organization (NGO) efforts to assist those displaced, as well as other vulnerable populations, albeit to a lesser degree than in 2009. Government corruption remained widespread. The following human rights violations also continued: government restrictions on domestic and international human rights NGOs; violence and discrimination against women; trafficking of women and children; discrimination against persons with disabilities, ethnic minorities, the lesbian, gay, bisexual, and transgender (LGBT) community, and persons with HIV/AIDS; harassment and interference with labor organizations critical of government policies; child labor; and forced labor, including by children.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1    Respect for the Integrity of the Person, Including Freedom From:**

#### **a.    Arbitrary or Unlawful Deprivation of Life**

Unlike in 2009, there were no reports that the government or its agents committed arbitrary or unlawful killings.

There were three confirmed killings by political party supporters during the year. On April 17, ZANU-PF party activists and war veterans brutally beat Memory Chaduka, a female informal trader, in Masvingo for failing to contribute money toward Independence Day celebrations. Those who failed to make contributions to the Masvingo Informal Traders Association for the celebration were accused of

being MDC supporters. Chaduka died of an extended injury resulting from broken ribs. ZANU-PF party activists also beat 25 other informal traders.

On September 19, in Harare, ZANU-PF youths beat Chrispen Mandizvidza in the abdomen with unknown objects during a constitutional outreach meeting in Harare. Mandizvidza died on September 22 from a perforated bowel due to blunt trauma.

On November 27, Augustine Mahute, an MDC activist, died from beating by ZANU-PF youths and then by police officers while in detention at Harare's Matapi Police Station. Mahute was involved in a dispute with ZANU-PF youths in the neighborhood. The youths also prevented Mahute's family from holding a funeral service by barring access to their house. Two individuals were injured in the skirmish.

There were no developments in the torture and killing of Takunda Neshumba in March 2009 in police custody in connection with illegal diamond mining or in the beating and killing of Barnabas Makuyana in June 2009 by soldiers in Marange in connection with illegal diamond mining.

There were no developments in the case of Arnold Mosterd, who died after being beaten in July 2009 by ZANU-PF supporters in Macheke, Mashonaland East. The suspects were originally arrested, but minister of state in the President's Office Didymus Mutasa reportedly ordered their release and allegedly told villagers to "deal with" strangers who visited the area inquiring about the killing, as they would be MDC supporters.

There were no developments in the killing of MDC-T activist Godknows Dzoro Mtshakazi in August 2009 by four soldiers or the beating and killing of Moreblessing Tirivangani in September 2009 by soldiers in connection with illegal diamond mining.

In 2009 at least 19 citizens died as a result of injuries sustained from political violence that targeted members of the opposition party in 2008, in addition to the more than 270 who died in 2008. The MDC-T released a statement in early July that named approximately 11,000 perpetrators and catalogued them by province. Mashonaland East had the largest number--approximately 3,700--of perpetrators. The killings were primarily committed by members of ZANU-PF, ZANU-PF youth militia, war veterans, and, to a lesser extent, members of the military and police. At year's end, no one had been held legally accountable for the killings.

There were no reported killings in connection with the Chiadzwa diamond fields during the year; 40 persons were killed there in 2009.

In late 2008 security forces undertook a major operation to remove illegal diamond miners in the Marange/Chiadzwa area of Manicaland. Their brutal and heavy-handed approach resulted in hundreds of deaths.

Despite the more than 270 confirmed killings resulting from political violence in 2008, there were no prosecutions or convictions in any of the cases. The Zimbabwe Human Rights NGO Forum filed 655 suits in court against perpetrators for human rights violations. Of the total cases, 305 were filed against nonstate actors. By year's end, four cases were settled out of court, three cases were scheduled for trial, and 280 cases were referred to the community courts.

During his annual address on Heroes' Day on August 9, President Mugabe stated that the government would not punish those responsible for past politically motivated violence.

b. Disappearance

There were several credible reports of politically motivated abductions and attempted abductions during the year. MDC leaders reported that state security agents and ZANU-PF party supporters abducted and tortured dozens of MDC and civil society members, as well as student leaders, as part of an effort to intimidate them. The number of abductions spiked during the constitutional outreach process. In the majority of cases, victims were abducted from their homes or off the streets by groups of unidentified assailants; driven to remote locations; interrogated, assaulted, or tortured for one or two days; and abandoned. In some cases, the abducted person was located in police custody days or weeks later.

On April 1, state security agents abducted Zivanai Muzorodzi, a Zimbabwe National Students Union (ZINASU) student leader, and beat him. The abduction came after Muzorodzi led a student demonstration on March 29. Security agents in civilian clothing forced Muzorodzi from his house into a car and interrogated him as to why students were mixing student issues with national politics. Muzorodzi refused to divulge any information and, subsequently, was beaten and warned against future involvement in national politics.

On May 27, in Masvingo security agents abducted and tortured two ZINASU leaders, Alec Tabe and Godfrey Kuraune. Tabe and Kuraune were organizing a

demonstration against high examination fees at Masvingo Polytechnic. They were picked up by Central Intelligence Organization (CIO) agents, who then tortured them on their chests and genitals with a pair of pliers before leaving them at a nearby police station. Tabe and Kuraune were released after paying an admission of guilt fine to the police.

On August 16, security agents abducted at gunpoint seven MDC-T supporters in Manicaland after the seven were accused of being vocal at a constitutional outreach meeting. All were found at the Chisumbanje police station on August 20. They were charged with disturbing the peace and released after paying \$10 fines each.

On December 24, three CIO agents in Chiredzi attempted to abduct Julius Mutavira and, failing to do so, assaulted him for being an MDC member. The agents arrived in an unmarked vehicle and tried to force Mutavira into the vehicle. Mutavira resisted and the agents beat him. Mutavira sustained severe injuries. He reported the incident to the Chikombedzi police station on December 28.

There were no new developments in the following 2009 cases: the February abduction and beating of a ZANU-PF party activist, the March abduction and beating of an MDC-T leader, the May abduction and burning of an MDC-T party chairperson, and the May abduction and beating of 13 MDC-T supporters.

The government did not investigate reported abductions.

In 2008 multiple court cases were brought against 18 individuals, including 14 MDC-T members, three human rights activists, and one journalist, who were abducted and tortured by state security agents and then turned over to police. On August 30, the High Court held its first hearing on allegations of torture brought by one of the 18 individuals, Mapfumo Garutsa. The hearing was postponed, and police had not launched an investigation into the abductions by year's end.

On August 13, the government appealed a December 2009 magistrate court decision to dismiss contempt of court charges against Alec Muchadehama, who represented seven men who were abducted and tortured by state security agents and then were accused of involvement in various 2008 police station and railroad bombings; and court clerk Constance Gambara, who had prepared three of the defendants' orders of release on bail (see section 1.d.). In June 2009 Magistrate Chioniso Mutongi ruled that there was no reasonable suspicion that Muchadehama committed the alleged offenses. In October 2009 Mutongi suspended the trial due

to the actions of an aggressive prosecutor whom he held in contempt of court. Magistrate Archie Wochiunga replaced Mutongi in November 2009 because the latter resigned due to harassment and threats. The government appeal was pending at year's end.

There were some developments related to the case of MDC-T activists Lloyd Tarumbwa, Terry Musona, and Fanny Tembo, who were abducted and tortured by security agents in 2008. In June 2009 authorities arrested MDC-T director general Toendepi Shonhe for testifying to their abduction. During a closed-door hearing with the judge and lawyers for the three abductees and the government's lawyer, Shonhe had signed an affidavit stating that the three had been abducted. Shonhe was charged with perjury as a result of his statement (see section 1.d.). In August 2009 the government failed to produce credible witnesses, and Shonhe was acquitted. On January 18, Fanny Tembo and Emmanuel Chinanzvana were arrested on charges of killing a ZANU-PF councilor. They were released on the same day. The case was pending at year's end.

There were no developments in determining the whereabouts of the following MDC-T activists identified as abducted in 2008: Gwenzi Kahiya, Ephraim Mabeka, Lovemore Machokoto, Charles Muza, and Edmore Vangirayi. Graham Matehwa was found alive in February 2009 near his home in Makoni district.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution prohibits torture and other cruel, inhuman, or degrading treatment or punishment, security forces continued to engage in such practices. Security forces continued to commit political violence, including torture of citizens in custody. Army and police units organized, participated in, or provided logistical support to perpetrators of political violence and generally permitted their activities. Police also continued to refuse to record reports of politically motivated violence or destruction of property. Police used excessive force in apprehending and detaining criminal suspects due to lack of resources, lack of training, and a culture of disregard for human rights. ZANU-PF supporters continued to assault suspected and known MDC members and their families, civil society activists, and student leaders. Violent confrontations between various youth groups aligned with either ZANU-PF or the MDC continued.

Human rights groups reported that physical and psychological torture perpetrated by security agents and ZANU-PF supporters continued. Torture and other assault

methods commonly reported included beating victims with sticks, clubs, whips, and cables; suspension; burning; electric shock; and falanga (beating the soles of the feet).

During the year, one NGO reported 5,051 victims seeking treatment for injuries and trauma throughout the country. Approximately 65 percent of the victims were male, and an estimated 7 percent were victims who had experienced injuries and trauma prior to this year. An estimated 93 percent did not declare an affiliation with any particular political, religious, or civil society group. Of the victims who reported their affiliation, nearly 40 percent were affiliated with the MDC; 34 percent were civilians with no affiliation; 10 percent were public officials; and 7 percent were associated with civil society organizations.

On September 29, police in Bulawayo arrested Choga Njiva on allegations of armed robbery and the murder of a senior police officer. Njiva was denied access to lawyers for eight days on the ground of his crime being a "very serious one." Njiva's lawyer gained access only after obtaining an order from the High Court. During detention Njiva suffered eight lacerations on the back from being whipped. He was hospitalized with three stitches on his eye, swollen genitals, a swollen chest, and fractured ribs. Magistrate Sibongile Msipa ordered an investigation on the allegations of torture within 14 days; however, an investigation had not taken place by year's end.

On February 2, Magistrate Gloria Takundwa ruled that the government had failed to produce evidence linking Pascal Gwezere to the theft of military weapons and acquitted him of all charges. In October 2009 suspected security agents in Harare abducted and tortured MDC-T Transportation Manager Pascal Gwezere. He was suspended from the ground, beaten, and bitten on the face and ear to extract information about the MDC-T before the agents conducted a mock burial. Gwezere was taken to Harare Remand Prison and charged with stealing 21 weapons from a military barracks in Harare.

Police repeatedly used cruel, inhuman, or degrading treatment or punishment against those in custody.

For example, on April 15, six policemen beat 23-year-old Women of Zimbabwe Arise (WOZA) member Timothy Katyora at the Harare Central Police Station. Katyora attempted to turn himself in, along with a group of activists, in an act of solidarity with fellow WOZA members who had been arrested. Police took

Katyora to a separate room and beat him over the head while they interrogated him. Katyora received medical treatment for bruising and headaches.

On September 29, police in Harare arrested Tenda Muchada, the program manager for the Combined Harare Resident Association, for allegedly driving a car involved in a robbery. Muchada was taken to the police station and beaten on his feet. Police released him on September 30 without charges.

Police also used excessive force to disperse demonstrators. For example, also on April 15, riot police, armed with tear gas and shotguns, dispersed a peaceful WOZA demonstration of approximately 500 women at the Zimbabwe Electricity Supply Authority headquarters in Harare. Police arrested 70 members, including a juvenile. Sixty-one members were released without charge on the same day. Jenni Williams, Magondonga Mahlangu, Clara Manjengwa, and Celina Makudani remained in custody at the Harare police station for five nights before they were released without charge. The government refused to press charges against the four due to a lack of evidence. Police attempted to force the women to pay "admission of guilt" fines for their freedom. All women required medical attention for rashes, diarrhea, and flu symptoms incurred while in custody.

Citizens were harassed or assaulted for listening to music or singing songs affiliated with the MDC-T. In early May, police disrupted a musical show featuring MDC-T legislator Paul Madzore. Madzore had obtained a court order for the show after the required notification to the police was denied for alleged security reasons.

Within the security forces, intelligence officers and soldiers used torture to discipline and extract confessions from soldiers. For example, after several dozen weapons were discovered missing from the Pomona military barracks in Harare in October 2009, hundreds of soldiers were detained, questioned, and physically assaulted to extract confessions of theft of the weapons. The press reported that at least one soldier died in custody, likely as a result of injuries sustained during repeated torture. On May 20, Magistrate Munamoto Mutevedzi ordered an investigation into the alleged torture after two of the soldiers, Chenjerai Gwirizha and Marksist Mwaruta, appeared in court. The case was pending at year's end.

According to one NGO, at least 22,000 victims of the 2008 political violence had sought treatment, and approximately 10,200 of the cases received physical and psychological treatment; the others did not seek follow up treatment due to intimidation and lack of resources.



NGOs reported no cases of rape being used as a tool of political violence.

Youths and "war veterans" trained by ZANU-PF were also deployed to harass and intimidate MDC members; labor, student movement, and civic groups; journalists considered critical of the government; and white farmers and their employees. During the four-day constitutional outreach process in Harare in September, one NGO treated 12 persons assaulted by ZANU-PF supporters. The injuries ranged from mild to serious.

In early October in Gutu, ZANU-PF youths assaulted 10 villagers as punishment for attending the funeral of an MDC official. The youths ordered the villagers to lie on their stomachs before beating them with clubs and threatening them against attending future funerals of MDC members.

On October 30, ZANU-PF supporters beat and stabbed MDC member Jonsaya Manyere after a constitutional outreach meeting in Harare where Manyere was actively contributing. Manyere suffered a head wound and was discharged from the hospital on November 8. Peter Garanewako, another MDC member, was also badly beaten by ZANU-PF sympathizers for his participation at another constitutional outreach meeting site in Harare on the same day. Neither incident was investigated by year's end.

MDC members used violence and torture in retaliation for past ZANU-PF-led violence. For example, on April 3, Edron Mangove stabbed to death ZANU-PF supporter Nhamo Munechi. Munechi reportedly harassed and assaulted Mangove for being an MDC supporter in the 2008 presidential election run-off. Mangove fled the country after the assault, and no further information was available at year's end.

Intraparty factionalism also resulted in violence. Between April 12 and 14, MDC-T youth backing one faction within the party besieged Harvest House, the MDC-T headquarters. The youths assaulted the party's director general, Toendepi Shonhe, and stole his vehicle at knifepoint. When MDC-T officials requested police assistance to resolve the building seizure, police refused and claimed that the incident was infighting between party factions. The director of security for Harvest House then hired a private security firm to regain control and establish security within the building. Five youths detained several members of the security firm, locked them in a room, and beat them with tools for more than three hours. Since the police refused to pursue the case, the MDC-T investigated the incident and, on

May 16, expelled the five youths, Rhino Mashaya, Shakespear Mukoyi, Stephen Jahwi, Todini Todini, and Francis Machimbidzofa from the party.

No action was taken in the other 2008 or 2009 cases of abuse.

### Prison and Detention Center Conditions

Prison conditions improved but remained harsh and life threatening. The government's 46 main and 22 satellite prisons were designed for a maximum of 17,000 prisoners. There are two remand prisons and one juvenile prison in the Zimbabwe Prison Service (ZPS). The ZPS estimated that there were between 13,500 and 14,000 prisoners in the system at year's end, a number confirmed by the International Committee of the Red Cross. This constituted a significant reduction from a 2008 NGO estimate of 35,000 and the 2008 government estimate of 22,000 to 24,000. Prison guards beat and abused prisoners. Poor sanitary conditions due to dilapidated prison infrastructure and overcrowding persisted, which aggravated health conditions and outbreaks of diarrhea, measles, tuberculosis, and HIV/AIDS-related illnesses.

Lawyers, NGOs, and church officials familiar with prison conditions reported that, although the situation had improved since 2009, shortages of food, water, electricity, clothing, and soap continued. NGOs started working with the ZPS to revitalize 23 prison farms, which totaled approximately 35,830 acres of land, to ameliorate food shortages. NGOs reported that prisoners were able to produce enough maize for consumption and that malnutrition was no longer an endemic problem at year's end. Malnutrition was largely eliminated by therapeutic feeding and food assistance. Prisoners were fed at least once daily; however, nutritional deficiencies remained a critical problem.

NGOs reported the death rate among prisoners was lower than in 2009, although neither the ZPS nor NGOs provided information on the death rate during the year. In 2009 NGOs estimated the death rate was 40 deaths per month, a reduction from the estimated 40 to 50 deaths per week during the height of the 2008 prison crisis. Most prison deaths between 2008 and 2009 were attributed to harsh conditions, hunger, and HIV/AIDS. NGOs continued to estimate that approximately 70 percent of prisoners were HIV-positive; the ZPS did not routinely test prisoners for HIV. Due to inadequate facilities, outdated regulations, and the lack of medical personnel and medication, the majority of prisoners suffered from routine medical conditions such as hypertension, tuberculosis, diabetes, asthma, and respiratory diseases. NGOs also reported cases of pellagra, a serious illness caused by protein

deficiency, which causes severe diarrhea, dermatitis, and dementia. Poor lighting and ventilation also aggravated the situation.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. All prisons engaged locally based chaplains to provide basic services. Church groups were able to conduct spiritual programs and humanitarian crusades in prisons. Visitor access was restricted primarily for maximum-security prisons. Authorities permitted prisoners to submit complaints, but investigations rarely were conducted. The ZPS conducted two assessments of prison center conditions, in January and in May, but the assessments were not released by year's end.

NGOs estimated that there were 412 women in prison, 250 of whom were convicted as of June, and 72 children under the age of three lived with their incarcerated mothers. NGOs reported that female prisoners generally fared better than males. Female prisoners were held in separate wings of prisons and were guarded by female officials. Women generally received more food from their families than male prisoners. However, children living with their incarcerated mothers were required to share their mothers' food allocation. Prison officials also appeared to have prioritized food distribution to women. NGOs were unaware of women reporting rapes or physical abuse, which were common among the male population. NGOs suggested that female guards may have been more diligent about protecting female prisoners from abuse, and female prisoners may not have reported abuse. However, female prisoners continued to endure significant hardship. For example, prisons did not provide feminine sanitary supplies for women, resulting in frequent fungal infections, as female inmates were forced to reuse torn pieces of dirty blankets during their menses. Pregnant and nursing mothers were not provided additional care or food rations.

NGOs estimated that there were between 350 and 400 juveniles in prison facilities; the majority were being held in pretrial detention. There was one juvenile prison in the ZPS; however, juveniles also were held in adult prisons throughout the country. Although juveniles were not officially held separately from adults, officials generally tried to place juvenile inmates in cells separate from adults. It became more common for juveniles to be sent to prison instead of to reformatory homes, as stipulated in the Children's Act. Juveniles were particularly vulnerable to the effects of poor prison conditions, and local NGOs reported several complaints of physical and sexual abuse.

The mentally disabled were the most affected by the collapsed medical infrastructure within the ZPS. Inmates with psychiatric conditions were examined by two doctors, who must both confirm a mental disability and recommend that a patient either be released or returned to a prison facility. However, prisoners with mental disabilities routinely faced long waiting periods, as much as three years, before being evaluated. It also became more common for prisoners with mental disabilities to be sent to prison instead of mental institutions.

While the total number of prisoners was below capacity, NGOs reported that overcrowding continued because at least half of the cells at each prison were used by prison guards. According to the ZPS, remand prisons faced overcrowding due to the spillover from overcrowded police stations, lengthy pretrial periods, and the ZPS's inability to transport detainees to court for their trials. The ZPS's two remand prisons could hold 2,000 detainees but were operating over capacity. Pretrial detainees often were held in prisons with convicted prisoners until their bail hearings. The majority of the prisoners interviewed by the local human rights NGOs had spent at least one year, and in some cases between three and five years, in a remand prison before having a pretrial hearing.

The law provides international human rights monitors the right to visit prisons, but government procedures and requirements made it difficult to do so. Church groups seeking to provide humanitarian assistance were able to gain more access than in 2009. Organizations suspected of having nonhumanitarian motives for visiting prisoners faced restricted access. Organizations reported that their meetings with prisoners occurred without third parties present, and there were no restrictions placed by the ZPS on how they operated within the prisons. No mechanisms, including the existence of an ombudsman, existed to consider alternatives to incarceration for nonviolent offenders; to address the status and circumstances of confinement for juvenile offenders; and to improve pretrial detention, bail, and recordkeeping procedures to ensure that prisoners did not serve beyond the maximum sentence for the charged offense.

Local NGOs continued to lobby the government for institutional reforms, including alternative mechanisms to settle allegations out of court and to release prisoners who had committed misdemeanors and whose incarceration put pressure on the crowded prison system. One local NGO called for the introduction of counseling for 52 death row inmates. In August 2009 the government granted amnesty to approximately 1,500 females, juveniles, and terminally ill inmates who had sentences of 36 months or less or had already served at least 20 years.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention; however, some laws effectively weakened this prohibition, and security forces repeatedly arbitrarily arrested and detained persons. For example, on January 30, police dispersed an MDC meeting on the constitutional reform process and arrested all 52 MDC supporters in attendance. Police forcibly marched the group to the police station where most were released without charge. Eleven individuals, including the MDC's chairman for Mashonaland Central, were detained, charged with breaching security laws, and released on bail.

On February 2, police arrested 22 WOZA members in a private house in Bulawayo. The members were discussing the constitutional process. They were released on the same day without charge.

Role of the Police and Security Apparatus

The Zimbabwe Republic Police (ZRP) is responsible for maintaining law and order. Although the ZRP is officially under the authority of the Ministry of Home Affairs, in practice the President's Office, through the JOC, controlled some roles and missions. In February 2009 the NSC replaced the JOC in this role. The Zimbabwe National Army and Air Force, under the Defense Ministry, were responsible for external security; however, there were cases in which the government called upon them for domestic operations. The CIO, under the Ministry of State for National Security, is responsible for internal and external security.

The lower ranks of the police were poorly trained and underpaid. The entire force was ill-equipped in both operational and administrative resources. Severely depleted human and material resources, especially fuel, further reduced police effectiveness in both deterring and responding to criminal activity during the year.

Security forces perpetrated politically motivated violence, including torture of citizens in custody, largely at the behest of the leadership loyal to ZANU-PF. Police disrupted public gatherings and demonstrations, sometimes using violent means. Similarly, requests by civil society to hold public events were routinely denied if security chiefs believed the agenda contradicted their own political goals or, just as frequently, to make a counter-point on an issue under debate. Reports that security services tortured political and civil society activists who defied ZANU-PF's political agenda continued throughout the year. It was difficult for

rank-and-file police to remain impartial due to the continued politicization of the force's upper echelons. Police and army personnel suspected of being sympathetic to the MDC and other political parties continued to be threatened with demotion, suspension, incarceration, or transfer to remote areas. While not widespread, there were reports of police using excessive force in apprehending and detaining certain criminal suspects due to lack of resources and lack of appropriate training.

On November 14, the *Standard* newspaper published an article linking the cancellation of the annual police examination to a ploy by the police to hire war veterans and retired police officers ahead of the elections. The recruitment was not meant to appear as new recruitment, but as a transfer of war veterans and retired officers from one post to another. Two *Standard* journalists were arrested and charged with criminal defamation (see section 2.a.). The case continued at year's end.

Security forces were rarely held accountable for abuses. Frequent allegations of excessive force and torture were often dismissed by senior government officials, who claimed that the actions were necessary to maintain public order. Court orders compelling investigations into allegations of abuse were routinely ignored by authorities. For example, police were reluctant or refused to record reports of politically motivated violence or similarly motivated destruction of property that occurred. Government efforts to reform the security forces were minimal, and training was rarely provided.

ZRP leadership loyal to ZANU-PF stifled, derailed, or did not authorize the efforts of those police who sought to investigate cases of political violence. Police seldom responded during incidents of vigilante violence due in part to a lack of resources, manpower, will, or combination thereof.

In February 2009 parliament passed the National Security Council Act, the enabling legislation for the new NSC. The NSC was set up to replace the JOC and is mandated to ensure accountability of the country's security sector. The JOC, which consisted of the army, police, prisons, and CIO, was blamed for orchestrating many human rights abuses. The NSC consists of representatives from the three political parties that constitute the transitional unity government, including President Mugabe as chair, Prime Minister Tsvangirai, the two deputy prime ministers, six ministers, and the security chiefs. The NSC is required by law to meet at least once every month and started meeting in February. President Mugabe reportedly continued to meet with the JOC outside the NSC.

### Arrest Procedures and Treatment While in Detention

The Criminal Procedure and Evidence Act (CPEA) stipulates that arrests require a warrant issued either by the court or a senior police officer. The law requires that police inform an arrested person of the charges before taking the individual into custody; however, these rights were not respected in practice. The law requires a preliminary hearing before a magistrate within 48 hours of an arrest (or 96 hours over a weekend). Police typically made arrests, which may have been politically motivated, on Fridays, which permitted legal detention until Monday. There were numerous reports that security forces arbitrarily arrested political and civil society activists, interrogated and beat them for information about their organizations' activities, and then released them the next day without charge.

According to the CPEA, the court reserved the power to grant bail. However, the attorney general has the power to suspend bail while an appeal is lodged. High court judges at times granted bail independently. The act allows police to hold persons suspected of committing economic crimes for up to four weeks without bail.

In 2008 Johannes Tomana, then deputy attorney general, announced that the Attorney General's Office would "deny bail to all suspects arrested on charges of either committing or inciting political violence." In some cases, those arrested and denied bail were kept detained for weeks or months. In other cases, police continued to hold persons in jail even after a judge had granted bail or dropped the charges. On June 17, Zimbabwe Lawyers for Human Rights (ZLHR) attorney Alec Muchadehama filed an application for referral to the Supreme Court to challenge the constitutionality of section 121 of the CPEA, which provides the government with seven days to file an appeal against a ruling granting bail, on behalf of MDC-T Director General Toendepi Shonhe. On June 23, a magistrate referred the case to the Supreme Court; it was pending at year's end.

Authorities often did not allow detainees prompt or regular access to their lawyers, and often informed lawyers who attempted to visit their clients that detainees were "not available," especially in cases involving MDC members and civil society activists. Often detainees were "moved" overnight or on weekends from one police station or prison to another, and police refused to disclose the new location to their families and lawyers. Family members sometimes were denied access unless accompanied by an attorney. Detainees were often held incommunicado.

Family members and attorneys often were denied access to detainees in prison and could not verify that a person had been arrested until the individual appeared in court (see section 1.c.).

The government continued to use arbitrary arrest and detention as a tool of intimidation and harassment, especially against MDC members and supporters, civil society and student activists, and journalists.

For example, on November 25, police in Matabeleland North arrested 17 MDC officials on charges of causing violence. The meeting was organized by the MDC-T provincial chairperson for nine councilors who defected from the MDC-M. On November 29, police released the 17 officials on \$30 bail each. Seven officials subsequently sought medical treatment and claimed they were denied food while in detention. The magistrate's court postponed the hearing to January 2011.

Victims of theft during the 2008 political violence, who attempted to recover their property from ZANU-PF bases and subsequently were detained or charged with extortion or theft, were still standing trial at year's end.

The government continued its harassment and intimidation of human rights lawyers during the year. Police often threatened lawyers when they attempted to gain access to their clients in police custody. Several lawyers were arrested in connection with legal advice they provided to their clients. For example, in early October, Detective Chief Inspector Steven Mpfu threatened attorney Lison Ncube against representing Choga Njiva, who was arrested on September 29 on allegations of armed robbery and the murder of a senior police officer in Bulawayo (see section 1.c.). Njiva's father gave Ncube the blood-soaked clothes in which Njiva was allegedly tortured while in detention. Inspector Mpfu threatened Ncube with arrest if he did not surrender the clothes.

In November 2009 police arrested human rights lawyer Mordecai Mahlangu and charged him with obstruction of justice after he wrote Attorney General Tomana a letter on behalf of his client, Peter Hitschmann, who had been subpoenaed to testify against MDC-T treasurer Roy Bennett in his trial. Mahlangu was released on bail after spending a night in jail. On January 14, Magistrate Archie Wochionga acquitted Mahlangu, ruling that the facts before him did not constitute a crime. Mahlangu then applied to the High Court for an order to declare his arrest and detention unlawful. Judge Felistus Chatukuta, the spouse of Wayne Bvudzijena, a high-ranking police official, heard the case on February 4. Mahlangu's lawyers asked Judge Chatukuta to recuse herself, citing a possible conflict of interest due to



her relationship to a member of the police. Chatukuta said she that would decide whether there was a conflict. The case was pending at year's end.

During the year civil society groups reported that numerous arrests of MDC-T parliamentarians were politically motivated and meant to erode the MDC-T's voting power in parliament and to harass MDC-T parliamentarians.

For example, in May Member of Parliament (MP) Paul Madzore and Senator Morgan Komich were arrested for insulting President Mugabe. Both were released and charges were dismissed.

On June 4, police arrested MDC-T MP Ian Kay for allegedly distributing expired and unregistered medicines to three clinics in his constituency. Police raided his house purportedly looking for drugs and unlicensed firearms. On June 7, Kay was released on \$500 bail. Kay was indicted and fined \$2,000.

On June 5, MDC-T legislator Eliah Jemere and the provincial party treasurer for Mashonaland Central, Gilbert Kagodora, were arrested for insulting the office of the president; both were released on bail on June 8. Kagodora was arrested after addressing an MDC rally. On November 26, Magistrate Charles Murove referred the case to the Supreme Court after Kagodora filed an application challenging the constitutionality of the charge.

On June 6, police in Mutare arrested Teddy Chipere, MDC chairman of Makoni Central, for insulting the office of the president. He was released on bail on June 9.

In February 2009 police arrested MDC-T treasurer Roy Bennett and charged him with insurgency and possessing weaponry with the intention of using it in connection with acts of insurgency. Bennett denied all the charges and was released on \$5,000 bail in March. After several delays because the government's key witness failed to appear, Bennett's trial began on January 12. On May 10, Justice Chinembiri Bhunu acquitted Bennet on all charges at the close of the state's argument and without a defense hearing. The government appealed the acquittal on May 12 on grounds that Bhunu had erred, prompting the defense to file papers opposing the appeal bid. A decision on the appeal was scheduled for July 28, but the court postponed indefinitely the next trial date.

Of the 17 MPs arrested in 2009, at least 15 were from the MDC, and four were suspended after they were sentenced to jail terms of more than six months. All four appealed their suspensions in the High Court, and three MPs--Ernest Mudavanhu,

Shua Mudiwa, and Mathia Mlambo--won their appeals during the year, and the suspension was lifted. Suspended MPs were allowed to retain their seats during the appeal process but were barred from participating in parliament. There were numerous incidents of MDC-T parliamentarians being harassed by ZANU-PF supporters for their involvement in the constitutional outreach process.

There were no further developments in the appeal of MP Meki Makuyana, who had been facing suspension since 2009.

In June 2009 WOZA leaders Jenni Williams and Magodonga Mahlangu appeared in the Supreme Court after filing an appeal arguing that they were unlawfully arrested on charges of disturbing the peace in 2008. The remand hearing was postponed several times from July to October 2009 to allow for the Supreme Court ruling. By October 2009 the Magistrate Court resumed the remand hearing for Williams and Mahlangu; however, the government did not make available its court file for any of the remand hearings from October to December 2009. In December 2009 the magistrate refused the application to remove the activists from remand stating that they were responsible for the delay by appealing to the Supreme Court. In January the defense lawyer filed an urgent application at the High Court requesting a review of the magistrate's decision. The state did not respond to the application and, after the elapse of the 10-day waiting period, the High Court ordered Williams and Mahlangu to be removed from remand. On November 26, the Supreme Court ruled that the police had violated Williams and Mahlangu's fundamental rights to freedom of assembly and freedom of expression. While ruling in favor of WOZA, the Supreme Court refrained from ruling on the legality of section 29 of the Public Order and Security Act (POSA), which had provided the legal basis for the arrest of Williams and Mahlangu.

There were no developments in other arrest cases reported in 2009 and 2008.

Prolonged pretrial detention remained a problem, and some detainees were incarcerated for several years before trial or sentencing because of a critical shortage of magistrates and court interpreters, poor bureaucratic procedures, and for political reasons. During the year some detainees in Harare Remand Prison went for months without attending court for bail hearings because the ZPS lacked fuel to provide transport. Others who had bail set but could not afford to pay remained in detention. According to lawyers, pretrial detainees were held without charge for as long as 11 years. Lawyers also reported that juveniles usually spent more time in pretrial detention than adults because they could not attend court

unless a parent or guardian accompanied them; however, the government did not routinely notify parents when a juvenile was arrested.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary; however, the judiciary was under intense pressure to conform to government policies, and the government repeatedly refused to abide by judicial decisions. The government routinely delayed payment of court costs or judgments awarded against it in civil cases.

NGOs reported several methods some senior government officials used to undermine the independence of the judiciary, including giving farms and homes to judges.

For example, on May 20, President Mugabe, without consulting Prime Minister Tsvangirai as stipulated in the GPA, appointed George Chiweshe, the former chairperson of the former Zimbabwe Electoral Commission (ZEC), as judge president of the High Court. Chiweshe replaced Rita Makarau, who was elevated to the Supreme Court. As head of the ZEC, Chiweshe withheld the 2008 presidential election result for more than a month, fuelling accusations that he rigged the outcome in favor of President Mugabe.

Magistrates heard the vast majority of cases. On June 18, the Judicial Services Act (JSA) went into effect. The JSA intended to provide greater independence for magistrates by removing authority over judicial magistrates and their support staff from the Public Service Commission and transferring it to the Judicial Services Commission (JSC). The act states that the JSC will also determine the remuneration and other conditions of service for the magistrates. Legal experts said that defendants in politically sensitive cases were more likely to receive a fair hearing in magistrates' lower courts than in higher courts, where justices were more likely to make political decisions. According to a November 2008 Human Rights Watch report, most junior magistrates and magistrates in rural areas did not benefit from government patronage. Instead, ZANU-PF sympathizers relied on threats and intimidation to force magistrates, particularly rural magistrates, to rule in the government's favor. Some urban-based junior magistrates demonstrated a greater degree of independence and granted MDC and civil society activists bail against the government's wishes. Other judicial officers, such as prosecutors and private attorneys, also faced political pressure, including harassment and intimidation. These conditions persisted in spite of the formation of the transitional unity government in 2009. For example, on May 17, Jonathan Samkange, who was

accused of perjury as the counsel for the diamond company African Consolidated Resources in its civil suit against the government-controlled Minerals Marketing Corporation of Zimbabwe and Zimbabwe Mining Development Corporation, was arrested for being late to his court hearing. He was released the same day. Unlike in 2009, there were no reports of lawyers and court officers being arrested on criminal charges after taking action that some in government opposed.

There were no updates in any of the 2009 or 2008 cases involving lawyers or court officials.

### Trial Procedures

The constitution provides for the right to a fair trial; however, this right frequently was compromised in practice due to political pressures. Defendants enjoy a presumption of innocence under the law; however, this was not always respected in practice. Trials were held by magistrates or judges without juries and were open to the public, except in cases involving minors or state security matters. Assessors, in lieu of juries, could be appointed in cases in which the offense could attract a death penalty or lengthy prison sentence. Every defendant has the right to a lawyer of his or her choosing, but most defendants in magistrates' courts did not have legal representation. In criminal cases, an indigent defendant may apply to have the government provide an attorney, but this request was rarely granted except in capital cases, where the government provided an attorney for all defendants unable to afford one. Litigants in civil cases may request free legal assistance from the Legal Resources Foundation or ZLHR.

Attorneys sometimes were denied access to their clients, especially in cases involving MDC members or civil society activists. Defendants have the right to present witnesses, present evidence on their own behalf, and question witnesses against them. However, these rights were not always observed in practice. Defendants and their attorneys have the right to be furnished with all government-held evidence relevant to their cases; however, this right was often not allowed in practice. Conviction requires proof beyond a reasonable doubt, and the prosecution bears the burden of proof. The right to appeal against both conviction and sentence exists in all cases, and it is automatic in cases in which the death penalty is imposed. The law extends these rights to all citizens; however, in politically sensitive cases, these rights were not always protected in practice. Government officials frequently ignored court orders in such cases, delayed bail and access to medical care, and refused to enforce court orders related to land disputes.

The rights of an accused person apply to all citizens, including women, indigenous groups, and persons with disabilities.

### Political Prisoners and Detainees

There were reports of political detainees throughout the year, including MDC officials, their supporters, NGO workers, and civil society activists. Many were held for one or two days and released; others were held for weeks or months. During the year police beat and tortured numerous political and civil society activists and student leaders while in detention.

At year's end there were no known political prisoners in police custody.

### Regional Human Rights Court Decisions

The African Commission on Human and People's Rights (ACHPR), an organization mandated by the African Union based in Banjul, Gambia, hears cases when member countries' internal remedies have been exhausted or do not exist. There were four pending cases from Zimbabwe before the commission at year's end. Two were at the admissibility stage, during which the commission decides whether to hear the case, and the other two were at the merits stage, where the commission makes a recommendation. Two cases involved the government's handling of the land reform and the other two involved government evictions of citizens from nonfarming areas under Operation Murambatsvina (loosely translated from Shona as "restore order" or "get rid of the filth").

In July 2009 the ACHPR ruled that the government should repeal sections 79 and 80 of the Access to Information and Privacy Protection Act (AIPPA) because they contravened article 9 of the ACHPR. The government took no action to comply (see section 2.a.).

In 2007 the Southern African Development Community (SADC) tribunal in Namibia, in its first decision since its establishment in 2000, ruled in favor of Michael Campbell, who was contesting the compulsory government acquisition of his farm. The tribunal was set up to provide that SADC member states adhere to the SADC treaty and protocols, protect the rights of citizens, and provide for the rule of law. According to the protocol establishing the tribunal, a person can bring a case after exhausting all available remedies or when unable to proceed under domestic jurisdiction. Campbell brought the case to the tribunal after the Supreme Court failed to issue a judgment in the case. However, in January 2008 the

Supreme Court issued a judgment dismissing the Campbell case. Soon after the ruling, the then minister for lands, land reform, and resettlement, Didymus Mutasa, declared that the country would be bound only by its laws and the decisions of its superior courts.

In April 2008 the SADC tribunal ruled that more than 70 white farmers who had been evicted from their lands could remain on their property pending a May 2008 hearing; their cases effectively joined the Campbell case that was still pending before the tribunal. In June 2008 a group of 20 "war veterans" abducted and assaulted Michael Campbell and members of his family; they were hospitalized for their injuries. The perpetrators also looted the Campbell home and stole their car. In July 2008 the tribunal reaffirmed the injunction, condemning the government's land seizures, and transferring the issue to the SADC summit for further action. However, the government asserted that it would move forward with prosecution of the farmers who remained on the land, effectively ignoring the tribunal's authority.

In November 2008 the SADC tribunal ruled in favor of the 79 farmers in the Campbell case, finding that, by barring titleholders from being heard in the courts, the government violated the rule of law; that the farmers were discriminated against on the basis of race; and that the government should compensate three dispossessed landowners by June 2009. Although the tribunal ordered the government not to interfere with any tribunal applicant still on his or her land or in possession of it when applying for relief, the government continued prosecutions of farmers for remaining on government-confiscated farms during the year.

In an August 2009 letter, Minister of Justice Patrick Chinamasa informed the SADC tribunal that the country was withdrawing from the tribunal. Chinamasa claimed that because the SADC Protocol on the Tribunal was neither ratified domestically nor by two-thirds of SADC membership, the tribunal was not validly constituted and, therefore, had no jurisdiction over the country. Lawyers from across SADC argued that the SADC treaty was amended in 2001 to incorporate the tribunal into SADC as an integral organ and exclude the tribunal from the usual SADC requirement for ratification by two-thirds. On January 26, High Court judge Bharat Patel ruled that the tribunal was legally constituted and that the government's objection was misconceived and disingenuous.

On July 16, the SADC tribunal for the third time found the government in contempt of the November 2008 tribunal ruling by allowing ongoing invasions, arrests, and prosecutions of evicted commercial farmers. In response Chinamasa declared "null and void" the SADC tribunal ruling. On August 29, President

Mugabe stated that the land reform program was instituted to correct colonial imbalances, and the country would not comply with the SADC ruling. In an August session, the SADC members decided to review within the next six months the role, functions, and terms of reference of the tribunal.

On December 9, the SADC tribunal ruled that the government had undermined the rule of law by refusing to compensate nine victims of state-sponsored political violence and torture as ordered by the Zimbabwean High Court in previous years. The Zimbabwe Human Rights NGO Forum filed the case at the SADC tribunal in April 2009 on behalf of the victims.

### Civil Judicial Procedures and Remedies

Civil judicial procedures allow for an independent and impartial judiciary. However, in practice the judiciary showed indications of being politically influenced or intimidated in cases involving high-ranking government officials, politically connected persons, or violations of human rights. There were systematic problems enforcing domestic court orders, as resources for the judiciary and police were severely strained.

### Property Restitution

The constitution stipulates that the government must compensate persons for improvements made on land taken by the government but does not set a timeline for the delivery of compensation. In practice the government seldom provided restitution or compensation for the taking of private property.

For example, in Chiadzwa approximately 4,000 persons were to be resettled from the allocated mining grounds to a government-owned agricultural estate outside Mutare, according to a 2009 government pronouncement. The government and the three companies with concessionary and exploratory rights entered into an agreement whereby each party would pay half of the resettlement expenses. The Zimbabwe Environmental Law Association (ZELA) filed an urgent application to the High Court in December 2009, seeking an injunction against the resettlement. In January High Court judge Joseph Musakwa dismissed the application. In December 2009 ZELA also filed a suit against the Ministry of Defense, the police, and the Ministry of Mines challenging the legality of the resettlement policy. No court date had been set by year's end.

More than 70 persons were resettled at year's end to a government-owned agricultural estate outside Mutare. They were given short notice to resettle, no one received compensation, and livelihoods in the new location were uncertain. Also there were no social services in the new area. In August the district administrator in Mutare issued a notice to 44 families, giving them 10 days to vacate their properties. The families refused to move without proper compensation and timely notification. The negotiation was pending at year's end.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions, but the government did not respect these provisions in practice. Security forces searched homes and offices without warrants, senior government officials pressured local chiefs and ZANU-PF loyalists to monitor and report on persons suspected of supporting political parties other than ZANU-PF, and the government forcibly displaced persons from their homes. Elements of the government coerced ZANU-PF supporters and punished MDC supporters by manipulating the distribution of food aid, agricultural inputs, and access to other government assistance programs.

The 2007 Interception of Communications Act (ICA) provides for the interception and monitoring of any communication (including telephone, postal mail, e-mail, and Internet traffic) in the course of transmission through a telecommunication, postal, or other system in the country. Civil liberties advocates criticized the ICA as repressive legislation that allows the government to stifle freedom of speech and to target political and civil society activists.

According to local human rights and humanitarian NGOs, sporadic evictions continued during the year, especially of tenants and informal vendors suspected of supporting the MDC. During the week of August 23, police and national park guards assaulted and arrested informal market traders in Chinoyi, Mutare, Gweru, and Rusape because of their association with the Zimbabwe Congress of Trade Unions (ZCTU) and suspected association with the MDC.

Land seizures remained a serious problem. Constitutional amendment 17, enacted in 2005, transferred title of all land previously acquired for resettlement purposes to the government, prohibited court challenges to the acquisitions, and allowed the government to acquire any agricultural land for any purpose simply by publishing a notice of acquisition. The 2006 Gazetted Land (Consequential Provisions) Act requires all farmers whose land was forcibly seized by the government and who



were not in possession of an official offer letter, permit, or lease to cease to occupy, hold, or use that land within 45 days and to vacate their homes within 90 days. Only a small number of farmers received an offer letter or lease. Failure to comply is a criminal offense punishable by a fine and a maximum prison sentence of up to two years. The act was primarily used to target the 4,500 large-scale and primarily white-owned farms in the country for seizure and redistribution to black Zimbabweans, including ZANU-PF supporters.

Some of the approximately 400 remaining white commercial farmers continued to be targeted, harassed, and threatened with eviction by farm beneficiaries, youths, and hired thugs. According to one commercial farmer union, an average of 150 farm incidents per month were documented during the year. In some instances farmers were forced off their farms at gunpoint, despite being in possession of a court order that allowed them to remain on the property, and not given the opportunity to collect their personal belongings. A few were arrested and kept in detention at the local police station for at least one night prior to being given access to a lawyer and released. Black farm workers on white-owned farms were beaten, intimidated, or displaced (see section 2.d.). Police, in most cases, did not intervene and stood aside while invaders and looters carried on their activities.

On January 12, a gang invaded a citizen's farm in Manicaland. The invaders tied two family members to a tree and beat them before going to another farm. At least four other families were harassed and chased off their farms in the same week. Police refused to investigate the cases.

Most invasions and evictions occurred in June. In Manicaland, for example, a farmer's wife was barricaded inside her home and given four hours to vacate the property, despite the fact that she had a High Court order allowing her to retain the farm. Another farmer in Manicaland was forced off his property despite his possession of a High Court order, and his foreman was beaten unconscious by the invaders.

Farmer unions and NGOs believed that former land minister Mutasa was responsible for the June wave of invasions. Mutasa allegedly ordered 300 persons to ignore a Chipinge Magistrates' Court to vacate the coffee plantation they had occupied because it was not listed for resettlement. Mutasa later stated that he was "protecting the poor." The NSC ordered an investigation into the June evictions. No further information was available on the investigation at year's end.

No action was taken against perpetrators of numerous 2009 and 2008 cases of land invasions, seizures of property, and attacks on farm owners and workers.

No action was taken or anticipated in the numerous other reported 2009 and 2008 cases of arbitrary interference with citizens' homes.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, but legislation limits these freedoms in the "interest of defense, public safety, public order, state economic interests, public morality, and public health." The government restricted these rights in practice. Journalists and publishers practiced self-censorship.

Under the criminal code, making a false statement prejudicial to the government carries a maximum prison sentence of 20 years. Security authorities continued to restrict freedom of speech and arrest individuals, particularly those who made or publicized comments critical of President Mugabe or made political statements opposing the government's agenda.

For example, on November 5, police in Bulawayo ordered the Zimbabwe human rights NGO Forum to take down nine billboards and street signs on the grounds of their being offensive and potentially causing disharmony. The NGO had obtained permission in Bulawayo, among other major cities, to erect the billboards and street signs. The ICA continued to be used to monitor speech and to punish those who criticized the government.

There were credible reports that CIO agents and informers routinely monitored political and other meetings. Persons deemed critical of the government were frequently targeted for harassment, abduction, interrogation, and torture.

In September the trial of Douglas Mwonzora, Nyanga North legislator and chairperson of the parliamentary constitution-making committee, was postponed. Mwonzora called President Mugabe a "goblin" in March 2009 and was also charged with undermining the police when he allegedly said they were being used by ZANU-PF to intimidate villagers. On December 6, the case was referred to the Supreme Court. The case was pending at year's end.

On September 3, Chipinge provincial magistrate Samuel Zuze sentenced Gift Mafuka to one year in prison with hard labor for insulting President Mugabe. Mafuka allegedly asked two children why they were wearing T-shirts picturing an old person (Mugabe) with wrinkles. His sentence was reduced by two months on the condition that he not call Mugabe "old" for the next five years. On November 23, Magistrate Samuel Zuze released Mafuka on \$100 bail pending an appeal filed against both his conviction and sentence. The appeal was pending at year's end.

The government continued to restrict freedom of the press. The Ministry of Media Information and Publicity (MMIP) controlled the state-run media. Government-controlled media generally portrayed the activities of ZANU-PF officials positively, portrayed other parties and antigovernment groups negatively, and downplayed events or information that reflected adversely on the government. High-ranking ZANU-PF officials, including President Mugabe, used the media to threaten violence against critics of the government. There were also credible reports that the MMIP permanent secretary, George Charamba, routinely reviewed state-owned media news and excised reports on the activities of groups critical of the government.

The four main independent domestic weekly newspapers continued to operate despite threats and pressure from the government. On June 4, *NewsDay*, an independent daily newspaper, began publishing in Harare and Bulawayo after receiving a license from the Zimbabwe Media Commission. The *Daily News*, which was banned in 2003, also resumed operations but had not resumed printing at year's end. The independent newspapers continued to criticize the "inclusive" government and ZANU-PF; however, they also continued to exercise some self-censorship due to government intimidation and the continuing prospect of prosecution under criminal libel and security laws.

Radio remained the principal medium of public communication, particularly for the rural majority. The government controlled all domestic radio broadcasting stations through the state-owned Zimbabwe Broadcasting Holdings (ZBH), supervised by the MMIP. On July 30, the government officially launched the Voice of Zimbabwe radio, a subsidiary of the state-controlled ZBH in Gweru. The popularity of independent shortwave and medium-wave radio broadcasts to the country continued to grow, despite government jamming of news broadcasts by radio stations based in other countries, including the Voice of America's Studio 7, SW Radio Africa, and Voice of the People.

Police increased radio seizures toward year's end. On October 12, police in Gweru raided the office of the Democratic Councils Forum (Demcof) and seized 862 solar radio sets to be distributed to rural areas in Midlands Province. Cleopas Shiri, Demcof training coordinator, was arrested, charged with customs violation, and released on bail on October 14. Shiri appeared in court for several hearings. The case was pending at year's end.

On October 26, police in Murehwa seized radios previously distributed by NGOs to villagers in the district. Police reportedly wanted to establish the reasons behind the radio distribution and whether they had cleared customs. In mid-November police in Matabeleland South Province raided NGOs and private residences for wind-up shortwave radios distributed by VOA's Studio 7 program.

The government controlled the only domestically based television broadcasting station, the Zimbabwean Broadcasting Corporation (ZBC). In May the ZBC launched a second news and entertainment channel that broadcast from noon to midnight. International satellite television broadcasts were available through private firms but were too expensive for most citizens. Most citizens relied on free satellite decoders with a selection of South African and gospel channels for entertainment, news, and information.

After years of using accreditation laws to prevent most major international media outlets and some local journalists from covering the country's elections, in July 2009 the government allowed CNN and BBC film crews back into the country. However, foreign journalists continued to report that government agents followed them and prevented them from covering certain news events.

For example, on February 12, police arrested a Mexican journalist who was filming potential tourist sites. The journalist, who was in a vehicle belonging to Minister of Tourism Walter Mzembe, and who had a letter of authorization signed by Mzembe, was released several hours after Mzembe's personal intervention.

Senior ZANU-PF officials repeatedly criticized both local and foreign independent media for what they deemed to be biased reporting meant to discredit President Mugabe and misrepresent the country's political and economic conditions.

In early January journalist Stanley Kwenda fled the country after he was reportedly threatened with death by a senior police officer, Chief Superintendent Chrispen Makedenge. Kwenda published a report describing the suicide of Makedenge's

wife after years of suffering abuse and threats by her husband. Kwenda returned to Zimbabwe in August without incident.

On February 10, police arrested Barnabas Madzimore and Fortune Mutandiro on the charge of writing and publishing falsehoods prejudicial to the state in the January 10 edition of *The Zimbabwean*. The story reported that Defense Minister Emmerson Mnangagwa and other leading members of the ZANU-PF party wanted to take control of the party. Madzimore and Mutandiro were initially arrested and released without charge on January 17.

On March 1, freelance journalist Andrison Manyere was arrested outside the High Court in Harare after filming the arrival of several men imprisoned since 2007 on allegations of plotting to overthrow the government. After seizing Manyere's camera, prison guards warned other journalists not to take pictures or footage of the suspects. Prison guards accused Manyere of filming without the permission of the commissioner of the Zimbabwe Prison Services. Manyere was held overnight and then released after paying an admission of guilt fine.

Security forces arbitrarily harassed and arrested local and foreign journalists who contributed to published stories critical of government policies or security force operations.

In March police arrested and detained Mashudu Metsianda, a journalist working for the government-controlled daily newspaper, the *Chronicle*, in Beitbridge after the newspaper published his story on police. The charge was later dropped.

On March 21, police detained freelance journalist Nunurai Jena at the Beitbridge border post after security officials discovered that he had tape-recorded Zimbabwe Revenue Authority (ZIMRA) officials as they searched and questioned passengers travelling with him on the bus from South Africa. The security officials asked why he had not declared the tape recorder at the border and why he had recorded proceedings in a protected area without ZIMRA authorization. Jena was released without charge four hours later after being ordered to delete the contents of the recorder.

On November 17, police in Bulawayo arrested and charged Nquobani Ndlovu, a journalist with the *Standard*, with criminal defamation for an article in the November 14 edition of the newspaper. Police interrogated Ndlovu about his sources, who claimed that the cancellation of the annual police examination was a ploy to hire war veterans and retired police officers ahead of the upcoming

election. On November 22, the magistrate court released Ndlovu on \$100 bail, a decision that prompted the government to invoke section 121 of the Criminal Procedure and Evidence Act, giving the government an additional seven days to appeal. On November 25, the High Court dismissed the appeal and ordered his immediate release. Ndlovu was released on November 26. Ndlovu's case continued at year's end.

On November 30, police in Harare arrested Nevanji Madanhire, Harare-based editor of *The Standard*, and charged him with criminal defamation in connection with the publication of a story by journalist Nquobani Ndlovu on police recruitment. Madanhire was released the following day on \$100 bail. The case continued at year's end.

In March 2009 police arrested editor Brezhnev Malaba and reporter Nduduzo Tshuma of *The Chronicle*, the government-controlled daily newspaper in Bulawayo, after they published a story alleging police involvement in a Grain Marketing Board corn scandal. On August 16, Magistrate Sibongile Msipa referred the case to the Supreme Court after Malaba's lawyer filed an application challenging the constitutionality of the charge. The case was pending at year's end.

In May 2009 police arrested *Zimbabwe Independent* editors Constantine Chimakure and Vincent Kahiya for publishing a story that revealed the role and names of police and intelligence agents in the abduction of human rights activists and charged them under the criminal code with publishing or communicating a statement with the intention of undermining public confidence in law enforcement agents (see section 1.b.). The matter was referred to the Supreme Court on June 3. The next hearing was scheduled to occur in March 2011.

In October 2009 police arrested freelance journalist Annie Mpalume in Manicaland Province's Chiadzwa diamond fields on allegations of entering a protected area without a pass. Mpalume was charged with violating the Protected Areas Act and released on bail; the case was pending at year's end.

There were no developments in the 2009 or 2008 cases of harassment, abuse, and detention of journalists.

The government continued to use the AIPPA to serve as the primary justification to control media content and licensing of journalists. The main provisions of the law give the government extensive powers to control the media and suppress free speech by requiring the registration of journalists and prohibiting the "abuse of free

expression." In 2008 the government amended the AIPPA in order to abolish the Media and Information Commission. During its existence, the commission, under the MMIP, denied many local and foreign journalists accreditation.

On April 28, the government adopted new regulations for the accreditation of journalists and the registration of media services and effectively instituted a new pricing regime for accreditation and registration. The new regulations significantly reduced the previously prohibitive fees. According to the regulations for a mass media service, the application fee was \$500 and the registration fee was \$1,500. Local journalists were required to pay a \$10 application fee and a \$20 accreditation. Local journalists working for foreign media paid a \$20 application fee and an accreditation fee of \$100, as opposed to \$1,000 and \$3,000 under the previous regime. A foreign media organisation wishing to set up an office in Zimbabwe paid a \$500 application fee and a \$2,000 operating license, as opposed to \$10,000 and \$20,000 previously. The application fee for a news agency was \$300 and the registration fee was \$1,000. The Zimbabwe Media Commission set June 4 as the deadline for the renewal of accreditation and registration but had not set a deadline for the submission of new applications. Practicing journalism without accreditation can incur a fine or maximum of two years' imprisonment.

In May 2009 the MMIP convened a media conference and pledged to repeal the AIPPA. At least four independent newspapers, including the *Daily News*, had been shut since its enactment in 2002. No further action to repeal the law was taken by year's end.

The government created the Zimbabwe Media Commission in December 2009 to succeed the Media and Information Commission and oversee media regulation, registration, and accreditation. The Zimbabwe Media Commission held its first meeting in March. The Broadcasting Authority of Zimbabwe, the regulatory body that licenses radio and television stations, was not formally constituted by year's end.

As of year's end, the government had not taken any action to repeal sections 79 and 80 of the AIPPA as ordered to do by the ACHPR in 2009.

The Broadcasting Services Act, which parliament's legal committee found to be unconstitutional when it was passed in 2001, was amended in 2008 to give the Broadcasting Authority of Zimbabwe autonomy over allocation of licenses. The amendment also eased foreign funding restrictions, although it left the

determination of how much foreign funding should be allowed to the discretion of the head of the MMIP.

In 2006 the government passed the General Laws Amendment Act (GLAA), which amended sections of POSA to allow authorities to monitor and censor "the publication of false statements that will engender feelings of hostility towards--or cause hatred, contempt, or ridicule of--the president or acting president." The GLAA imposes a prison term for any journalist who "insults the president or communicates falsehoods."

The criminal code makes it an offense to publish or communicate false statements prejudicial to the state. Legal experts criticized this section, saying that it imposes limits on freedom of expression beyond those permitted by the constitution.

The extremely broad Official Secrets Act makes it a crime to divulge any information acquired in the course of official duties. In addition, antidefamation laws criminalize libel of both public and private persons.

POSA and the criminal code grant the government a wide range of legal powers to prosecute persons for political and security crimes that are not clearly defined. The 2006 enactment of the amended criminal code consolidated a variety of criminal offenses, including crimes against public order, reportedly to amend progressive portions of POSA. However, the Institute for Justice and Reconciliation and the Solidarity Peace Trust reported that almost all the offenses in POSA were transferred to the criminal code, in some cases with drastic increases in penalties for violations. Failure to give police the requisite advance written notice of a meeting or demonstration remains an offense under POSA.

### Internet Freedom

There were no government restrictions on the Internet; however, the ICA permits the government to monitor all communications in the country, including Internet transmissions. Internet access was available, but due to a lack of infrastructure it was not widely accessed by the public beyond commercial centers. According to International Telecommunication Union statistics for 2009, approximately 12.3 percent of the country's inhabitants used the Internet.

### Academic Freedom and Cultural Events



The government continued to restrict academic freedom. The president is the chancellor of all five state-run universities and appoints all vice chancellors. The government has oversight of all higher education policy at public universities. The University of Zimbabwe Amendment Act and the National Council for Higher Education Act restrict the independence of universities, subjecting them to government influence and extending the disciplinary powers of the university authorities over staff and students.

In late August the Ministry of Education announced that female students who become pregnant during the academic school year would be allowed a three-month maternal leave and would no longer face automatic expulsion. Male students who were to become fathers would also be authorized a three-month leave. While designed to de-stigmatize teenage pregnancy, conservative groups loudly condemned the policy as encouraging teenage pregnancy.

CIO personnel at times assumed faculty and other positions and posed as students at the University of Zimbabwe and other public universities to intimidate and gather intelligence on faculty and students who criticized government policies and actions. CIO officers regularly attended all classes where noted MDC activists were lecturers or students. In response both faculty and students often practiced self-censorship in the classroom and their academic work.

According to the Students Solidarity Trust, a local NGO that provides assistance to student activists, approximately 190 students were arrested or detained, and approximately 10 students were expelled or suspended, for engaging in student activism between January and June, as compared with 134 students arrested or detained and 14 students expelled or suspended between January and June 2009. The NGO also reported seven cases of assault and four cases of torture and abduction during the same time period.

For example, on March 29, police arrested eight University of Zimbabwe students for participating in an allegedly illegal gathering. They were granted bail on March 31.

On June 15, police arrested and beat two student activists at the Masvingo Polytechnic College for allegedly assaulting the principal, theft, and malicious damage to property. In July police arrested two student activists, three University of Zimbabwe students, and five ZINASU activists in Bulawayo and Harare for participating in allegedly illegal gatherings or demonstrations on university campuses. All their cases were pending at year's end.

During the political and economic crisis in 2008, the government failed to provide students with adequate public education; however, during the year access to public education improved. In February 2009 the government began paying all civil servants, including teachers, a monthly stipend of \$100, which provided a significant incentive for teachers who had fled election violence and hyperinflation in 2008 to return to the classroom. In May 2009 the government increased salaries to approximately \$150. At the same time, in response to pressure from teachers and the public, the government also reduced school fees from between \$50 and \$150 to between \$10 and \$20 per trimester and eliminated school fees for teachers' children. Some teachers in affluent urban neighborhoods were reported to receive substantial salary increases from parents. There were no salary increases during the year.

On February 5, approximately 2,000 government workers, including teachers, initiated a strike in "demand" of higher wages, improved working conditions, and price cuts at government-controlled utilities. According to one estimate, teachers constituted approximately two-thirds of the country's 180,000 nonsecurity-sector civil service employees. Approximately 36,000 teachers participated in the strike, resulting in the closure of two-thirds of the country's public schools.

The government on occasion restricted human rights activists from using cultural platforms. For example, on March 26, police arrested Bulawayo artist Owen Maseko following the launch of a provocative exhibition on the Gukurahundi massacres. The artwork depicted political violence in the two Matabeleland provinces in the 1980s. One piece showed former vice president Joshua Nkomo and President Mugabe seated at a table signing the 1987 Unity Accord, with blood dripping from the ceiling on to Nkomo's shoulders. Police later covered the paintings with newspapers and blacked out the gallery's street-level windows. Maseko was charged with undermining the authority of President Mugabe and was released on a \$100 bail on March 30. At the September 13 hearing, the state sought to introduce a new charge of publishing or communicating falsehoods prejudicial to the government. Magistrate Ntombizodwa Mazhandu ruled that the state can bring a new charge only if the initial charge had been withdrawn. The state then withdrew the initial charge. On September 18, Magistrate Mazhandu granted an application to refer the matter to the Supreme Court, whereby the court will determine whether Maseko's freedom of expression had been violated. The case was pending at year's end.

On June 17, Michael Mabwe, cofounder and coordinator of Zimbabwe Poets for Human Rights, was called to the police station for allegedly contravening POSA by performing a poem that castigated the government's violation of human rights. Mabwe was released on the same day without charge.

In a government gazette published on August 27, Home Affairs Secretary Melusi Matshiya announced that it was illegal to depict the Gukurahundi as a tribal-based event. The ban targeted Owen Maseko's exhibition, which the government deemed tribal-based.

On August 31, Bulawayo Art Gallery Director Voti Thebe appeared in court for displaying Owen Maseko's exhibition. Thebe was released, but his trial was pending at year's end.

In early September the government cancelled work permits for the South African musical group Freshlyground ahead of its October 3 concert in Harare. The decision came after the band made a video, *Chicken to Change*, featuring satirical puppetry of President Mugabe.

On November 10, in Buhera, an unmarked vehicle with four CIO agents interrupted a performance on healing and reconciliation facilitated by three NGOs. The CIO agents questioned the facilitators about the script and the alleged political content of the play. Even though the producers had obtained clearance from the police, the agents questioned the facilitators on why clearance was not sought previously.

## b. Freedom of Peaceful Assembly and Association

### Freedom of Assembly

The constitution provides for freedom of assembly; however, the government restricted this right in practice. POSA does not require permits for meetings or processions, but it requires that organizers notify the police of their intentions to hold a public gathering, which by definition constitutes 15 or more individuals, seven days in advance. Failure to do so results in criminal prosecution as well as civil liability. In 2008 POSA was amended as part of constitutional amendment 18 to require police to go to a magistrate's court and state in an affidavit why a public gathering should not take place. Although many groups that held meetings did not seek permits, other groups informed the police of their planned events and were denied permission, or their requests went unanswered. Police insisted that their

permission was required to hold public gatherings and sometimes approved requests; however, they disrupted many events whether or not they were notified.

On January 18, police in Harare used batons to disperse a demonstration on education issues at the Ministry of Education. Police arrested three persons--WOZA member Thabita Taona, a journalist, and a bystander. The journalist and bystander were released the same day. Taona spent two nights in police custody before she was released.

On January 25, police in Bulawayo disrupted a peaceful march by 200 WOZA members and beat 11 participants. Six members were arrested and released several hours later without charge. The women were treated for soft tissue bruising.

On February 17, police arrested two women in Mutare one day after a peaceful Valentine's Day demonstration and a door-to-door search for persons who took part. The police found WOZA materials in their homes after an illegal search. The two women were subjected to intimidation and threats during their two nights in custody. They appeared in court on February 19 and were released after the police failed to produce evidence to support charges of criminal nuisance.

On September 20, in Harare, 83 WOZA and Men of Zimbabwe Arise members were arrested during a march to protest unprofessional police conduct. After two days in detention, they were released without bail. Police detained WOZA national coordinator Jenni Williams for two hours on September 22 for unlawfully addressing the 83 members after their release. Williams was released without charge.

On November 25, police in Nkayi in Matabeleland North arrested 17 MDC-T officials, some of whom were city councilors, on charges of holding a public meeting without police authority. The officials denied the charges and claimed that the alleged meeting was a private Christmas party. The officials were released, and a hearing was scheduled for January 2011.

According to a February report submitted by the Zimbabwe Lawyers for Human Rights to the Parliamentary Portfolio Committee on Home Affairs and Defence, at least 125 persons were arrested in 2009 for participating in gatherings and charged under either POSA or various provisions of the criminal code. In 2008 approximately 270 individuals, of a total of 1,446 human rights activists arrested or detained during the year, were charged with participating in unlawful gatherings under either POSA or the criminal code. None of the 2008 and 2009 cases with

connection to POSA or the criminal code had been successfully prosecuted by the government.

In June 2009 police in Harare used batons to disperse a march by approximately 700 WOZA members to commemorate the International Day of Refugees. Police arrested five demonstrators and three journalists. Four of the arrested demonstrators suffered severe deep tissue injuries, one had a broken finger, and two were unable to walk without assistance. In August 2009 the four were summoned to the police station to make statements and answer questions in connection with their assault. No further action was taken by year's end.

In September 2009 approximately 1,300 WOZA members in Bulawayo marched to commemorate the UN's International Day of Peace. One victim, Frances Vale, was unable to walk after being beaten by four police officers; he also suffered a fractured arm. Vale lost his job because his arm was improperly treated. He sued the police for damages, and the case was pending at year's end.

No further action was taken in the 2009 or 2008 cases in which opposition figures and civil society members were harassed or arrested by government authorities.

In response to continued unrest among student groups angered by increasing tuition, the government continued to harass university student unions and student demonstrators. On January 14, police in Bindura arrested 28 students from the Bindura University of Science on allegations that they contradicted university authority by claiming that the Ministry of Higher Education would not provide university students with their exam results until they had paid the school fees. They were acquitted in July after the government failed to make its case.

In August 2009, 14 ZINASU representatives were arrested at the University of Zimbabwe while speaking to students about school fees. The students were charged under the Criminal Law (Codification and Reform) Act for participating in a gathering with intent to promote public violence, breach of peace, or bigotry; they were granted bail by a Harare magistrate. During a hearing in September 2009, a magistrate conceded that the section of the law the students were accused of contravening had been found unconstitutional and repealed several years earlier. On August 26, the magistrate court removed the students from remand and advised the prosecutor to proceed by summons if he wished to bring the students to trial.

There were no developments in other student cases reported in 2009 or 2008.

## Freedom of Association

Although the constitution and law provide for freedom of association, the government restricted this right in practice. Organizations generally were free of governmental interference only if the government viewed their activities as nonpolitical. ZANU-PF supporters, sometimes with government support or acquiescence, intimidated and abused members of organizations perceived to be associated with other political parties. Suspected security force members visited the offices and inquired into the activities of numerous NGOs and other organizations that they believed opposed government policies.

In late November, Criminal Investigative Department (CID) officers in Chivhu disrupted a Transparency International (TI) community outreach event. Despite a police clearance obtained prior to the event from the Chivhu Central Police, the CID insisted that clearances must be obtained from all security departments and threatened TI staff with arrest for distributing fliers. TI members eventually gained permission from the police to resume; however, six CID and three police officers patrolled the event. The event was disrupted for a second time shortly after it began by three CIO agents. TI was subsequently ordered to cancel the event and leave Chivhu.

In early August the district administrator in Murehwa banned the NGO Crisis Coalition from conducting civic education activities in the area ahead of the constitutional outreach meetings by refusing to grant them clearance for the event.

The formation of political parties and unions was not restricted; however, security forces and ZANU-PF supporters continued to interfere with activities of both during the year. On May 8, police in Waterfalls arrested Job Shikhala, MDC-99 leader, citing contravention of the POSA for holding a meeting without police permission. The meeting in question was the launching of the MDC-99 political party. Shikhala was released several days after arrest. On June 8, he was acquitted after the police failed to produce evidence in the case.

On December 29, police barred the new political party, Zimbabwean African Political Union, from holding a public meeting at Tsholotsho Business Center on the grounds that they did not have sufficient manpower to cover the event.

### c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government restricted these rights in practice. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing assistance to refugees, asylum seekers, stateless persons, and other persons of concern but it interfered with some humanitarian efforts directed at internally displaced persons (IDPs).

Unlike in 2009, the government did not invoke travel bans on foreign correspondents; however, security forces continued to harass foreign journalists.

The constitution prohibits forced exile, and there were no reports that the government used it. A number of persons, including former government officials, prominent businessmen, human rights activists, MDC members, and human rights lawyers, left the country and remained in self-imposed exile.

The registrar general continued to deny passports based on his interpretation of the Citizenship Act. The act requires all citizens with a claim to dual citizenship to have renounced their claim to foreign citizenship by January 2002 to retain their Zimbabwean citizenship. The act revokes the citizenship of persons who fail to return to the country in any five-year period. However, the High Court ruled in 2002 that this interpretation does not take into account the fact that persons are not automatically assured foreign citizenship merely because their parents were born in a foreign country, as some countries require persons to confirm their citizenship, in which case they could be rendered stateless. It further held that it is incorrect to presume that, when persons have a parent or parents born out of the country, they are citizens of the other country by descent. In addition some countries, including countries in southern Africa, do not have a means to renounce citizenship. Independent groups estimated that as many as two million citizens may have been disenfranchised by the law, including those perceived to have anti-ZANU-PF leanings, such as the more than 200,000 commercial farm workers from neighboring countries and approximately 30,000 mostly white dual nationals. The problem became particularly acute during voter registration in late 2007 and during

the 2008 elections, when some were denied the right to vote--despite having voted previously--because they could not adequately demonstrate their citizenship.

### Internally Displaced Persons (IDPs)

According to the Internal Displacement Monitoring Center's 2009 estimate, between 600,000 and one million persons remained displaced within the country as a result of government policies, including state-sponsored election-related violence, land reform, and Operation Murambatsvina in 2005. According to an IDP assessment report conducted during the year, approximately one-third of the IDPs interviewed cited Murambatsvina as the cause of displacement. Nevertheless, the government denied that a serious IDP problem existed. Historically, the government did not tolerate use of the phrase "internally displaced persons" and instead referred to "mobile and vulnerable populations" (MVPs). In 2009 the government started acknowledging that there were some IDPs in the country and began to agree to use of the term when describing some populations. However, some government officials continued to refuse to describe victims of farm-related displacements as IDPs or MVPs and preferred to call them "squatters."

Estimates for the number of IDPs varied widely and were not supported by comprehensive surveys conducted on a national scale due to the sensitivity of the issue. According to the International Organization for Migration (IOM), new displacements documented were mostly from disputed farming areas. In 2009 the IOM documented the displacement of 3,500 households with another 1,600 deemed at risk of displacement due to verifiable threats or eviction notices. During the year the IOM documented 466 displaced households with another 527 households deemed at risk. Since 2009 the IOM has assisted more than 475 households with temporary shelter, more than 1,000 households with emergency shelter, and 1,500 households with transitional shelter. The IOM and World Food Program have assisted approximately 110,000 individuals with food assistance since 2009.

The government's campaign of forced evictions and the demolition of homes and businesses continued during the year under the land reform policy. For example, on August 25, police raided and burned an informal settlement at a race course in Harare. Approximately 50 armed police officers, accompanied by police dogs, arrived at the settlement and ordered an estimated 100 individuals to move. Police then began burning shacks and tents and beating the few who resisted. Nearly 55 individuals, including five minor children, were arrested and released the same day. Police initially denied a request for access by a ZLHR lawyer. The majority of



the individuals were employees of the race course, while the remaining were victims of Operation Murambatsvina. At year's end, ZLHR was in the process of assessing the property damage to file civil claims against the city of Harare, the police, and the Ministry of Home Affairs.

Beginning in late September, the government evicted approximately 1,750 households from resettled former commercial farm lands without any provisional planning to resettle the displaced population. As of early December, approximately 1,050 households remained at risk of displacement. Illegal farm settlers, former farm workers, and persons internally displaced from other parts of the country constituted the affected population, and a majority had resided on their land for many years without formal offer letters or title deeds. Eviction notices were served in the presence of the police and the army. The eviction, which initiated at the start of the rain and planting season, presented humanitarian challenges for the affected population, particularly in terms of food security and relocation options.

International organizations reported that the environment for humanitarian assistance operations had improved noticeably for the early part of the year. The government did not substantially restrict NGO ability to provide IDP assistance. No formal restrictions existed at the national level. In a few isolated cases, organizations were advised by local authorities not to travel to places where there were ownership disputes on certain farms where workers might be at risk. There were cases of the government interfering with aid distribution, notably in ZANU-PF strongholds, and linking the provision of assistance to "voluntary" work in the community.

Projection of an early election in 2011 led to an increasing politicization of humanitarian assistance at the community level toward the end of year. There were credible reports of ZANU-PF local councilors and officials in Mashonaland forming "committees" through which NGOs had to channel humanitarian assistance. As a result, MDC supporters were excluded from receiving subsidized farm inputs, food aids, and medicines.

In 2009 more than 5,000 farm workers and their families were affected by government-condoned eviction and demolition of homes and businesses. Approximately 3,300 families were forcibly displaced, sometimes violently, during government-condoned takeovers of commercial farms; an additional 1,800 farm workers and their families were allowed to remain on seized farms, but they remained at risk of displacement by new owners. According to a 2002 national census, the average household size was five persons per household, which

suggested that 25,000 persons might have been affected by the land reform program. Most were displaced from farms taken during the government's politicized land reform program. In previous years new farm owners often allowed the farm workers of the previous owner to remain on the property. However, in 2009 evictions increased and hundreds of workers' homes were burned by new proprietors.

Between April and June 2008, at least 30,000 persons were displaced in the wake of government-sponsored political violence and destruction of property, particularly in rural areas. In 2008, when violence levels in rural areas declined in the wake of political talks, many IDPs returned to or near their homes and were "fined" in food, animals, or money by local ZANU-PF militias. Many IDPs returned to their rural home areas and rebuilt homes damaged or destroyed in 2008, while others integrated into new communities within the country or in the diaspora. However, many families had not found permanent shelter or integration and continued to live in tents that were provided as temporary shelter. During the year the IOM started working with local authorities and communities to develop plans for integrating displaced families and affording them access to basic social services and living conditions.

#### Protection of Refugees

The country's law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

In law and practice, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The government maintained a formal encampment policy whereby refugees must live at the Tongogara refugee camp, with access to very basic services and accommodation. The UNHCR ran a transit center to host refugees from Tongogara with serious protection problems or who were in the process of resettlement interviews. However, the government's encampment policy posed limitations on refugees' freedom of movement and ability to earn a livelihood. In some cases, the government informally allowed refugees with special needs to live in urban centers. The government granted work permits to a few refugees, primarily those with special skills.

Some refugees lived in urban areas without the permission of the government and remained at risk of arrest and return to the refugee camp. Approximately one-quarter of the refugees lived in Harare at year's end. There were reports of arrests and returns to the camp during the year. There were also several cases of criminal allegations against refugees; in such cases, the UNHCR assisted the refugees in obtaining access to legal representation. The detention of potential refugees at the border due to illegal entry was also a problem, since the government lacked the budget and capacity to transfer them to Tongogara camp.

The UNHCR had a resettlement program that processed approximately 230 individuals for resettlement abroad during the year. The UNHCR was in the process of identifying up to 700 refugees for resettlement by year's end.

### Section 3    Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens with the right to change their government peacefully; however, this right was restricted in practice because the political process continued to be biased heavily in favor of ZANU-PF, which has dominated politics and government since independence in 1980.

#### Elections and Political Participation

Harmonized elections for the presidency, the House of Assembly, Senate, and local government were held in 2008. As in previous elections in 2000, 2002, and 2005, the preelection period was not free and fair. The environment was characterized by some violence and a media environment that heavily favored Mugabe. Although Tsvangirai was allowed to campaign, the police did not permit the MDC to hold all of its planned rallies, and some MDC activists were intimidated and beaten in the weeks before the election. Foreign journalists were not granted permission to cover the elections.

The law stipulates that the Zimbabwe Electoral Commission (ZEC) is responsible for maintaining and updating the voters' roll. However, the ZEC lacked the capacity to carry out these functions and relied heavily on the Registrar General of Voters Office to help it. In the weeks preceding the March elections, the registrar general and the ZEC did not ensure an open inspection of the voters' roll until they were compelled to do so by a court order. In 2009 a local NGO examined the voters' roll in its report *2013 Vision: Seeing Double and the Dead: A Preliminary Audit of Zimbabwe's Voters' Roll* and found numerous inaccuracies. Notably, the

report documented attempts to register voters at ghost addresses, multiple registrations of the same person in different constituencies, and an improbable number of registered voters over the age of 90.

The March 2008 election was largely peaceful, with international observers from African organizations present; international observers from Western nations were not invited. Domestic observers played a critical role in the 2008 election and observed both voting and vote tallying at polling places across the country. For the first time, election results were posted outside each polling station. At numerous polling places, observers photographed the final vote count sheet and distributed the images.

The March 2008 election results demonstrated a significant shift in the political environment. The MDC secured a majority in numerous local government councils and in the House of Assembly. Lovemore Moyo of the MDC-T was elected Speaker of the House by secret ballot, marking the first time for a member not affiliated with ZANU-PF to hold the position.

The results of the presidential race were not released for more than a month, calling into question the credibility and independence of the ZEC. According to the ZEC tally, the MDC-T's Tsvangirai obtained 47.9 percent of the vote, while Mugabe obtained 43.2 percent. Simba Makoni, an independent candidate, received 8.3 percent. Initially, the MDC-T challenged the results, asserting that Tsvangirai had secured the majority of votes needed to win the presidency. According to the ZEC tally, since no candidate secured the 50 percent-plus-one needed to win outright, a run-off election was set for June 2008.

The months leading to the run-off election were marred by widespread violence and intimidation perpetrated by the ZANU-PF government and its supporters. The violence left more than 150 dead, thousands injured, and tens of thousands displaced. In June 2008, in the wake of the violence, Tsvangirai announced that he would not contest the run-off election. Nevertheless, the government held the election, and in June 2008 the ZEC announced that Mugabe had won with more than 85 percent of the vote; he was inaugurated immediately.

Due to a government policy shift from the first round, the Zimbabwe Election Support Network (ZESN) and other domestic observers faced significant obstacles that prevented them from observing the June election. The government greatly reduced the number of accreditations from more than 8,600 in the harmonized election to 500 in the presidential run-off. Observers charged that the shortage of

accreditations was to curtail the ability of civil society to monitor the election, especially polling.

While the country did not allow citizens of most Western countries to observe the elections, it allowed election observer missions from three African groups: the Pan African Parliament, the SADC, and the African Union. Each group subsequently issued statements critical of the election, as did the leaders of a number of neighboring countries, including Botswana and Zambia.

Following domestic and international protests of Mugabe's inauguration, ZANU-PF and the MDC resumed negotiations, with former South African president Thabo Mbeki as lead SADC mediator. In September 2008, Mugabe, Tsvangirai, and MDC-M party leader Arthur Mutambara signed a power-sharing agreement, known as the GPA, to establish an "inclusive" government.

In January 2009, after several months of additional negotiations on the distribution of ministries and despite the abductions of MDC officials and Mugabe's reappointment of Reserve Bank governor Gideon Gono and appointment of Attorney General Johannes Tomana in violation of the GPA, Mugabe, Tsvangirai, and Mutambara agreed to implement an inclusive government. In February 2009 parliament passed constitutional amendment 19, which added to the government the positions of prime minister, two deputy prime ministers, and a number of additional ministries and deputy ministry positions. Passage of the amendment paved the way for the inauguration of MDC-T leader Tsvangirai as prime minister, alongside deputy prime ministers Arthur Mutambara and Thokozani Khupe. Forty-one ministers and 20 deputy ministers also were sworn into office.

In December 2009, several months after parliament submitted nominations to his office, President Mugabe named the members of three of four independent commissions, including the Media, Human Rights, and Electoral Commissions, as provided for in the GPA. On March 31, the president swore into office the Human Rights Commission, headed by prominent academic Reginald Austin, and the electoral commission, headed by former judge Simpson Mutambanengwe. President Mugabe had not appointed members to the Anticorruption Commission by year's end.

The GPA mandates the writing of a new constitution. In July 2009 the first All Stakeholders Conference was held in Harare to create a framework for the process. ZANU-PF supporters and war veterans disrupted the conference on its opening day, and it only resumed the following day after intervention by President Mugabe.

The Constitutional Parliamentary Committee (COPAC), with three cochairpersons from the MDC-T, MDC-M, and ZANU-PF, led the process. Seventy outreach teams, with 12 members in each team, were set up to solicit public input. The outreach process was scheduled to begin in November 2009, to be completed by February, with the draft to be voted on in a national referendum by July. COPAC officially began the outreach on June 18, seven months behind schedule; it was completed by October. The outreach effort was rife with reports of intimidation, disruption, harassment, arrest of MDC-T supporters and members of parliament, and precoaching conducted by ZANU-PF supporters. Contrary to expectation, there were few cases of violence and human rights abuses.

The cabinet agreed to amend portions of the Electoral Act in early July. The reforms, which had previously been agreed by the GPA negotiators, were designed to minimize election rigging by requiring presidential election results be announced within five days of voting, the voters' rolls be specific to polling stations, and electronic copies of the voters' roll be freely accessible. The amendments were pending approval by parliament at year's end.

President Mugabe continued to make unilateral decisions without consulting the other two principals in the government, as required by the GPA. For example, on May 20, President Mugabe appointed one judge to the Supreme Court and four to the High Court without consulting Prime Minister Tsvangirai and Deputy Prime Minister Mutambara. On July 24, President Mugabe reassigned the country's ambassadors and representatives to Russia, Italy, Sweden, and South Africa, and the UN without consulting his coprincipals in the inclusive government.

The ZEC was established in 2005 but was not constitutionally mandated until the passage of amendment 19. Under the amendment, the ZEC is charged with directing voter registration, maintaining the voters roll, conducting voter education, accrediting observers, and conducting elections. The ZEC consists of nine members, four of whom must be women, who are appointed by the president. The chairperson is appointed after consultation with the Judicial Service Commission, while the other eight are appointed from a list of nominees submitted by the Parliamentary Committee on Standing Rules and Orders. The ZEC also has provincial and district offices. President Mugabe announced the eight members of the ZEC in December 2009 and named Namibia-based Judge Simpson Mtambanengwe as chairperson on March 31. Since the ZEC's inception, observers have questioned its independence and impartiality.

The constitution empowers the ZEC to set the boundaries of parliamentary and local constituencies. The delimitation report was completed in 2008 without debate in parliament, in contravention of the constitutional requirement. The MDC and members of civil society criticized the delimitation of wards and constituencies as favoring ZANU-PF.

Although the constitution allows for multiple parties, ZANU-PF and security forces intimidated and committed abuses against other parties and their supporters and obstructed their activities.

Under the constitution, the president may unilaterally declare a state of public emergency for a period of up to 14 days. The GPA stipulates that the president must consult with prime minister prior to dissolving parliament, prior to appointing or removing a vice president and any minister or deputy minister, and prior to appointing eight provincial governors who sit in parliament.

In the 2008 elections the MDC-T won a majority of seats in city councils across the country. However, the government routinely interfered with MDC-led local governments. For example, on August 25, the ZANU-PF minister of local government, urban, and rural development suspended seven MDC-T councilors from the Harare City Council on the charge that they had illegally evicted widows and orphans from houses belonging to the council. Councilors Job Mbadzi and Herbert Gomba were acquitted, while Peter Marange was found guilty and given a warning. On December 6, councilors Silas Machetu, Maxwell Katsande, Paul Gorekore, and Johnson Zaranyika were convicted and dismissed from the council. The councilors appealed their conviction in the High Court; the case was pending at year's end (see section 4).

Under the Urban Councils Act, the Ministry of Local Government, Urban, and Rural Development has the power to appoint "special interest councilors" to local councils to represent special interest groups. Such appointments are intended to fill "gaps" by including members of business and civil society in the councils.

After the 2008 elections, there were 34 women in the 210-seat House of Assembly. Women won 23 of the 60 elected seats in the Senate, including the president of the Senate. One vice president, one deputy prime minister, five ministers, and two governors were women. Of the 270 elected positions in the House of Assembly and the Senate, 57 were filled by women, constituting 21 percent of the total, short of the SADC target of one-third for female representation. Women participated in politics without legal restriction, although according to local women's groups

husbands commonly directed their wives to vote for the husbands' preferred candidates, particularly in rural areas. The ZANU-PF congress allotted women one-third of party positions and reserved 50 positions for women on the party's 180-member central committee, which was one of the party's most powerful organizations.

There were 11 members of minority groups in the cabinet, including Deputy Prime Minister Thokozani Khupe; former vice president Joseph Msika, who died in August 2009, and his replacement selected by the ZANU-PF party congress; and Vice President Joshua Nkomo, who was sworn in on December 2009. There were 46 members of minority groups in the House of Assembly, including three whites.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively and impartially, and officials frequently engaged in corrupt practices with impunity. According to World Bank Worldwide Governance Indicators, corruption was a severe problem. Implementation of the government's redistribution of expropriated white-owned commercial farms often favored ZANU-PF elite and continued to lack transparency. High-level ZANU-PF officials continued to select numerous farms and register them in the names of family members to evade the government's policy of one farm per official. The government continued to allow individuals aligned with top officials to seize land not designated for acquisition. Public officials were not subject to financial disclosure laws.

Corruption was particularly pervasive in local government where officials abused their positions and government resources openly and with impunity. According to Transparency International-Zimbabwe's (TIZ) Advocacy and Legal Advice Center (ALAC), a total of 642 corruption-related complaints were received between April 2009 and April 2010; the vast majority of complaints received in 2009 came from urban residents complaining about local government bribery, misappropriation of government resources, and abuse of power. Local councilors' control of the designation and allocation of new land lots for residential and commercial use led to numerous allegations of bribe attempts and rent-seeking opportunities. Local government officials also demanded bribes or excessive fees for "expediting" paperwork, including birth certificates, passports, and licenses. Allegations of corruption were reported for both ZANU-PF and MDC-T councilors.



For example, in Chitungwiza, a high density suburb outside of Harare, MDC-T councilors were unable to deliver city services largely due to council corruption and a lack of oversight and accountability. In response the MDC-T expelled all of the MDC-T councilors in Chitungwiza from the party early in the year. However, the expelled councilors remained in their elected positions and continued to serve as independent councilors at year's end.

Corruption occurred at every level of the police force but took different forms depending on position, rank, or location. At the lower levels, corrupt officers extorted nominal to exorbitant fees for varying offenses from the public in an effort to augment their low salaries. However, numerous reports of corrupt police officials being investigated and arrested for criminal activity appeared throughout the year. Armed police continued routinely to erect roadblocks in and around cities and rural districts, claiming to be looking for criminals, smuggled goods, and food. However, in many cases police arbitrarily seized goods for their own consumption or extracted bribes from commuters.

Constitutional amendment 19 requires that a previous anticorruption commission be disbanded and a new one appointed. The commission members had not been named by year's end.

In early January the MDC-T set up a 13-member team to investigate reports of alleged corruption by its cabinet ministers, law makers, and councilors. Prosecutions for corruption continued but were selective and generally seen as politically motivated. The government targeted MDC-T officials, persons who had fallen out of favor with ZANU-PF, and individuals without high-level political backing. On March 15, Justice and Legal Affairs Minister Patrick Chinamasa claimed that corruption was rampant among legal practitioners, both in public and private practice, and blamed leading criminal lawyers for bribing magistrates and prosecutors. Chinamasa also cautioned prosecutors against recklessly invoking a section of the CPEA, which allows the police to keep the accused in custody for an additional seven days after the granting of bail to allow the government to appeal a decision to grant bail. In practice Chinamasa did not enforce this policy.

On April 7, police arrested two Harare city councilors, Casper Takura and Warship Dumba, on the charge of criminal defamation for their involvement in a report that exposed illegal business dealings between businessman Phillip Chiyangwa and Local Government Minister Ignatius Chombo (ZANU-PF). The report documented how city-owned properties were sold to Chiyangwa in violation of city policy and law, and how Chombo and city council employees illegally sold property between

2005 and 2009. Takura and Dumba were released without charge. Chiyangwa sued the mayor of Harare, Muchadeyi Masunda, and nine councilors for criminal defamation in connection with the same report. The trial began on May 6 and was postponed to allow the High Court to deal with a separate application by the mayor and councilors challenging the magistrate's decision to place them in detention. On November 2, Chiyangwa withdrew the charges against the mayor and councilors. On August 25, Chombo suspended seven MDC-T councilors from the Harare City Council, accusing them of illegally evicting widows and orphans from council houses. The MDC-T denounced this move as part of a ploy to frustrate the investigation into the allegations against Chiyangwa, Chombo, and the city council employees. Chombo set up an independent disciplinary committee to conduct hearings on the allegations. The committee acquitted two councilors, Job Mbadzi and Herbert Gomba, and found Councilor Peter Marange guilty. The other four councilors, Silas Machetu, Maxwell Katsande, Paul Gorekore, and Johnson Zaranyika, were convicted and dismissed from the council on December 6. The four councilors appealed their conviction in the High Court; the case was pending at year's end.

On June 28, police arrested businessman and prominent ZANU-PF member Temba Mliswa for fraudulently taking over a car accessory company in Harare. Mliswa was arrested along with Martin Mutasa, son of the ZANU-PF minister of presidential affairs, after publically accusing Commissioner General Augustine Chihuri of corruption. Mliswa was released on bail on July 5 but was continuously rearrested on new charges following his release. He was finally released on \$1,000 bail on August 10 after nearly six weeks of incarceration. Mliswa faced more than 70 charges related to the alleged illegal seizing of farms and farm equipment since 2002. On December 22, the court acquitted Mliswa of some of the fraud and extortion charges, citing insufficient evidence; however, testimony during the trial indicted that Mliswa's extensive list of alleged crimes was committed with the complicity, participation, and knowledge of several senior ZANU-PF, military, and police officials. Other charges were pending at year's end.

In March 2009 Brigadier General Douglas Nyikayaramba, head of a committee to administer the provision of farming inputs, namely seed and fertilizer, named nine MPs whom he stated had abused a program that provided inputs to legislators by taking more inputs than they were allocated. Those accused included MDC-T MPs Evelyn Masaiti, Ernest Mudavanhu, Hamandishe Maramwidze, Edmore Marima, Heya Shoko, Ransome Makamure, and Tachiona Mharadza. ZANU-PF MPs Tranos Huruba and Ivine Dzingirayi were also accused. Mudavanhu was released on bail in September 2009 pending appeal. Makamure, Marima, and Shoko were

acquitted in 2009. Dzingirayi, Masaiti, and Mudavanhu were acquitted during the year; the remaining case was pending at year's end. Convicted MPs could lose their seats in parliament.

There were reports that ZANU-PF officials in the government removed persons perceived to be MDC supporters from the civil service and the military. There also were reports that the government assigned soldiers and youth service members to work in government ministries. It was common for the minister of local government to appoint ZANU-PF supporters to bureaucratic positions in MDC-led local governments. City public administrators reportedly earned hugely inflated salaries. In August 2009 the comptroller and auditor general submitted a report to parliament that documented significant irregularities within the Ministry of Youth Development, Indigenization, and Empowerment. Notably, the report stated that there were more than 10,000 names on the ministry's payroll that were not reflected in human resources records and that 458 persons were listed twice.

NGOs documented numerous cases of public officials soliciting bribes to allocate lots and market stalls in the major cities. For example, there were reports that the Chitungwiza local council artificially lowered prices for residential stands to \$200, while the market value was closer to \$2,500, and collecting large bribes from well-connected individuals.

In December 2009 the MDC-T announced it was suspending MDC-T mayor of Chitungwiza, Israel Marange, and several other MDC-T officials who were accused of corruption. Minister of Local Government Chombo, however, refused to dismiss the councilors, saying the issue was internal to the MDC-T. The councilors continued to serve at year's end.

In April 2009, TIZ's ALAC began an anticorruption campaign by inaugurating a toll-free hotline for residents to report corruption, seek free legal advice, and propose solutions to prevent corruption. TIZ also established a monthly newsletter to discuss hotline complaints. Although the hotline was initially advertised in government-controlled media, in August 2009 the national public broadcaster, Zimbabwe Broadcasting Holdings, refused to carry TIZ's advertisements. Many hotline callers complained about police soliciting bribes at traffic stops, corruption in the allocation of vending stalls, and officials' misappropriation of funds. The complainants were also disgruntled about the ineffectiveness of public institutions mandated to fight corruption, including the police and the Anticorruption Commission.

The government stated that the AIPPA was intended to improve public access to government information; however, the law contains provisions that restrict freedom of speech and press, and these elements of the law were the ones the government enforced most vigorously.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operated in the country, investigating and publishing their findings on human rights cases; however, they were subject to government restrictions, interference, monitoring, and harassment. Domestic NGOs worked on human rights and democracy issues, including lobbying for revision of POSA and the AIPPA; election observation; constitutional and electoral reform; increasing women's access to the courts; raising awareness of the abuse of children; conducting civic education; advocating for the independence of the judiciary; and combating torture, arbitrary detention, and restrictions on freedom of the press and assembly. Major domestic independent human rights organizations included the Crisis in Zimbabwe Coalition, Zimbabwe Human Rights NGO Forum, ZESN, ZLHR, Zimbabwe Peace Project, National Constitutional Assembly (NCA), Students Solidarity Trust, and WOZA.

The government continued to use the government-controlled media to disparage and attack human rights groups. Articles typically dismissed the efforts and recommendations of NGOs that were considered critical of the government as efforts by groups that merely did the bidding of Western governments.

During the year police arrested or detained NGO members, often in connection with demonstrations or marches; several were beaten during arrest and tortured while in custody. Numerous NGO members died in postelection violence in 2008.

On March 23, police in Harare arrested Zimbabwe Human Rights Organization (ZimRights) director Okay Machisa for planning an exhibition of 65 photographs showing a range of images from the 2008 election. Machisa was released several hours later after Prime Minister Tsvangirai pressured co-minister of home affairs Giles Mutsekwa to secure his release. On March 24, High Court judge Samuel Kudya ordered that the photos be released within an hour and ordered the police not to intervene in the exhibition. The photos arrived at the gallery only a few minutes before Tsvangirai's arrival to open the exhibit. After his departure, police returned to the gallery three times to search for the photos and Machisa and

demanded entry without a warrant. ZimRights staff removed the photos from the gallery prior to the police return and denied entry throughout the night. On April 26, police arrested Joel Hita, ZimRights regional chairperson for Masvingo, and three other employees for organizing the same photo exhibition without notifying the police. The case was pending at year's end.

The government harassed some NGOs it believed opposed government policies, investigated their activities, and harassed their leaders. For example, on May 27, police in Mutare raided the office and residence of the Center for Research and Development director Farai Maguwu and arrested Lisben Maguwu. Lisben was charged with obstructing justice by assisting Farai Maguwu to escape through a window. Farai Maguwu went into hiding and, accompanied by lawyers, turned himself in on June 3. He appeared in court on June 8 and was detained illegally for more than 48 hours. While in police custody, he developed bronchitis; however, police denied him access to private medical care despite multiple court orders. The government initially charged him with communicating information prejudicial to the state to Kimberly Process Certification Scheme monitor Abbey Chikane. The government then charged him with communicating information that was prejudicial to the state's economic interest to human rights activists Gabriel Shumba, Tor Hugne-Olsen, and Anton Dekker. The magistrate court repeatedly denied bail, citing the gravity of the charge and the ongoing investigation. On July 12, the High Court granted bail on an appeal of the bail denial at the magistrate court. Bail conditions included \$1,500, daily reporting to the Mutare police station, restricted movement in Mutare, and surrender of his international passport. In July police in Mutare called Farai Maguwu to the police station for driving a car alleged to be stolen. The magistrate court relaxed the bail conditions on August 17. On October 22, Magistrate Vongai Muchuchuti acquitted Farai Maguwu after the government withdrew its case.

Representatives of international and foreign NGOs were arbitrarily harassed. For example, on September 9, police arrested four foreigners along with two members from the Allen Temple AIDS Ministry on the charge of practicing medicine without the supervision of a pharmacist. The four pled not guilty and were released on September 13 on \$200 bail each. The case was pending at year's end.

In 2007 parliament unanimously approved constitutional amendment 18, which provides for the establishment of a parliamentary human rights commission; this was reiterated in amendment 19, which was adopted by parliament in February 2009. In December 2009 President Mugabe announced eight members of the

Human Rights Commission, four of whom are required to be women, and, on March 31, named Namibia-based academic Reginald Austin as chairperson.

## Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law provide that no person can be deprived of fundamental rights, such as the right to life, liberty, and security of person, based on one's race, tribe, place of origin, political opinions, color, creed, gender, or disability; however, the constitution allows for discrimination, primarily against women, on the grounds of "customary law." Discrimination against women and persons with disabilities persisted. The government and ZANU-PF continued to infringe on the right to due process, citizenship, and property ownership in ways that affected the white minority disproportionately.

### Women

The law makes rape and nonconsensual sex between married partners a crime; however, few cases of rape, especially spousal rape, were reported to authorities because women were unaware that spousal rape was a crime and feared losing the support of their families, particularly in rural areas. Government statistics on rape were unavailable, but anecdotal evidence indicated it remained a widespread problem. The criminal code defines sexual offenses as rape, sodomy, incest, indecent assault, or immoral or indecent acts with a child or person with mental disabilities and provides for penalties up to life in prison for sexual crimes. Police acted on reported rape cases not associated with political violence, and the government media frequently published stories denouncing rape and reporting convictions. In many cases, the survivors knew their rapists. The criminal code also makes it a crime to knowingly infect anyone with HIV and provides for penalties up to five years in prison. Local NGOs dealing with women's rights reported that rape cases were brought to the court and there were convictions; however, statistics were unavailable. Children born from rape suffered stigmatization and marginalization if their mothers or extended families failed to report the rape and failed to register their births.

Rape survivors seldom received protection in court under law. For example, in August, Mildred Mapingure filed a suit against the government, claiming \$52,000 in damages for wrongful birth. Mapingure was raped by armed robbers and became pregnant. She reported the rape to the police and applied for termination of pregnancy in accordance with the Termination of Pregnancy Act. The courts delayed hearing the matter and granted Mapingure authority to terminate the

pregnancy only when she was seven months pregnant. The doctors refused to terminate the pregnancy at that advanced stage and she gave birth as a result.

During the year, two adult rape clinics were set up in public hospitals in Harare and Mutare. The clinics were designed to receive referrals from the police and NGOs working with rape survivors and to administer HIV tests and provide medicines to prevent HIV infection, other sexually transmitted diseases, and pregnancy. The clinics could collect evidence and give medical examination that could be used for court processes. According to one medical NGO, the clinics were well organized but had been poorly advertised due to fear that their capacity could not meet likely demand.

In November 2009 the IOM, UNICEF, and the UN Population Fund created a one-stop center project for gender-based violence survivors. One one-stop center and three general centers were set up around the country. The announcement came in response to a survey that found that the country's social, political, and economic instability had led to an increase in sexual abuse of women, girls, and some boys. More than 50 percent of the 1,900 persons interviewed, both male and female, reported that they had been raped. Nearly half of the respondents stated that they did not know what to do to cope with rape experiences.

Domestic violence against women, especially wife-beating, continued to be a serious problem. The Musasa Project, a local NGO that worked for the protection and promotion of women's rights, reported that many women in the country were in an abusive marital relationship. Most cases of domestic violence went unreported, due to traditional sensitivities and the women's fear of abandonment without support. Authorities generally considered domestic violence to be a private matter and usually only arrested an offender for assault if there was physical evidence of abuse. There were newspaper reports of wife killings, and there were a few reports of prosecutions and convictions for such crimes; however, details were unavailable.

In 2007 the government enacted the Domestic Violence Act, which criminalizes domestic violence and provides enhanced protection for victims of abuse; the act was viewed as a milestone by women's rights groups. The law provides for a fine and a maximum prison sentence of 10 years. The Ministry of Women's Affairs, Gender, and Community Development and local women's groups coordinated efforts to develop an implementation strategy after the act passed parliament in 2006. In October 2009 the ministry created an 11-member Anti-Domestic Violence Council to monitor the implementation of the act, with members drawn from

government, civil society, churches, and traditional leaders. The council was ineffective, due to the unavailability of statistics and information on prevailing trends of domestic violence and lack of funding.

The government continued a public awareness campaign about the act. Several women's rights groups worked with law enforcement and provided training and literature on domestic violence as well as shelters and counseling for women. However, the high turnover rate within the police force demanded a continuous level of training that could not be met. Local women's rights groups reported that awareness of the domestic violence act increased; however, the press reported that the act proved difficult to implement. For example, one impediment was the police form to report domestic violence: not only was it difficult to complete, but due to budget constraints police would ask victims to make their own photocopies of the form.

Labor legislation prohibits sexual harassment in the workplace, and an employer may be held liable for civil remedies if found to be in violation of provisions against "unfair labor practices," including sexual harassment. Penalties for these violations are not specified in the law. Women commonly faced workplace sexual harassment, government enforcement was not effective, and there were no reports of any prosecutions during the year.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Inadequate medical facilities, including a lack of electricity and medication, contributed to a relatively high maternal mortality ratio of 880 deaths per 100,000 live births. HIV/AIDS disproportionately affected females and was the major contributing factor to maternal deaths in the context of a weakened health delivery system. According to UNICEF's November 2009 Multiple Indicators Monitoring Survey (MIMS), 65 percent of women who were married or in a union used modern methods of contraception. Approximately 60 percent of births were attended by skilled attendants, while 40 percent of women gave birth at home. Half of the mothers between the ages of 15 and 19 delivered their babies at home. Approximately 93 percent of women received prenatal care during pregnancy at least once. There was no information available on whether women were equally diagnosed and treated for sexually transmitted infections, including HIV.

Despite laws aimed at enhancing women's rights and countering certain discriminatory traditional practices, women remained disadvantaged in society.



Economic dependency and prevailing social norms prevented rural women in particular from combating societal discrimination. Despite legal prohibitions, women remained vulnerable to entrenched customary practices, including pledging young women to marry partners not of their choosing and forcing widows to marry the brothers of their late spouses.

The law recognizes women's right to own property independently of their husbands or fathers; however, many women continued to be unaware of their property and inheritance rights. Divorce and maintenance laws were equitable, but many women lacked awareness of their rights. Women have the right to register their children's birth; however, in practice either the fathers or male relatives must be present. On June 3, the Supreme Court ruled in *Margaret Dongo v. Registrar General* that the registrar general has no right to bar mothers from obtaining passports for their children. The ruling followed a constitutional challenge filed against the discriminatory effect of the Guardianship of Minors Act, whereby the legal guardianship of minor children born in wedlock is vested only in their fathers. Justice Rita Makarau ruled that the application for a passport is not a judicial act and that the exclusive assistance of the minor child's legal guardian is not a legal requirement.

Women and children continued to be adversely affected by the government's forced evictions, demolition of homes and businesses, and takeover of commercial farms. Many widows who earned their income in the informal economy or by renting cottages on their property lost income when their market stalls or cottages were destroyed. Widows faced particular difficulties when forced to relocate to rural areas.

The Ministry of Women's Affairs, Gender, and Community Development continued its efforts to advance women's rights. The ministry, through collaboration with local NGOs, continued training workshops for traditional leaders in rural communities to create more awareness of women's issues. The government gave qualified women access to training in the armed forces and national service. Although there were advances for women within the armed forces in recent years, they continued to occupy primarily administrative positions. In recent years, women progressed in health and education but in general were concentrated in the lower echelons of the workforce, especially in the financial industry. Women held positions of importance in the legislative and executive branches of the government.

NGOs reported that anecdotal evidence indicated that women experienced economic discrimination, including in access to employment, credit, pay, and owning or managing businesses.

Several active women's rights groups concentrated on improving women's knowledge of their legal rights, increasing their economic power, combating domestic violence, and protecting women against domestic violence and sexual transmission of HIV/AIDS. The government established the National AIDS Trust Fund to levy a 3 percent tax on incomes of individuals in formal employment and corporate entities.

### Children

Citizenship is derived from birth in the country and from one's parents, and every birth has to be registered with the Births and Deaths Registry. The 2003 Citizenship Amendment Act significantly changed citizenship laws and resulted in statelessness for some persons who were born to foreign-born parents (see section 2.d.). Not all births were registered immediately, particularly if a child was born in a rural area outside a government hospital. Other reasons for failure to register births included fathers being absent or lacking time to register, parents not having a national identity card or birth certificate, the high cost of registration, and proximity to a place of registration. The failure to register all births resulted in some difficulties in accessing public services, particularly education and identification documents.

Although legislation existed to protect children's rights, it was difficult to administer and enforce, primarily due to a lack of resources. Many orphaned children were unable to obtain birth certificates, which the Child Protection Society reported made it difficult for the children to enroll in school and access health services; however, the government made improvements in 2007 by decentralizing the authority to issue birth certificates to local registrar general offices throughout the country. According to the UNICEF's MIMS, 37 percent of children under five years of age possessed birth certificates.

Schools and clinics operated in most communities, although many families struggled to pay fees and purchase educational materials for their children. According to statistics from UNICEF, one-quarter of the country's children were orphans, of which approximately 70 percent were orphaned due to HIV/AIDS. Orphans and vulnerable children (OVC) together constituted 37 percent of the country's children, and approximately 80 percent of OVCs did not receive any

form of external support. An estimated 100,000 children lived in child-headed households. Data on street children was not available at year's end.

In 2007 the Ministry of Public Service, Labor, and Social Welfare and UNICEF formalized agreements with 21 NGOs to advance the National Action Plan for OVCs, which was designed to ensure that OVCs were able to access education, food, health services, and birth registration and were protected from abuse and exploitation. UNICEF reported that by February the NGOs involved had reached more than 800,000 OVCs with comprehensive support and protection since the beginning of the program.

Primary education is not compulsory, free, or universal. According to the UNICEF's MIMS, 92 and 90 percent of female and male children of primary school age, respectively, attended primary school. Ninety-four percent of children of primary school age attended school in urban areas compared with 90 percent in rural areas. In 2009 the Ministry of Education, Sport, Art, and Culture drastically reduced school fees, particularly in rural areas, to increase enrollment. However, due to a lack of funding from the central government, some schools began to charge levies of up to several hundred dollars for the school year, which were prohibitive for many students. Some children continued to pay school fees and levies with crops and livestock if they did not have adequate hard currency. Despite a directive from the minister of education that no child should be refused education for not paying school fees, there were reports that students with unpaid fees were locked out or turned away from schools.

Continuing economic hardship, displacement of thousands of children from their homes as a result of election-related violence in 2008, farm-related violence during the year, emigration of qualified teachers, and distance of the closest schools continued to affect enrollment rates. According to UNICEF, 71 percent of children who were not enrolled in school did not attend in 2009 because of financial constraints. In most regions of the country, fewer girls than boys attended secondary school. If a family was unable to pay tuition costs, it was most often female children who left school or never began. The Child Protection Society reported that girls were more likely to drop out because they were more readily employable, especially as domestic workers.

Child abuse, including incest, infanticide, child abandonment, and rape, continued to be serious problems. Police statistics showed that reports of child rape tripled between 2005 and 2007. Anecdotal evidence suggested that a relative or someone who lived with the child was the most common abuser. Girl Child Network (GCN)

reported that girls believed to be virgins were at risk of rape due to the belief among some that having sex with a virgin would cure men of HIV/AIDS. In 2008 UNICEF and the government launched the Stand Up and Speak Out child abuse awareness and prevention campaign. In October 2009 the NGO Plan Zimbabwe and the Ministry of Education, Sport, Art, and Culture launched the Learn Without Fear campaign, aimed at eradicating child abuse in schools. The campaign began after a study found that many children had been victims of unreported sexual and physical abuse by their teachers and peers. During the year the GCN reported an increase in the reports of violence in schools, with numerous cases of children suffering serious injuries from corporal punishment.

The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued, as did arranged marriage of young girls. The legal age for a civil marriage is 18, although 16- and 17-year-old girls could marry with their parents' approval. Customary marriage, recognized under the Customary Marriages Act, does not provide for a minimum marriage age for either boys or girls; however, the criminal code prohibits sexual relations with anyone younger than 18 years of age. According to UNICEF, one-third of women married when they were under 18 years of age, and 5 percent of women married when they were under 15 years of age. Approximately 21 percent of young women between the ages of 15 and 19 were married or in a union. Child welfare NGOs reported that they occasionally saw evidence of underage marriages, particularly in isolated religious communities or among HIV/AIDS orphans who did not have relatives willing or able to take care of them.

Statutory rape, legally defined as sexual intercourse with a child under the age of 12, carries a fine of \$2,000, imprisonment up to 10 years, or both. A person in possession of child pornography can be charged with public indecency and faces a fine of \$600, imprisonment up to six months, or both. Child prostitution carries a fine of \$200, imprisonment up to six months, or both. Those charged with child prostitution were often also charged with statutory rape. A parent or guardian who causes or allows a child under 18 years of age to associate with or become a prostitute could face up to 10 years in prison.

Traditionally, the government gave preference to National Youth Service (NYS) graduates among those seeking employment in the government, especially in the security forces. From the time of its inception in 2000 until its suspension in 2007, an estimated 80,000 NYS youths underwent militia training at more than 150 training camps across the country. The stated purpose of the training camps was to instill national pride in youth, highlight the history of the struggle for

independence, and develop employment skills; however, news reports quoted deserters as stating that the camps subjected trainees to partisan political indoctrination as well as military training. There were numerous credible reports that graduates were used by the government to carry out political violence, human rights violations, and intimidation. There were numerous reports from NGOs that children as young as 16 participated in ZANU-PF affiliated youth militias, which perpetrated violence across the country during the 2008 election period. After the program's suspension in 2007, some participants were absorbed into the country's security structures, including the army, prisons, air force, intelligence organization, and police. Persons under the age of 18 are prohibited from joining the military or police.

There were approximately one million orphans and OVCs in the country. One of the biggest contributing factors was the high HIV/AIDS rate. Approximately 13 percent of the population was infected, and an estimated 2,214 persons died per week. The vast majority of orphans were cared for by the extended family. Many grandparents were left to care for the young and, in many cases, children or adolescents headed families and were forced to work to survive. Orphaned children were more likely to be abused; not to be enrolled in school; to suffer discrimination and social stigma; and to be vulnerable to food insecurity, malnutrition, and HIV/AIDS. Extended families and communities often refused to take orphans due to fear that they or their own children might contract HIV. Some children were forced to turn to prostitution for income.

UNICEF estimated that at least 10,000 children were displaced in election-related violence in 2008. Several thousand were also displaced with their parents as a result of farm-related violence and evictions in 2009. At year's end, NGOs were uncertain how many children remained affected. Economic hardships and the government's lack of support for social welfare institutions contributed to a highly vulnerable population of street children throughout the country. NGOs operated training centers and homes for street children and orphans, and government officials referred children to these centers.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html), as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html).

### Anti-Semitism

The Jewish community numbered approximately 270 persons. There were no reports of anti-Semitic acts or underlying pattern of discrimination.

### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

### Persons with Disabilities

The constitution and law prohibit discrimination against persons with disabilities in employment, access to public places, and the provision of services; however, the law was not widely known or implemented by government institutions. The lack of resources devoted to training and education severely hampered the ability of persons with disabilities to compete for scarce jobs. The law stipulates that government buildings be accessible to persons with disabilities, but implementation was slow. NGOs continued to lobby to include persons with albinism in the definition of "disabled" under the law. Persons with disabilities faced harsh societal discrimination. Traditional belief viewed persons with disabilities as bewitched and, consequently, as persons who should be locked away; children with disabilities often were hidden when visitors arrived.

Children with disabilities were discriminated against in educational institutions. The unavailability of essential services, including sign language interpreters, Braille materials, and ramps prevented children with disabilities from attending school. Many schools refused to accept children with certain disabilities.

According to the National Association of Societies for the Care of the Handicapped, persons with disabilities continued to be a forgotten and invisible group in society. For example, although an estimated 10 percent of citizens had disabilities, they were marginalized from HIV/AIDS intervention programs. The organization also reported that only 33 percent of children with disabilities had access to education.

Persons with mental disabilities also suffered from inadequate medical care and general provision of health services. There were eight centralized mental health institutions in the country with a holding capacity of more than 1,300 patients. The eight institutions were allocated approximately 1 percent of the Ministry of Health's

budget. Inpatients received cursory screening, and most waited for at least one year for a full medical review. A shortage of drugs and adequately trained mental health professionals resulted in patients not being properly diagnosed and not receiving adequate therapy. There were fewer than 10 certified psychiatrists working in public and private clinics and teaching in the country. There was a 50 percent vacancy rate for psychiatric-trained nurses; more than 90 percent of the available psychiatric services were provided at the mental institution in Bulawayo. NGOs reported patients being subjected to deplorable living condition in terms of food, water, clothing, and sanitation. Budgetary constraints and low holding capacity at these institutions resulted in persons with mental disabilities being kept at home and cared for by family, normally under chains and without treatment. No social workers worked on the issue of reintegration for recovering patients.

The amendments to electoral laws changed voting procedures for persons with disabilities. In 2008 the ZEC issued a notice explaining that "only the presiding officer and two other electoral officers or employees of the commission will assist any voter who requests to be assisted." Some groups complained that this ruling violated persons with disabilities' right to cast their votes in secret. Ahead of the June 2008 run-off election, there were widespread reports that ZANU-PF militias and war veterans instructed voters to claim blindness at the polling place in order to be assisted to vote for Mugabe. In 2009 the National Association of Societies for the Care of the Handicapped launched a five-year program to provide civic education to persons with disabilities with the goal of encouraging greater civic participation.

The government broadcast a regular, prime-time program on state radio to promote awareness of the rights of persons with disabilities.

#### National/Racial/Ethnic Minorities

According to government statistics, the Shona ethnic group makes up 82 percent of the population, Ndebele 14 percent, whites and Asians less than 1 percent, and other ethnic groups 3 percent. There was some tension between the white minority and other groups, and in numerous instances ZANU-PF leadership manipulated this tension to further their political agenda. Historical tension between the Shona majority and the Ndebele minority caused the latter to perceive itself as marginalized by the Shona-dominated government.

The government continued its attempts to attribute the country's economic and political problems to the white minority and Western countries. ZANU-PF

supporters seldom were arrested or charged for infringing upon minority rights, especially those of the white commercial farmers targeted in the land redistribution program.

In 2008 President Mugabe signed the Indigenization and Economic Empowerment Bill into law. The law's official purpose was to increase the participation of indigenous citizens in the economy, with the ultimate objective of at least 51 percent indigenous ownership of all businesses. During the year the minister of youth development, indigenization, and empowerment, Saviour Kasukuwere, gazetted the indigenization regulations, stipulating that all businesses with a net annual turnover of \$500,000 or higher had to submit plans on how they intended to comply with the law by April. The deadline was extended indefinitely after protests from some sections in government as well as business and civic organizations. An indigenous Zimbabwean was defined as any person, or the descendant of such person, who before the date of the country's independence in 1980 was disadvantaged by unfair discrimination on the grounds of his or her race. The law was criticized as an attempt to create patronage for ZANU-PF.

During the year ZANU-PF used the law as justification to force domestic partnerships on foreign business owners, who were typically white. Numerous businesses, including privately owned conservancies and factories, reported that senior ZANU-PF or military officials sought to force partnerships on them without contributing to the enterprise. The original foreign partners in these businesses were told by the officials that they should cede half of the business or face unnamed consequences.

Historically, the government has discriminated against language minorities through the Education Act, which enforced the teaching of English in schools, along with Shona or Ndebele, depending on the region. In 2001 other minority language groups (Tonga, Shangani, Kalanga, Suthu, Venda, and Nambya) formed the Zimbabwe Indigenous Languages Promotion Association (ZILPA) to petition the government for legal reforms so that their languages could be taught in their schools. In 2008 the government agreed to allow the teaching of these languages in the areas in which they were spoken, along with English and Shona or Ndebele. The government did not provide resources for related teacher training or instructional materials. Nonetheless, the Tonga successfully developed curriculum and instructional materials to cover the seven years of primary school education. In August 2009 Ministry of Education, Sport, Art, and Culture officials met with ZILPA and agreed to support its request for funding to teach all minority languages.



## Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Leadership in both ZANU-PF and MDC, including President Mugabe and Prime Minister Tsvangirai, publically denounced the LGBT community and warned against the inclusion of LGBT rights in the constitution. Over a period of years, Mugabe publicly denounced the LGBT community, blaming it for Africa's ills and declaring its members to be worse than "pigs and dogs." Although there was no statutory law proscribing homosexual conduct, common law prevents gay men, and to a lesser extent, lesbians, from fully expressing their sexual orientation and, in some cases, criminalizes the display of affection between men. The criminal code definition of sodomy includes "any act involving physical contact between males that would be regarded by a reasonable person to be an indecent act." Sodomy carries a penalty of up to one year in prison or a fine up to \$5,000. There were no known cases of sodomy charges being used to prosecute consensual homosexual activity.

Gays and Lesbians of Zimbabwe (GALZ), the sole organization dedicated to advancing the rights of the LGBT community in the country, experienced discrimination and harassment. On May 21, police, armed with a search warrant, raided the GALZ office to search for dangerous drugs and pornographic materials, citing contravention of Censorship and Entertainment Control Act. The police forced GALZ employees Ellen Chademana and Ignatius Muhambi to provide passwords to their personal e-mail accounts and arrested them for possession of pornographic materials. In a second raid police charged the employees with contravening the Criminal Law (Codification and Reform) Act for undermining the authority of President Mugabe after finding a picture of the president along with the plaque of a foreign gay and lesbian activist. Police also raided the house of the director of GALZ on May 25. Police denied ZLHR lawyers access to the employees from May 21 to May 23 and granted the first initial visit on May 24. Four self-identified police officers removed the two employees from their cell on the evening of May 25 and beat them in the face and knees during the course of an interrogation. ZLHR lawyers observed that the two had swollen faces, had plastic bags tied to their feet, and struggled to speak during a consultation following the beating. On May 25, ZLHR lawyers filed an urgent application at the High Court appealing the legality of the arrest and detention. On May 26, the two appeared before the magistrate court and were remanded from custody on \$200 bail. Chademana's hearing, postponed six times from July 1 as the government's witnesses failed to turn up, finally commenced on August 2 and ended on

November 18. On December 16, Chademana was acquitted on the charge of possessing pornographic materials. Muhambi's trial started on June 30, and after multiple hearings he was acquitted of the charge of possessing pornographic materials on July 23. Both still faced charge of undermining the president at year's end.

The government censorship board continued to confiscate materials sent to GALZ from outside the country and refused to release the material, claiming that it was "indecent." In 2008 GALZ filed three lawsuits against the censorship board, seeking the release of the materials. Due to the courts' refusal to act, three cases from 2008 were pending at year's end.

General homophobia and restrictive legislation made it difficult for the LGBT community to feel safe about being open about their sexuality in public. Because of significant social pressure, some families reportedly subjected men and women to "corrective" rape and forced marriages to encourage heterosexual conduct; the crimes were rarely reported to police. Women, in particular, were subjected to rape by male members of their own families.

On December 1, approximately 30 members of an LGBT NGO participated in a march in Bulawayo to celebrate "16 days of activism on violence against women." Police ordered the members to leave the venue of commemoration, citing as their reason the illegality of homosexuality.

Members of the LGBT community reported widespread societal discrimination based on sexual orientation. Many persons who identified with the LGBT community did not seek medical care for sexually transmitted diseases or other health issues due to fear that health providers would shun them. In the 2006-07 Presidential HIV/AIDS Strategic Plan, the government agreed to address HIV/AIDS among gay men. However, as of year's end, the government had not made any effort to address the health needs of this population. Many LGBT persons reported leaving school at an early age, decreasing their capacity for economic gain. Coupled with socioeconomic discrimination, higher rates of unemployment and homelessness among members of the LGBT community were reported.

#### Other Societal Violence or Discrimination

The government has a national HIV/AIDS policy that prohibits discrimination against persons with HIV/AIDS, and the law prohibits discrimination against

workers with HIV/AIDS in the private sector and parastatals. Despite these provisions, societal discrimination against persons affected by HIV/AIDS remained a problem. Although there was an active information campaign by international and local NGOs, the Ministry of Health and Child Welfare, and the National AIDS Council to destigmatize HIV/AIDS, ostracism and condemnation of those affected by HIV/AIDS continued.

### Incitement to Acts of Discrimination

Throughout the year, government-controlled newspapers, radio, and television stations continued to selectively vilify white citizens and to blame them for the country's problems.

## Section 7 Worker Rights

### a. The Right of Association

While the law provides private sector workers with the right to form or join unions without prior authorization, and workers exercised these rights, they were not always respected in practice. The 2005 Labor Amendment Bill eliminated previous public sector worker rights and excluded such employees from protection under labor laws, placing them instead under the Public Service Act, which does not provide for the right to form and belong to trade unions, collective bargaining, strikes, or alternative dispute resolution mechanisms. These restrictions, however, were not enforced in practice. Public sector employees participated in unions and professional organizations. Some, particularly teachers and medical professionals, continued to mount campaigns for improved wages and conditions; union leaders and members continued to face harassment. Unions risked suspensions from registration for 12 months, and government recourse to draconian laws such as POSA, AIPPA, and the criminal law often curtailed trade union freedoms. The government also restricted union activity indirectly by defining all senior employees as managers, although such employees did not enjoy benefits commensurate to the title; this restriction was not widely enforced in practice. Employees in positions designated as managerial were excluded from general union membership. Unions must be registered with the Ministry of Labor and Social Welfare.

During the year approximately 350,000 persons belonged to the 36 unions that form the ZCTU; approximately 55 percent of industries were unionized. The ZCTU estimated that 600,000 persons were employed in the formal sector.

Approximately three million persons worked in the informal sector, of which 1.25 million belonged to a trade union for informal sector workers.

The Zimbabwe Federation of Trade Unions (ZFTU), a government-created alternative labor body, continued to support splinter unions in each economic sector; however, there was no evidence that either employers or employees viewed the splinter unions as legitimate. The government was disinclined to include the ZFTU in labor-related discussion with employer and labor organizations. In addition to fostering confusion among workers, splinter unions forced existing unions to spend scarce resources guarding against declining membership. The splinter unions did not bargain collectively, handle worker complaints, or provide worker education they were not very influential.

ZANU-PF elements of the government openly targeted the ZCTU, declaring it aligned with the MDC. The government continued to use POSA to limit the ZCTU and its affiliates' ability to meet with and consult their constituencies, although the law does not apply to labor unions. Under POSA, public gatherings require prior approval from the local police except for those organized by churches and unions. In practice unions often applied for permission and were denied. Unions were also prevented from holding meetings with their members and carrying out organizational activities, sometimes by the police or ZANU-PF supporters and under threat of arrest.

On February 19, a group of 17 security officials representing the JOC interrogated Gertrude Hambira, the secretary general of the General Agriculture and Plantation Workers' Union of Zimbabwe (GAPWUZ), about the union's role in producing a film, *House of Justice*, which documented abuse suffered by farm workers. Deputy Police Commissioner Innocent Matibiri led the 45-minute questioning. The interrogators accused Hambira of overstepping her bounds because the video dealt with human rights issues and not trade union issues. They also cautioned Hambira's lawyer against associating with such dangerous persons. On February 24, security officials raided GAPWUZ's office in downtown Harare looking for documents and for Hambira. On February 25, police questioned the deputy secretary general and GAPWUZ president over the same report. Hambira fled the country shortly after the incident and remained in hiding at year's end. During her absence, Hambira's family members were approached by unknown individuals asking for her whereabouts.

On March 2, two plainclothes police officers attempted to participate in a ZCTU's educational workshop in Mutare. After being ejected from the meeting, the two left

and returned with a group of 20 police officers and two CID senior assistant inspectors. They ordered the workshop participants to disperse, and accused the ZCTU of conducting a workshop without police approval in contravention of POSA. Three ZCTU employees were arrested, two of whom were released later on the same day. Police charged the remaining employee with criminal nuisance and ordered him to pay a fine of \$20. The ZCTU filed an appeal against the payment of the fine at the Mutare Magistrate Court and sent a protest letter to the minister of labor and social services. The matter was pending at year's end.

Police often denied the ZCTU's applications to hold commemorations in particular venues and banned processions from taking place. On May 14, the ZCTU notified police of its intention to commemorate Health and Safety Day in Kwekwe on June 6. Police ordered the commemoration to take place in Hwange instead. The ZCTU appealed on June 17. In a June 22 response, police stated that the commemorations were not approved because police officers were engaged in World Cup activities. On June 30, ZLHR lawyers appealed to the Bulawayo High Court; on July 2, the court granted the ZCTU permission to proceed with the commemorations and ordered police not to interfere. In similar fashion police banned an April 30 procession for International Workers Day in Masvingo and a May 24 procession for the commemoration of the death of 472 miners in Bulawayo. The police also sought to restrict union activities by prescribing certain conditions. For example, on International Workers Day in Harare, the police stipulated that the commemoration could take place on the condition that politicians not be invited.

In 2008 in its report on trade union rights abuses, the International Labor Organization's (ILO) Application of Standards Committee included cases filed by the ZCTU concerning violations of freedom of association and protection of the right to organize for the second consecutive year. The government was criticized regarding implementation of ILO Convention 87, which deals with freedom of association. The committee called on the government to halt arrests, detentions, and threats and criticized it for refusing to appear before the committee for two consecutive years to face the allegations.

In 2008 the ILO appointed a commission of inquiry to investigate complaints that worker rights were violated under ILO Conventions 26 and 87. In May and August 2009, a three-person ILO commission of inquiry visited the country and interviewed more than 100 individuals, including those from government, civil society, unions, workers, and employers. The report was submitted to the government in January; the Ministry of Labor accepted the report's findings and recommendations on behalf of the government in April. In August the ILO,

working in conjunction with the government, the Employers' Confederation of Zimbabwe, and the ZCTU, conducted a mission visit to follow up on the implementation of the recommendations made in the report. A technical assistance package aiming at legislative and policy reform, institutional reform, strengthening of social dialogue, capacity building for key institutions, and knowledge and communication of information was provided during this visit.

Although the Labor Relations Amendment Act (LRAA) explicitly recognizes the right to strike, it is circumscribed with procedural limits, including 14-day advance-notice requirements, mandated 30-day reconciliation periods, and possible mandatory referral to binding arbitration. It also requires that at least 50 percent of employees vote for a strike, although workers protesting health and safety standards or lack of equipment may strike without the notification and arbitration procedure. The act prohibits essential services employees from striking on the grounds that it would "endanger(s) immediately the life, personal safety, or health of the whole or any part of the public." The law also allows that any nonessential service may be declared an essential service by the minister if a strike in a sector, service industry, or enterprise persists to the point that the lives, personal safety, or health of the whole or part of the population is endangered. Managers were also prohibited from striking; in some industries, the government defined most employees as managers.

In practice the government harassed union leaders who called for strikes and union members who attempted to participate in them. Government-imposed delays prevented most employees and their unions from declaring legal strikes, and those who participated in strikes deemed illegal faced government intimidation and sentences of up to five years in prison.

There were no further developments in any of the 2009 or 2008 cases of union harassment.

b. The Right to Organize and Bargain Collectively

The LRAA provides workers the right to organize and permits unions to bargain collectively over wages and conditions of employment, and workers exercised this right in practice; however, government harassment of union leaders and interference by the ZFTU sometimes made such negotiations difficult. Collective bargaining agreements applied to all workers in an industry, not just union members. Public sector employees do not have the right to collective bargaining, strike, or alternative dispute resolution mechanisms; however, these restrictions

were not enforced in practice. Teachers, the largest civil servant sector, engaged in labor actions during the year. In mid-September, the Zimbabwe Teachers Association, Teacher Union of Zimbabwe, and Progressive Teacher Union of Zimbabwe issued an ultimatum calling for a salary increase from \$150 to \$500. The ultimatum lapsed without any action from the government. In November Finance Minister Tendai Biti announced a 40 percent increase in the civil service wage bill. However, the announcement did not specify the exact increase in teachers' salaries, and negotiations between the teacher unions and government continued at year's end.

The minister of labor and social welfare retained the power to veto agreements that she believed would harm the economy, but she did not involve herself directly in labor negotiations unless requested to do so by one of the parties. Agreements reached by employers and employees must be gazetted by the Ministry of Labor to go into effect. In practice any agreement could be administratively blocked when left ungazetted over an indefinite period of time.

Although the law prohibits antiunion discrimination, in practice union members faced discrimination and harassment. A labor court handled complaints of such discrimination under the mechanism for resolving cases involving "unfair labor practices." The determining authority may direct that workers fired due to antiunion discrimination be reinstated, although this did not happen in practice.

There were no special laws or exemptions from regular labor laws in export processing zones.

### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, with the exceptions of working for parents or the national youth service; however, such practices occurred. Forced labor is punishable by a fine, two years' imprisonment, or both. Forced labor by children occurred across a wide range of sectors; however, no detailed information was available on the extent of the practice.

NGOs reported that compulsion to work was no longer a factor for adults and children working in the Marange diamond fields during the year; however, adults and children continued to work for economic reasons. In 2009 Human Rights Watch and other NGOs reported that adults and children were subject to forced labor conditions while digging for diamonds in the Marange diamond fields. According to a June 2009 Human Rights Watch report, *Diamonds in the Rough*:

*Human Rights Abuses in the Marange Diamond Fields*, children as young as 12 were forced to dig for diamonds in January and February. One victim told Human Rights Watch, "we worked together with about 30 children of ages between 10 and 17 years. The children worked the same 11 hours each day as adults did. The soldiers had a duty roster for all villagers in Chiadzwa to take turns to work in the fields, irrespective of age."

Workers on seized farms reported that new owners occasionally forced them to work without pay and under threat of eviction from the farm.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

d. Prohibition of Child Labor and Minimum Age for Employment

Under the LRAA, child labor is punishable by a fine, two years' imprisonment, or both; however, child labor was common. Under the LRAA, a child between the ages of 13 and 15 can work as an apprentice or if the work is an integral part of "a course of training or technical or vocational education." The law further states that no person under the age of 18 shall perform any work likely to jeopardize that person's health, safety, or morals. The status of children between 15 and 18 years of age is not directly addressed, but 15 years of age remains the minimum for light work, work other than apprenticeship, or work associated with vocational education.

The government released the *2004 Child Labor Report* in 2006. According to the survey, approximately 46 percent of children between the ages of five and 17 were engaged in economic activity. The unemployment rate continued to grow, with some estimates as high as 90 percent, which decreased the number of children employed in the formal sector. However, the incidence of children who worked in the informal sector continued to increase as more children worked to fill the income gap left by ill, unemployed, underemployed, or deceased relatives. Children often lacked access to necessary safety equipment and training. Children worked in the agricultural sector, in forestry, as domestics, in illegal gold and diamond mining, as street vendors, and as car-watchers. Although the government and NGOs increasingly discussed the problem of child labor in the agricultural, domestic, and informal sectors, concrete data on the number of cases remained difficult to evaluate and confirm. An August 2007 survey by a domestic NGO documenting child labor reported that approximately one-third of children were working. Due to the economic downturn and reduction in school hours in 2008 and



decreased school enrollment, the organization believed the percentage of children working was higher than one-third during the year.

Most economically active children worked in the agriculture industry and were also involved in mining, domestic labor, and other areas of the informal economy. Children worked in all aspects of tobacco farming, from planting to preparation of leaves for sale; in the forestry regions of the eastern highlands on timber plantations; in some sugarcane plantations in the southeast; on tea and coffee plantations; and on small farms. Children worked on cotton farms; one NGO reported that school attendance rates declined in cotton growing areas during the harvest. Children also worked on some small commercial farms in all aspects of maize production. At one maize farm near Marondera, a local NGO found dozens of boys between the ages of 12 and 16 working. In cities children commonly worked as street vendors and as guards for parked automobiles. Throughout the country, children, particularly girls, worked as domestic laborers, often for family members. Information on the extent to which child labor occurred in the production of commercial products was not available. In 2009 Human Rights Watch reported that children as young as 12 living near the Chiadzwa Diamond Mine in Manicaland continued to work as forced laborers under the guard of security forces in diamond fields. During the year NGOs reported that forced child labor in the Chiadzwa diamond field had ceased and the remaining children worked for economic reasons.

Children were also engaged in the artisanal mining of gold and faced hazards to their health and safety. In particular children between the ages of 12 and 16 were used to crawl into small spaces in abandoned gold mine shafts near Shurugwi in Midlands Province. Also near Kwekwe, Bindura, and Mazowe, boys were involved in alluvial gold panning. In other areas, children panned for alluvial gold and used dangerous chemicals, including mercury, in purification processes. Most of these children worked for themselves, a family member, or someone in the community.

Some employers did not pay wages to child domestic workers, claiming that they were assisting a child from a rural home by providing housing and board. In addition some employers paid the parents for the child's work. Relatives often took AIDS-orphaned children into their homes but used them as domestics without pay.

The Department of Social Welfare in the Ministry of Labor and Social Welfare is responsible for enforcing child labor laws, but the department lacked personnel to carry out inspections or other monitoring. In 2007 the ministry signed a

memorandum of understanding with the ILO to collaborate on a multiphase program for the elimination of the worst forms of child labor. The program was expected to address child labor issues and the implementation of ILO Convention 182, including identifying the worst forms of child labor and implementing activities pertaining to the prevention of child labor and the protection of working children. In 2008 the government and the ILO initiated a nationwide survey on the worst forms of child labor; the survey had not been released at year's end.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

e. Acceptable Conditions of Work

There is no national minimum wage except for agricultural and domestic workers. The minimum wage did not provide a decent standard of living for a worker and family, and more than 85 percent of the population continued to live below the government's poverty line. The Ministry of Labor and Social Welfare is responsible for enforcing the minimum wage; however, monitoring systems were ineffective, and many agricultural and domestic workers were remunerated below the minimum wage. In 2008 the ILO reported that four of five jobs in the country were in the informal sector, 78 percent of which were in agriculture. This trend continued during the year. These jobs generally provided extremely low cash income and poor working conditions and did not offer adequate worker protections.

The maximum legal workweek is 54 hours, and the law prescribes a minimum of one 24-hour rest period per week. No worker is allowed to work more than 12 continuous hours; however, there was little or no enforcement, particularly in agricultural and domestic worker sectors. The law prescribes that workers receive not less than twice their standard remuneration for working on a public holiday. However, workers were unlikely to complain to authorities about violations due to fear of losing their jobs.

The public service commission sets conditions of employment in the public sector. Health and safety standards were determined on an industry-specific basis. The government designated the Zimbabwe Occupational Safety Council, a quasigovernmental advisory body made up of six representatives each from the government, employers, and trade unions, to regulate working conditions; however, budgetary constraints and staffing shortages, as well as its status as an advisory council, made the council largely ineffective. Industries did not have the

capacity to replace or update nonfunctioning and archaic machinery, further aggravating workplace conditions. The National Social Security Administration (NSSA) continued to experience difficulty monitoring the thousands of work sites across the country; however, it closed shops and factories not in compliance. Economic hardship also resulted in factories shutting on their own or operating informally. The NSSA could not inspect the informal sector due to budget constraints. The NSSA reported in 2007 that a high turnover in staff meant that only 20 of 31 safety and health inspector positions were filled to monitor an estimated 14,000 registered factories. For the period May 2009 to May 2010, the ZCTU reported 44 workplace fatalities and 686 injuries, a significant decrease from 106 fatalities and 3,122 injuries over the same period in 2008-09. As of year's end, the government had not taken action to address health risks in the workplace. Workers have a legal right to remove themselves from dangerous work situations without jeopardy to continued employment, but in practice they risked the loss of their livelihood if they did.

Information on the treatment of foreign and migrant workers was not available. The government considered many commercial farm workers to be foreigners because one or both parents were born in another country.