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2009 Human Rights Report: Zimbabwe

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

March 11, 2010

Zimbabwe, with a population of approximately nine 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 aligned with 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 between ZANU-PF and the two MDC factions on a power-sharing government. 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-elect. On February 11, Tsvangirai was sworn in as prime minister. On February 13, new cabinet ministers and deputy ministers from MDC-T, MDC-M, and ZANU-PF 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 opposition party members and supporters and obstructed their activities. The Joint Operation Command, a group of senior security and civilian authorities, maintained control of the security forces and often used them to repress opposition to ZANU-PF.

Security forces, the police, and ZANU-PF-dominated elements of the government continued to engage in the pervasive and systematic abuse of human rights. ZANU-PF's dominant control and manipulation of the political process through trumped-up charges and arbitrary arrest, intimidation, and corruption effectively negated the right of citizens to change their government. Politically motivated, arbitrary, and unlawful killings by government agents continued. State-sanctioned use of excessive force continued, and security forces tortured members of the opposition, student leaders, and civil society activists with impunity. Security forces continued to refuse to document cases of political violence committed by ruling party loyalists against members of the opposition. Prison conditions improved but remained harsh and life threatening. Security forces, who regularly acted with impunity, arbitrarily arrested and detained the opposition, 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. The government continued to use repressive laws to suppress freedom of speech, press, assembly, association, and movement. The government restricted academic freedom. Government corruption remained widespread. High-ranking government officials made numerous public threats of

violence against demonstrators and members of the opposition. The government continued to evict citizens and to demolish homes and informal marketplaces. Thousands of citizens were displaced in the wake of increasingly violent farm invasions, and the government impeded nongovernmental organization (NGO) efforts to assist the displaced and other vulnerable populations. The following human rights violations also continued: 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.

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RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents committed politically motivated, arbitrary, and unlawful killings during the year. By year's end at least 19 citizens had 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 200 who died in 2008. At least three persons were killed as a result of politically motivated violence during the year. The MDC-T continued to claim that approximately 200 other members and supporters were missing and presumed dead in the wake of election-related violence in 2008. 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. NGOs also estimated security forces killed at least 40 persons in the Chiadzwa diamond fields in Manicaland Province during the year.

Security forces killed opposition members during the year. On August 30, MDC-T activist Godknows Dzoro Mtshakazi was beaten to death by four soldiers in Shurugwi, Midlands Province, after being accused along with several other MDC-T members of organizing an MDC-T rally and playing a pro-MDC-T song in a bar. The four soldiers assaulted the group before taking Mtshakazi to a nearby army base, where he was beaten further and killed, according to witnesses. The soldiers subsequently sent word to Mtshakazi's wife to collect her husband's body. There was no further investigation by year's end.

Security forces continued to engage in extralegal killings in connection with illegal diamond mining. For example, on March 30, Takunda Neshumba died as a result of being tortured in police custody. Neshumba was visiting a relative near the Marange diamond fields when he was abducted by soldiers who turned him over to a police officer, who subsequently beat him over the course of several days. According to a post-mortem report, Neshumba died as a result of severe injuries to his feet, wrists, hands, buttocks, and lower back. Neshumba's family requested an investigation by the police station that facilitated the post-mortem exam. No further action had been taken by year's end.

On June 21, 20-year-old Barnabas Makuyana was illegally digging for diamonds in Marange when he and a friend were captured by soldiers. Soldiers beat them for 16 hours until Makuyana died from his injuries. The friend then carried Makuyana's body to a hospital mortuary, where Makuyana's family could only identify his disfigured body from his clothing. Police refused to issue a post-mortem report to the family. No further action had been taken by year's end.

On September 5, soldiers captured and beat Moreblessing Tirivangani at a military base in Chiadzwa; Tirivangani died from his injuries. Police transported Tirivangani's body to a morgue and reported that he was captured while attempting to disarm a soldier in the diamond fields in Marange. However, witnesses reported the soldiers seized Tirivangani when they found him in the mining area after an army-imposed curfew. There were no further developments in the case.

In late 2008 security forces undertook a major operation to kill illegal diamond miners in the Marange/Chiadzwa area of Manicaland to ensure the government retained the proceeds from diamond sales. According to a July report by the

international NGO Human Rights Watch (HRW) entitled *Diamonds in the Rough: Human Rights Abuses in the Diamond Fields of Marange*, at least 214 informal diggers were killed in the operation, known as Operation *Hakudzokwi*, meaning "you will not return."

There were killings by political party supporters during the year. For example, on July 30, 16-year-old Arnold Mosterd died after being beaten by ZANU-PF supporters in Macheke, Mashonaland East. Mosterd was reportedly killed after he asked for outstanding wages from a local ZANU-PF chairman, Harry Munetsi. According to villagers, seven suspects who had previously accused Mosterd of supporting the MDC, tied Mosterd, cut his chin with a knife, and pierced his stomach with hot iron bars before carrying his dead body in a wheelbarrow to the road. The suspects were arrested, but Minister of State in the President's Office Didymus Mutasa reportedly ordered the release of the suspects on bail three days later. Mutasa also allegedly told villagers to "deal with" strangers who visited the area inquiring about the killing, as they would be MDC supporters. No further action was taken by year's end.

Despite the more than 200 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 400 civil suits in the High Court against perpetrators for wrongful deprivation of life; all were pending at year's end.

There were no other developments in previously reported killings from 2007 or 2008.

b. Disappearance

There were numerous 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 opposition and civil society members, as well as student leaders, as part of an effort to intimidate MDC supporters and civil society members and leaders. 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 and tortured for one or two days, and abandoned. In some cases the abducted person was located in police custody days or weeks later.

For example, on March 11, in Mudzi, ZANU-PF supporters abducted an MDC-T leader and took him to a nearby ZANU-PF base, where they beat him on the buttocks with sticks while accusing him and his family of supporting the MDC-T. The MDC-T leader was forced to listen to ZANU-PF propaganda throughout the day. Upon his release, he discovered that ZANU-PF supporters had stolen one of his cows and eight goats. That night the ZANU-PF supporters returned to the MDC-T leader's homestead and again took him to the base and beat him. He received medical treatment for his infected wounds and reported the incident to police. No further action had been taken by year's end.

On May 17, suspected ZANU-PF youths abducted and tortured an MDC-T party chairperson from Sicola Farm in Wedza North after the chairperson attended an MDC-T meeting at which the prime minister was present. The victim was reportedly taken to the house of the local ZANU-PF chairperson, where firewood was used to burn his hands and foot; he was released the following day, and no action was taken in the case.

On May 18, in Mashiri village in Mashonaland Central, suspected Central Intelligence Organization (CIO) agent Chamunorwa Shutu ordered four ZANU-PF youths, Rodrick Kanengoni, Nyashadzashé Kanengoni, Munetsi Kanengoni, and Chamunorwa Shutu, to abduct 13 MDC-T supporters for allegedly holding an MDC-T meeting. The 13 had attended a May 16 memorial service to commemorate the deaths of six MDC-T activists who were killed by ZANU-PF officials and war veterans at Chaona Primary School in May 2008. The youths abducted and severely beat the 13 MDC-T supporters; all sustained serious injuries, and one underwent surgery for his wounds. Subsequently, the MDC-T supporters were arrested and charged with assaulting the same four ZANU-PF youths who had abducted them. On September 10, magistrate Feresi Chakanyuka found 11 of the MDC-T supporters guilty of assault; they were sentenced to pay fines of

\$20 and did not appeal. Two others were acquitted. The four ZANU-PF youths and Shutu were also arrested and charged with assault; their trial was postponed indefinitely after Magistrate Charles Murove recused himself from the case on September 25, reportedly under pressure from Shutu. The case was referred to the attorney general; no decision had been made by year's end.

Several abductions were committed by MDC supporters in retaliation for ZANU-PF initiated violence. For example, on February 6, in Buhera South, suspected MDC supporters abducted a ZANU-PF party activist from Chinyoka Vvillage, forced him to march to nearby hills, and reportedly tied him to a tree and beat him.

The government seldom investigated reported abductions.

Multiple 2008 court cases against 18 persons, 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 in December 2008, continued during the year. Medical examinations confirmed injuries consistent with torture. On January 26, a magistrate dismissed a January 21 affidavit filed by State Security Minister Didymus Mutasa that sought to block an investigation into the abductees' allegations. Police were ordered to investigate the allegations and report to the court on February 9; at year's end no report had been made available. During the year the abductees were denied medical treatment in violation of high court orders, and their court cases were repeatedly delayed in an apparent effort to prevent details of their abductions from becoming public.

On January 6, the government filed charges of sabotage against seven of the abductees--freelance journalist Andrisson Manyere and MDC-T activists Gandhi Mudzingwa, Zacharia Nkomo, Chinoto Zulu, Chris Dhlamini, Mapfumo Garutsa, and Regis Mujeyi, also known as the "bombers"--for alleged involvement in various 2008 police station and railroad bombings. All seven continued to face charges at year's end. On January 16, Justice Tedi Karwi ruled that the seven should be allowed medical treatment by a medical practitioner of their choosing outside of Chikurubi Maximum Security Prison, where the men were being held. This was the third high court order granting them medical treatment after two other orders were issued in 2008. On February 6, Andrisson Manyere, Ghandi Mudzingwa, and Chris Dhlamini were taken to a private hospital and granted medical treatment. However, prison officials interrupted the examination and took the men back to Chikurubi Prison. During the brief examination, doctors identified serious medical conditions that required hospitalization. On February 12, prison officials took Mudzingwa back to the hospital. On February 16, a high court judge issued another order directing prison officials to take all seven men to a private clinic for treatment; however, only Nkomo and Zulu were taken. On February 19, Justice Yunus Omerjee granted four of the seven men bail; however, the government immediately blocked their release by notifying the judge of its intent to appeal. On February 27, the defense lawyers alerted the judge that the government had not yet filed its appeal. Justice Yunus Omerjee then informed the defense lawyers that the February 19 bail order remained valid. On March 4, Nkomo, Zulu, Garutsa, and Mujeyi were released after meeting the strict bail requirements. On February 27, Dhlamini was admitted to the hospital under prison guard where he was held with Mudzingwa and Manyere. On April 9, Justice Charles Hungwe granted Dhlamini, Mudzingwa, and Manyere bail; however, the government again blocked their release by notifying the court of its intention to appeal to the Supreme Court. When the government failed to lodge the appeal within the legally mandated seven days, the remaining three were released on April 17.

Upon Dhlamini, Mudzingwa and Manyere's release, prison guards outside Mudzingwa and Dhlamini's room in a local hospital returned their personal belongings to them and left the hospital. Although Mudzingwa and Dhlamini had been granted bail, prison guards resumed guarding their hospital room on April 20, citing "instructions from above." On April 30, Justice Bharat Patel issued a high court order ruling that the Easter weekend public holidays had extended the seven-day period for the government to note its bail appeal. Authorities subsequently arrested Dhlamini and Mudzingwa's lawyer,

Alec Muchadehama, and court clerk Constance Gambara, who had prepared the orders of release on April 17(see section 1.d.).

On January 7, in a separate case against some of the 18 abductees, nine persons--Zimbabwe Peace Project (ZPP) Director Jestina Mukoko, ZPP officer Broderick Takawira, and MDC-T activists Fidelis Chiramba, Concillia Chinanzvavana, Emmanuel Chinanzvana, Pieta Kaseke, Violet Mupfuranhehwe, Collen Mutemagu, and Audrey Zimbudzana, known as the "recruiters"--were accused of recruiting persons to commit terrorism and banditry, including the recruitment of insurgents to train in Botswana for an alleged armed uprising against the Zimbabwean government. Two other abductees, Tawanda Bvumo and Pascal Gonzo, were ordered released without charge in December 2008. However, despite the court order, prison officials did not release Bvumo until January 23 when another judge ordered his release. Gonzo was released after a judge again ordered his release on February 5.

These abductees experienced similar delays in accessing medical care while in custody. On January 20, authorities at Chikurubi Prison allowed Mukoko to see a doctor of her own choosing at a private hospital. Her doctor found that she was extremely hypertensive and needed to be checked every four hours. Against her doctor's recommendations, prison officials returned Mukoko to the prison the same day, where she was taken to the prison medical unit and held in leg irons for 24 hours. On February 6, 72-year-old Chiramba was granted access to medical care; on January 30, a magistrate ordered that he be granted same-day medical treatment. Shortly after arriving at the private hospital, Chiramba was abruptly returned to prison by officials. On February 12, prison officials again brought Mukoko and Chiramba to the hospital but returned them to the prison several hours later. Later that evening, prison officials relented and again transported Chiramba and Mukoko to the hospital. On February 13, another magistrate again ordered prison officials to grant Mukoko and Chiramba access to medical care at a private hospital until their own doctors deemed them fit to return to prison. During the February 13 hearing, a prison doctor testified that Chiramba and Mukoko suffered from serious conditions that could not be controlled at the prison clinic. The doctor also testified that Mukoko suffered from thrombophlebitis, swelling consistent with beating on the soles of the feet. On February 27, a magistrate granted bail to the nine abductees accused of recruiting others to launch an armed insurgency. They were released in subsequent days after meeting strict bail requirements.

On May 4, the attorney general formally indicted 16 of the abductees, including the seven alleged "bombers" and the nine alleged "recruiters." In the May 4 hearing, the prosecutor applied for the group to be recommitted to prison, arguing that the presentation of their indictments for trial cancelled their bail. On May 5, magistrate Catherine Chimwanda refused to hear evidence from the Attorney General's Office about the February 27 bail agreement or to allow the defense to call two witnesses who had been subpoenaed. She declined to entertain further argument and granted the prosecutor's application to commit the abductees to prison. Consequently, the 13 abductees who had previously been released on bail were sent back to Chikurubi Prison. Three other abductees--Dhlamini, Mudzingwa, and Manyere--remained in private medical facilities under prison guard. On May 6, the attorney general told the abductees' lawyers he no longer opposed bail, and after a hearing the same day the government consented to the reinstatement of bail for these 13 abductees on the same conditions; on May 6, the 13 were rereleased. On May 13, Dhlamini, Mudzingwa, and Manyere were granted bail by Justice November Mtshiya. Two journalists were arrested after publishing the names of the security officials involved in the abduction and torture of these abductees (see section 2.a.).

The 16 abductees facing banditry and terrorism charges were scheduled to be tried in three different groups in June and July; their trials were delayed pending appeals to the Supreme Court. The first appeal, filed by Jestina Mukoko, was heard by the Supreme Court on June 24. Mukoko argued that her abduction, torture, and illegal detention in December 2008 constituted such a grave violation of her human rights that the court should permanently stay the prosecution's case against her. During the hearing Mukoko's lawyers described her abduction and torture in detail; the government's lawyer conceded that the details presented by Mukoko's lawyer were generally accurate. On September 28, the Supreme Court

issued a unanimous ruling that Mukoko's constitutional rights were violated to such an extent that a permanent stay of the prosecution against her was warranted, and the case was dropped. An additional 15 abductees' appeals to the Supreme Court were pending at year's end.

Mukoko and other abductees separately sued two cabinet ministers and the security agents who abducted them for a combined \$19.2 million in damages for the unlawful abduction, detention, and deprivation of liberty. In a July 27 high court application, Mukoko claimed \$220,000 from co-Ministers of Home Affairs Kembo Mohadi and Giles Mutsekwa and Defense Minister Emmerson Mnangagwa. Mukoko sued Minister of State for National Security Didymus Mutasa, who had attempted to block an investigation into Mukoko's torture allegations. Mukoko also sued Attorney General Johannes Tomana, Police Commissioner General Augustine Chihuri, Police Chief Superintendent Peter Magwenzi, and CIO agent Walter Tapfumaneyi. At year's end the High Court had not set a date to hear Mukoko's application. She also claimed \$20,000 from Tomana for allegedly failing to meet his constitutional obligation to ensure the arrest and prosecution of her alleged kidnappers. At year's end police had not launched an investigation into the abduction of any of the above named abductees.

On January 15, the government acknowledged that three additional abductees, MDC-T activists Lloyd Tarumbwa, Terry Musona, and Fanny Tembo, were in custody, claiming that the three were witnesses in the case against the "recruiter" abductee group and were in "protective custody." The three were abducted in October 2008 by security agents, tortured, and forced to make false confessions against those charged with recruiting insurgents. The three were not allowed to contact their families until March. All three were released on March 7 following an order by High Court Justice Ben Hlatshwayo. On June 2, the three were again taken from their homes by a man who initially refused to identify himself. The man, later identified as a police inspector, drove them to the Attorney General's Office in Harare, where they were held for several hours and forced to sign affidavits swearing to their false confessions. Police and officials in the Attorney General's Office refused to grant them access to their lawyer. An unidentified official warned the three that if they did not testify, they would face serious unspecified consequences. After they had signed the affidavits, the three were driven towards their homes near Banket, Mashonaland West, and dropped several miles outside of town, forcing them to complete the rest of the journey on foot. The affidavits were taken in anticipation of the first trial for one group of abductees that was scheduled to begin on June 8. However, that trial had not begun at year's end pending an appeal to the Supreme Court. On June 6, Tarumbwa, Musona, and Tembo appeared before a high court judge with their lawyers to state that their testimony had been extracted after torture by security agents and that their affidavits were signed under duress. During a closed-door hearing with the judge and lawyers for the three abductees and the government's lawyer, MDC-T Director General Toendepi Shonhe signed an affidavit saying that the three had been abducted again. Shonhe was subsequently arrested and charged with perjury on June 17 as a result of his statement (see section 1.d.).

One abductee, Bothwell Pasipamire, an MDC-T councilor from Kadoma, escaped his captors and fled to South Africa. He later told the press that he was abducted from his home in December 2008 and driven to a base near Harare, where he was interrogated by Army Warrant Officer Mabhunu. Pasipamire stated that Mabhunu beat him on the soles of his feet and forced him to lie naked on a table while Mabhunu squeezed Pasipamire's testicles and threatened him. Mabhunu then forced Pasipamire, under the threat of further torture, to act out beating a soldier while being videotaped. Pasipamire was subsequently forced to confess to beating the soldier at the instigation of then prime minister-designate Tsvangirai. Several days later Pasipamire escaped to South Africa.

On June 29, Peter Munyanyi, who was abducted in December 2008 in Gutu South, fled his captors after spending six months in captivity in an unknown location. Munyanyi reported that he was held by security agents in a dark room without blankets, clothing, or toilet facilities. When he was abducted, his captors beat him, breaking his arm in the process. He was not allowed access to medical treatment during his detention.

At year's end the whereabouts of the following MDC-T activists abducted in 2008 remained unknown: Gwenzi Kahiya, Ephraim Mabeka, Lovemore Machokoto, Charles Muza, Edmore Vangirayi, and Graham Matehwa.

There were no further developments in the 2007 or 2008 cases of disappearance.

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 that occurred during the year or during widespread political violence in 2008. Police used excessive force in apprehending and detaining criminal suspects. 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 government supporters continued during the year. One NGO report stated that at least 3,316 victims of torture and assault received medical treatment during the year, a reduction from the 6,300 victims recorded in 2008. Victims of 2008 election violence continued to require medical care for injuries inflicted in 2008. Torture and other assault methods commonly reported included beating victims with sticks, logs, whips, and cables; suspension; burning; electric shock; and falanga (beating the soles of the feet).

On October 27, suspected security agents in Harare abducted MDC-T Transportation Manager Pascal Gwezere, whom they subsequently tortured by suspending, beating and biting on the face and ear to extract information about the MDC-T before conducting a mock burial. On October 31, Gwezere was taken to Harare Remand Prison as a result of injuries from the beatings. On the same day, Gwezere was charged with stealing 21 weapons from a military barracks in Harare. Despite repeated requests, Gwezere was not allowed to contact a lawyer before his hearing. On November 23, High Court Judge Charles Hungwe granted Gwezere bail; however, the prosecution immediately appealed to the Supreme Court, which, under the law, required the magistrate to deny bail pending the outcome of the appeal. On December 21, Supreme Court Judge Wilson Sandura dismissed the government's appeal and ordered Gwezere's release; however, prison authorities delayed the release until December 24. Despite repeated requests beginning on October 31, Gwezere was denied medical treatment throughout his detention. The case was pending at year's end.

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, hundreds of soldiers were detained, questioned, and physically assaulted in November to extract confessions of stealing the weapons. The press reported that at least one soldier died in custody, likely as a result of injuries sustained during repeated torture sessions.

Police repeatedly used cruel, inhuman, or degrading treatment or punishment against those in custody. After four women were beaten by police on June 17 (see section 2.b.), Amnesty International, in a June 9 press release, called for an independent body to provide oversight to the police to prevent abuses and described the incident as "one of the many cases documented by Amnesty International that shows Zimbabwean police's poor record of policing peaceful demonstrations and ill-treatment of perceived political opponents while in custody."

Police also used excessive force to disperse demonstrators. For example, on February 10, approximately 600 members of the NGOs Women of Zimbabwe Arise (WOZA) and Men of Zimbabwe Arise led a demonstration in Harare under a banner

proclaiming "let love light the way." After the demonstrators marched toward Parliament and handed out roses and Valentine's Day cards to bystanders and members of Parliament (MPs), police violently disrupted the march and used batons to seriously injure several women. Eight women were arrested, along with two lawyers walking by Parliament during the demonstration; all were charged with disturbing the peace. Three of the women were beaten in police custody; one was pregnant and was treated for deep tissue bruising after her release from the hospital. All 10 were tried and acquitted on May 28 in a Harare magistrate's court. During the trial a police officer testified he had not personally beaten any women because he did not "have time."

In 2008 Eric Matinenga, MP for Buhera West and a prominent attorney, presented a case before the High Court alleging that defense force members harassed, assaulted, and humiliated MDC-T supporters. The case named Commander of the Defense Forces Constantine Chiwenga and Major Svosve as the organizers of the repressive activities by security personnel in Buhera. In May 2008 Justice Bhunu issued a court order declaring the deployment of defense forces in Buhera unlawful and ordered their withdraw; however, army personnel, including Major Svosve, reportedly remained in the area.

Youth militia and "war veterans" trained by ZANU-PF were also deployed to harass and intimidate members of the opposition, labor, student movement, civic groups, and journalists considered critical of the government, and white farmers and their employees. For example, on January 13, a man was tortured after stating that President Mugabe was responsible for the political stalemate. After making the comments at work, he was locked in a closet until the end of the day when his bosses, war veterans and ZANU-PF supporters, took him outside and tied him to a tree. Between four and eight persons beat him on his back, buttocks, and feet while pouring water on him and threatening to throw him in the river. The perpetrators put a sock in his mouth to prevent him from screaming.

On April 3, an estimated 300 ZANU-PF youths attacked a 77-year-old MDC-T member at his home near Murehwa. The youths accused him of supporting the MDC-T and beat him with iron bars and logs on his testicles, hand, and neck. They also beat his wife and destroyed his home.

On April 21, ZANU-PF youths occupying Twyford Farm in violation of a March 9 high court order prohibiting the occupation harassed 18 farm workers and beat five of them, including an elderly man. The ZANU-PF youths were reportedly acting on instructions of ZANU-PF Senator Jamaya Muduvuri, who subsequently claimed ownership of the farm. A report was filed at Chegutu Police Station; however, police took no action. The employer of the 18 men was instructed by the senior police officer at the station to contact Muduvuri and resolve the matter with him since he was the owner of the farm.

On numerous occasions citizens were harassed or assaulted for listening to music or singing songs affiliated with the MDC-T. For example, on May 9, in Machingambi village in Zaka District, ZANU-PF supporters dragged a man to the court of a nearby traditional leader; he was questioned for four hours and then reprimanded for playing "MDC songs" at his home.

On June 14, ZANU-PF youths in Zvimba assaulted a man and crushed his radio after he tuned in to the independent Studio 7 station; the victim was accused by the perpetrators of spreading MDC propaganda.

On July 31, MP for Chinhoyi Stewart Garadhi was arrested for allegedly insulting the president. When police stopped him at a roadblock, they noted that he was playing the MDC-T 2008 campaign song *Nharembozha* by fellow MDC-T MP Thabitha Khumalo. Police released Garadhi without charge after several hours.

The government admitted that state security agents had tortured Jestina Mukoko, Broderick Takawira, and others who were abducted in late 2008 (see section 1.b.).

Rape was also used as a tool of political violence. For example, on May 1, a group of youths in Bare Vvillage in Mashonaland Central ordered a well-known MDC-T activist to chant ZANU-PF slogans. When the activist refused, she was raped in front of her 10-year-old son. The perpetrators, Richard Gomo and John Chitima, were arrested and reportedly sentenced to five years in prison.

MDC members used violence and torture in retaliation for past ZANU-PF-led violence. For example, on February 7, MDC youths in Buhera Central reportedly assaulted a war veteran for threatening to "go back to the bush if Tsvangirai gets into power."

On February 11, suspected MDC supporters in Muzvezve, Kadoma, assaulted a suspected ZANU-PF supporter who had denounced Tsvangirai's inauguration.

No action was taken in the other 2007 or 2008 cases of abuse.

Prison and Detention Center Conditions

Prison conditions remained harsh and life threatening. The government's 42 prisons were designed for a maximum of 17,000 prisoners. Local NGOs and the International Committee of the Red Cross (ICRC) estimated that there were approximately 12,000 to 14,000 prisoners in the Zimbabwe Prison System (ZPS) at year's end, 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 and overcrowding persisted, which aggravated outbreaks of cholera, 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 2008, shortages of food, water, electricity, clothing, and soap continued. In April an undercover film crew produced a documentary entitled "Hellhole" that depicted serious malnutrition and unsanitary conditions that directly contributed to severe cholera in prisons in late 2008 and early 2009. Local NGOs believed that the publicity from the documentary prompted the government to grant NGOs greater access to provide prisoners with food, clothing, and medical and legal services.

NGOs reported that the death rate decreased significantly during the year; however, the ZPS did not keep statistics on prisons deaths. NGOs estimated that the death rate was 40 deaths per month during the year, a reduction from the estimated 40 to 50 deaths per week during the height of the 2008 prison crisis. Most observers attributed the dramatic decrease to the ICRC's feeding program, which was the direct result of efforts by MDC-T Deputy Minister of Justice Jessie Majome to permit the ICRC and NGOs increased access to the prisons. Most prison deaths were attributed to harsh conditions, hunger, and HIV/AIDS. NGOs continued to estimate that half 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 were consistently ill, and routine medical conditions such as hypertension, diabetes, and asthma were life threatening.

NGOs estimated that there were 500 women in prison; 43 children under the age of five lived with their incarcerated mothers. NGOs reported that female prisoners generally fared better than males. Women generally received more food from their families than male prisoners, resulting in reduced rates of malnutrition. 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, and suggested that female guards may have been more diligent about protecting female prisoners from abuse and that female prisoners may not have reported abuse. However, women 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. According to lawyers, female offenders also received sentences that were on average two to three years longer than male offenders for the same crime.

NGOs and the ZPS estimated there were approximately 300 juveniles in prison facilities; the majority were being held in pretrial detention. Although juveniles were not officially held separately from adults, officials in remand prisons generally tried to place juvenile inmates in cells separate from adults. However, an estimated 20 convicted juveniles were held in the same prison cells as adult offenders. Juveniles were particularly vulnerable to the effects of poor prison conditions, and local NGOs reported several complaints of physical and sexual abuse.

In January a two-year-old child who was abducted with his mother from Zvimba South in October 2008 and appeared in police custody in December 2008 was released from prison. Due to overcrowding in police stations and remand prisons, pretrial detainees were often held in prisons with convicted prisoners until their bail hearings.

The law provides international human rights monitors the right to visit prisons, but government procedures and requirements made it difficult to do so. The government granted local NGOs access on a number of occasions during the year. After being denied permission to visit the prisons for several months, the ICRC resumed visits in April to all prisons and detention centers in the country. With the ICRC's help, severe malnutrition was greatly reduced in the prison community. At year's end the ICRC reported that 100 prisoners were receiving therapeutic feeding, reserved for prisoners who were severely malnourished. The ICRC reported that all of their meetings with prisoners occurred without third parties present and that there were no restrictions placed by the ZPS on how they operated within the prisons.

Local NGOs continued to lobby the government to release prisoners who had committed misdemeanors and whose incarceration put pressure on the crowded prison system. Judges in Bulawayo released 400 prisoners and detainees who had experienced prolonged detention from the Khami Remand Prison on compassionate or medical grounds.

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.

Role of the Police and Security Apparatus

The Zimbabwe Republic Police (ZRP) is responsible for maintaining law and order. Although the ZRP officially is under the authority of the Ministry of Home Affairs, in practice the President's Office, through the Joint Operation Command, controlled some roles and missions. 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.

Police were poorly trained and equipped, underpaid, and corrupt. Severely depleted human and material resources, especially fuel, further reduced police effectiveness during the year. Corruption continued in part due to low salaries. Security forces perpetrated government-sponsored politically motivated violence. Police routinely and violently disrupted public gatherings and demonstrations, and they tortured opposition and civil society activists in their custody. It was difficult for rank-and-file police to remain impartial due to continued politicization of the force's upper echelons. There were reports that police and army personnel suspected of being sympathetic to the political opposition were threatened with demotion or suspension.

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. In March 2007, after security forces violently prevented a public gathering, Mugabe was widely quoted as saying that "the police

have a right to bash" protesters who resist them. Mechanisms to investigate security force abuses remained weak. Court orders compelling investigations into allegations of abuse were routinely ignored by authorities. For example, security forces refused to comply with court orders to investigate security agents involved in abducting and torturing more than a dozen activists in 2008 (see section 1.b.). Government efforts to reform the security forces were minimal, and training was rarely provided.

Police continued to refuse to investigate cases of political violence. The November 2008 report, *Our Hands Are Tied: Erosion of the Rule of Law in Zimbabwe*, described occasions when police officers were ordered not to investigate or arrest ZANU-PF supporters who might have been implicated in political violence.

Police seldom responded during incidents of vigilante violence.

Arrest Procedures and Treatment While in Detention

Arrests require court-issued warrants, and 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. Although the law requires a preliminary hearing before a magistrate within 48 hours of an arrest (or 96 hours over a weekend), authorities routinely disregarded the law if a person did not have legal representation. Police typically made arrests, which may have been politically motivated, on Friday, which permitted legal detention until Monday. There were numerous reports of security forces arbitrarily arresting opposition and civil society activists, interrogating and beating them for information about their organizations' activities, and then releasing them the next day without charge.

Although the Criminal Procedures and Evidence Act (CPEA) substantially reduces the power of magistrates to grant bail without the consent of the attorney general or his agents, a circular issued by the attorney general giving a general authority to grant bail lessened the negative effect of the law in practice. 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. Prosecutors routinely invoked section 121 of the CPEA, which automatically provides the government seven days to file an appeal against a ruling granting bail. Zimbabwe Lawyers for Human Rights (ZLHR) condemned the repeated invocation of section 121 and described it as the most abused provision used by the government to prolong the detention of political opponents. On June 17, ZLHR attorney Alec Muchadehama filed an application for referral to the Supreme Court to challenge the constitutionality of section 121 of the CPEA. On June 23, a magistrate referred Muchadehama's 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 opposition members and civil society activists. 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 opposition members and supporters, civil society activists, student activists, and journalists.

There were reports that victims of theft during 2008 political violence were detained or charged with extortion or theft when attempting to recoup their property. Between February 11 and 13, at least 59 citizens were arrested in Mutoko on charges of robbery after attempting to recover property from ZANU-PF bases where perceived MDC supporters were beaten and intimidated during the 2008 election. The stolen property included livestock that was subsequently eaten by those who ran the bases. The theft victims had approached the ZANU-PF supporters who stole their goods and asked for the return of their property or appropriate compensation. Many of those who took property in 2008 admitted they had done so, and several signed proofs of resolution of any outstanding disputes after returning animals to the MDC supporters. On February 18, the Mutoko magistrate recused himself from the case after facing pressure from police who wanted him to deny bail. The recusal forced the case's transfer to a Marondera court, where the prosecutor suggested the accused be released while police further investigated the matter. That night, without any legal authority, police in Marondera detained the group in jail. On February 19, police denied lawyers access to their clients and refused to explain why they were still in jail. Detective Inspector Chimimba told lawyers they were taking the accused persons back to Mutoko and that the lawyers should wait until the following day for further information about their clients. On February 20, Chimimba initially refused lawyers access to their clients. After an hour she relented and had allowed a brief meeting when, without explanation, the accused were rushed back to Marondera where their cases were heard by two magistrates. One magistrate postponed any decisions on bail to February 23. Another magistrate granted bail to some of the accused. Those who were granted bail were taken back into custody after the prosecutors invoked section 121 of the CPEA. In the end all 59 accused persons remained in custody. During the following week, some of the 59 were released when the government failed to appeal within seven days. On March 9, a magistrate in Marondera removed the cases from remand, which effectively removed them from the court's list of pending cases, although the prosecution can summon the defendants back to court through a trail summons. By removing the case from remand, the magistrate freed the last 45 detainees who remained in jail. During the hearing the prosecutor affirmed that investigating police had acted against their professional opinion to follow instructions from the director of public prosecutions, Florence Ziyambi, to ensure accused persons remained in custody. At year's end the cases were pending trial at the Mutoko Magistrates' Court.

On February 27, 88 persons from Nyanga were arrested and charged with extortion after they attempted to retrieve property and livestock seized by ZANU-PF supporters in 2008. The villagers, perceived to be MDC supporters, were targeted in the period prior to the 2008 election and lost cattle, goats, chickens, ploughs, and food stocks harvested from their fields. There was no intervention from the government to ensure a return of the looted property and no compensation to the villagers. Prior to their arrest, the villagers approached the looters from Chifambe village and demanded that their property be returned. They were released on bail on February 28. The villagers alleged that the ZANU-PF supporters used their food to feed militias camped in the nearby bases of Chawagonahapana and Avilla Business Centre in Katerere. The magistrate removed the case from remand after the prosecutors failed to be prepared for trial in October.

During the year police arrested numerous leaders of the MDC on trumped-up charges. On February 13, Roy Bennett, MDC-T treasurer, was taken by police from Prince Charles Airport in Harare to the eastern city of Mutare, where he was jailed. On February 13 and 14, police forcibly expelled Bennett's lawyers when they attempted to see Bennett. On February 15, police charged Bennett with insurgency, and on February 16, they charged him with attempting to violate the Immigration Act and issued a warrant of further detention without informing Bennett's lawyers, despite their presence at the courthouse. On February 17, police further charged Bennett with allegedly possessing weaponry with the intention of using it in connection with acts of insurgency. Bennett denied all three charges. On February 24, High Court Judge Tedi Karwi granted Bennett bail, but the government invoked section 121 of the CPEA to appeal. During a routine bail hearing on March 4, Magistrate Livingstone Chipadza approved Bennett's release on \$5,000 bail; however, the government argued that an appeal was pending in a superior court. On March 5, Supreme Court Judge Paddington Garwe ruled that the government could appeal the February 24 issuance of bail. On March 11, Chief Justice Godfrey Chidyasiku dismissed

the appeal. Bennett was released on March 12. After several delays, Bennett's trial began on November 9 in the High Court and continued 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. On November 2, 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. On November 3, Mahlangu was released on bail after spending a night in jail. His case was pending at year's end.

On June 16, MDC-T Director General Toendepi Shonhe was arrested and charged with perjury for falsely stating in a high court affidavit that government security agents had abducted three MDC members. Shonhe made the statement shortly after three MDC activists were abducted from their homes in Banket in early June. After they were located, Shonhe withdrew his statement from the court. On June 18, a magistrate granted Shonhe bail; however, the government invoked section 121 of the CPEA. On June 26, a high court judge dismissed the government's appeal, resulting in Shonhe's release from Harare remand prison. On August 17, a magistrate acquitted Shonhe of all charges.

During the year civil society 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. Section 42 of the constitution states that upon the sentencing of a legislator to death or a jail term of six months or more, "such member shall cease forthwith to exercise his functions...and his seat shall become vacant at the expiration of 30 days from the date of such sentence." Police arrested at least 17 MPs during the year; at least 15 were from the MDC-T party. At least four MPs were suspended after they were sentenced for jail terms of more than six months; however, all four appealed their suspensions in the High Court. The MPs were allowed to retain their seats during the appeal process, which was pending at year's end.

For example, on January 15, police arrested Meki Makuyana, MP for Chipinge South, and charged him with kidnapping two ZANU-PF supporters. On January 29, Makuyana was granted bail; on July 9, a magistrate found him guilty and sentenced him to 18 months in prison with hard labor, with six months suspended. He was granted bail on July 30 and allowed to retain his seat pending appeal; the case continued at year's end.

On April 10, police arrested Mathias Mlambo, MP for Chipinge East, and charged him with defeating the course of justice; he was granted bail on May 2. The charges arose after Mlambo attended a funeral on April 2 and allegedly prevented police from arresting someone at the funeral. Mlambo was sentenced on May 22 to 10 months' imprisonment; however, he was released the same day on bail pending appeal. On July 16, Parliament suspended Mlambo from his seat; at year's end his appeal had not been heard.

On July 27, a Mutare magistrate found MP for Mutare West Shua Mudiwa guilty of kidnapping a 12-year-old girl in 2007 and sentenced him to seven years in jail. Two years and six months of the sentence were suspended. Mudiwa's appeal to the High Court was pending at year's end. Because his sentence exceeded six months, Parliament suspended Mudiwa on July 16.

There were developments in three cases reported in 2008. On February 6, Magistrate Olivia Mariga stated that prosecutors appeared unprepared to proceed against MDC-T Secretary General and MP Tendai Biti for treason; Mariga removed his case from remand and advised that police could summon him to trial when they were ready. The ruling effectively removed Biti's case from the court's schedule but did not eliminate the charges against him. Mariga also ruled that Biti had been improperly arrested at the Harare International Airport upon his return from South Africa in June 2008. His whereabouts were unknown for two weeks until police brought him to court and the government charged him with

treason, which carries the death penalty. On February 13, Biti began serving as the finance minister of the inclusive government.

On May 26, a magistrate acquitted MDC-T MP for Buhera West and Minister of Constitutional Affairs Eric Matinenga of allegedly inciting public violence. Matinenga, a lawyer, was arrested in May 2008 when he visited a police station to investigate the arrest a client.

On June 4, 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 October 2008. The court promised to issue a ruling before the women's scheduled trial date of July 7; however, at year's end the court had not done so.

There were no developments in the arrest cases reported in 2007.

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 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. Women received longer prison sentences than men (see section 1.c.). 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.

The law provides for a unitary court system consisting of headmen's courts, chiefs' courts, magistrates' courts, the High Court, and the Supreme Court. Victim-friendly courts, which had jurisdiction over children and victims of sexual abuse, had specially trained magistrates and prosecutors and equipment that allow victims to testify without being seen. Civil and customary law cases may be heard at all levels of the judiciary, including the Supreme Court.

Military courts deal with court martial and disciplinary proceedings only for military personnel. Police courts, which can sentence a police officer to confinement in a camp or demotion, handle disciplinary and misconduct cases. Defendants in these courts have the right to appeal to the Supreme Court. Military and police courts provide the same rights as civil criminal courts.

Judges are appointed to serve until the age of 65 and may extend their terms until the age of 70 if they remain in good physical and mental health as certified by a physician and receive presidential approval in consultation with the Judicial Services Commission. The constitution provides that they may be removed from the bench only for gross misconduct and that they cannot be discharged or transferred for political reasons. In November 2008 HRW reported on several methods the government used to undermine the independence of the judiciary, including giving farms and homes to judges. Also in 2008 the government newspaper *The Herald* reported that the Reserve Bank had given judges luxury cars, plasma televisions, and electricity generators.

Magistrates, who are part of the civil service rather than the judiciary, heard the vast majority of cases. 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 HRW report,

most junior magistrates and magistrates in rural areas did not benefit from government patronage. Instead, government 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. During the year numerous lawyers and court officers were arrested on criminal charges after taking action that some in government opposed.

For example, on March 5, Manicaland Provincial Magistrate Livingstone Chipadza was arrested on charges of criminal abuse of office the day after signing the warrant of release for MDC-T treasurer Roy Bennett, who had been granted bail by the High Court. Chipadza spent two nights in jail before being released on bail. His trial began in July; on August 4, he was acquitted. The court ruled that the government had not provided any evidence to show that Chipadza had committed a crime.

On May 6, police arrested Constance Gambara, the clerk for High Court Judge Justice Chinembiri Bhunu, and held her and her nine-month-old child at Chikurubi Maximum Security Prison until she was granted bail on May 14. Gambara was charged with criminal abuse of public office after she typed the warrant of release for 2008 abductees Chris Dhlamini, Ghandi Mudzingwa, and Andriison Manyere on April 17 (see section 1.b.). On May 14, police also arrested lawyer Alec Muchadehama and charged him with obstruction of justice for assisting with the release of Dhlamini, Mudzingwa, and Manyere. Muchadehama was held in jail overnight and released on bail the following day.

On October 22, during Muchadehama and Gambara's trial, Magistrate Chioniso Mutongi found prosecutor Andrew Kumire in contempt of court and sentenced him to five days in prison after Kumire repeatedly disobeyed the magistrate's orders. The prosecutor fled to the Attorney General's Office, where prison guards arrested him and brought him back to court. However, Kumire appealed to a different magistrate for bail, who granted it. Kumire then appealed the conviction to the High Court; on October 26, Judge Tedi Karwi dismissed the appeal. The case was then transferred to another magistrate and was pending at year's end. On November 3, Mutongi resigned her position, citing interference and threats to her life in connection with the Kumire case. On November 21, Kumire was promoted to Area Public Prosecutor for Harare. On December 11, Magistrate Fadzai Mthombeni acquitted Muchadehama and Gambara of all charges.

There were no updates in any of the 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 certain security cases. 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 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 opposition members or civil society activists. Defendants have the right to present witnesses, present evidence in their own behalf, and question witnesses against them. However, these rights were not always observed in practice. While defendants and their attorneys sometimes had access to government-held evidence relevant to their cases, this was often not allowed in politically sensitive cases. The right to appeal exists in all cases, and 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 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.

Political Prisoners and Detainees

There were dozens of reports of political detainees throughout the year, including opposition 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 severely beat and tortured numerous opposition, civil society, and student leaders while in detention.

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

Civil Judicial Procedures and Remedies

There was an independent and impartial judiciary in civil matters; 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.

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, the government pressured local chiefs and ZANU-PF loyalists to monitor and report on suspected opposition supporters, and the government forcibly displaced persons from their homes. Elements of the government coerced ZANU-PF supporters and punished opposition supporters by manipulating the distribution of food aid, agricultural inputs, and access to other government assistance programs.

In 2007 the president signed into law the Interception of Communications Act (ICA) to provide 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 opposition and civil society activists. In 2008 the Chief Executive Officer of the state-run Zimpapers secretly monitored subordinates' private e-mails for political content.

In 2005 the government embarked on Operation Murambatsvina (loosely translated from Shona as "Restore Order" or "Get Rid of the Filth") without prior notice, during which more than 700,000 persons lost their homes, their means of livelihood, or both through a program of forced evictions. The government's stated reason for the operation was to curb illegal economic activities and crime in slums and illegal settlements in several cities and towns, but it made no provision for the victims of its policy. Those who returned to rural areas often faced unemployment, food shortages, and other economic and social stresses. According to the Amnesty International report *Zimbabwe: Between a Rock and a Hard Place—Women Human Rights Defenders at Risk*, the operation resulted in the destruction of more than 32,500 small businesses across the country and the loss of livelihood for more than 97,550 persons, most of whom were women. An estimated 300,000 children lost access to education as a result of displacement. The operation disrupted access to medical care, particularly for HIV/AIDS patients. The government reportedly prevented or interfered with UN and other humanitarian organizations' efforts to provide shelter and food assistance. The government's actions were widely condemned by local civil society organizations and the international community.

The 2008 HRW report *Neighbors in Need: Zimbabweans Seeking Refuge in South Africa* detailed the struggles of the estimated 1.5 million Zimbabweans living illegally in South Africa. The report noted that a significant but unknown portion of them were displaced by Operation Murambatsvina.

According to local human rights and humanitarian NGOs, sporadic evictions, which were often violent, continued during the year, especially of tenants and informal vendors suspected of supporting the opposition. On November 9, Godfrey Tonde, an informal vendor, was killed in Mbare, a high-density area of Harare. According to press reports, police officer Anos Zharare targeted and chased Tonde while dispersing informal vendors. Tonde reportedly died due to injuries sustained from a fall after Zharare tripped him. Zharare was arrested and charged with murder; the case was pending at year's end. No action was taken against security forces involved in 2008 forced evictions.

Land seizures, often violent, 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. In 2006 the Gazetted Land (Consequential Provisions) Act passed into law, requiring 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 ZANU-PF supporters.

In 2007 Didymus Mutasa, then minister for lands, land reform, and resettlement, announced that the government was going to take action to seize the remaining estimated 400 white-owned farms for resettlement. The announcement was followed by a sharp increase in invasions, evictions, and arrests of farm owners and workers. Several farmers subsequently appealed to the Supreme Court to declare the eviction notices unconstitutional.

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 ensure that SADC member states, including Zimbabwe, adhere to the SADC treaty and protocols, protect the rights of citizens, and ensure 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 in Zimbabwe failed to issue a judgment on the case. The tribunal issued an interim protective order, which prohibited the government from evicting or allowing the eviction of or interference with the farm pending a decision by the tribunal; government representatives told the three-member tribunal it would abide by the decision. However, in January 2008 the Zimbabwe Supreme Court issued a judgment dismissing the Campbell case. Soon after the ruling, Mutasa declared that the country would be bound only by its laws and 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 recent land seizures and turning the issue over to the SADC summit for further action. However, the government asserted that it would move forward with prosecutions 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 Zimbabwe's courts, the government violated the rule of law; the farmers were discriminated against on the basis of race; and the government should compensate three dispossessed landowners by June 30, 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 state-confiscated farms during the year.

In an August 7 letter, Minister of Justice Patrick Chinamasa informed the SADC tribunal that the country was pulling out of the tribunal. Chinamasa claimed that because the SADC Protocol on the Tribunal was not ratified 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 it into SADC as an integral organ and exclude the tribunal from the usual SADC requirement for ratification by two-thirds.

Disruptions at farms and seizures of property increased during the year and were often violent. ZANU-PF supporters invaded numerous farms involved in the SADC case and stole crops, farming materials, and personal property of the farmers and farm workers. Tens of thousands of black farm workers on white-owned farms were beaten, intimidated, or displaced (see section 2.d.).

For example, although Richard Etheredge, the owner of Stockdale farm near Chegutu, was found innocent of charges of refusing to vacate his farm in February, on March 5, ZANU-PF youths and "war veterans" forced the Etheredges and many of their 400 employees and their families to vacate their farm. The perpetrators acted at the behest of Senate President and ZANU-PF MP Edna Madzongwe, whose daughter moved onto the farm after the Etheredges were displaced. The Etheredges were party to the Campbell case in the SADC tribunal, and an offer letter that the government issued to Madzongwe in 2007 was found invalid by a court. On April 12, Madzongwe's guards beat to death a local man for allegedly stealing oranges from the farm. According to a medical report, the man's spine was broken in three places. Police detained three of Madzongwe's guards and two former employees of the Etheredges' for questioning; they were later released without charge. On April 17, Deputy Prime Minister Arthur Mutambara toured several farms under dispute, including Stockdale, and told the press, "We will not tolerate any government official who is promoting lawlessness in our country." On April 21, police guarding the farm shot two of the Etheredge's farmworkers when they attempted to return to the farm with Peter and James Etheredge. The men were shot while lying in the bed of the Etheredges' truck as they left the farm, and one worker sustained a serious bullet wound to the leg. Police then arrested Peter Etheredge and threatened to charge him with disorderly conduct and inciting violence; he was released four days later without charge.

Campbell's Chegutu farm, Mount Carmel, continued to experience similar problems throughout the year as a result of Campbell's role, along with that of his son-in-law Ben Freeth, in the SADC tribunal case. On March 9, a local representative of the Ministry of Lands and Rural Resettlement arrived at the farm with police, CIO officers, and Peter Chamada, who claimed to be the son of ZANU-PF Spokesman Nathan Shamuyarira. Chamada showed Freeth an offer letter that listed Shamuyarira as the owner of Mount Carmel and refused to acknowledge court orders protecting the Freeth's claim. "War veteran" Lovemore Madangonga (known as "Landmine") led a group of youths and "war veterans" on numerous subsequent invasions of the property for varying periods. During one occupation on April 10, Freeth visited the farm where Madangonga was selling the mango crop from Freeth's farm for his own personal benefit. At least 50 tons of export-quality mangoes were rotting in the farm's shed. On August 30, Freeth's home burned in a fire that may have been arson. On September 2, Campbell's home was destroyed in another apparent arson attack, during which war veterans stole items from Freeth's car as he attempted to put out the fire. By year's end police had not investigated the fires. On September 9, police detonated several explosions on the property; they later claimed they were detonating weapons caches found on the farm. After the release of the documentary *Mugabe and the White African* about the continuing

dispute at the farm, police on September 14 detained Freeth and the al Jazeera news crew accompanying him after claiming the group had strayed into a sealed-off crime scene at the farm; all were later released.

No action was taken against perpetrators of numerous 2008 and 2007 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 2008 and 2007 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.

The Ministry of Media, Information, and Publicity (MMIP), headed by Webster Shamu, continued to restrict freedom of speech, particularly of those making or publicizing comments critical of President Mugabe. The ICA continued to be used to monitor speech and to punish those who criticized the government. Under authority of the Official Secrets Act, the Public Order and Security Act (POSA), or the Criminal Law Act, the government arrested individuals for criticizing President Mugabe in public.

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, and torture. On October 10, police arrested student leaders Clever Bere, Blessing Vava, Obert Masaraure, Kurayi Hoyi, and Tafadzwa Kutya, after one of the students remarked that President Mugabe was stalling progress on establishing an inclusive government. The students were taken to Harare Central Police station, where they were detained for two days and beaten with whips, fists, and batons. The group was charged with misconduct and undermining the office of the president; the case was pending at year's end.

The government continued to restrict freedom of the press. The MMIP controlled the state-run media, including the two daily newspapers, the *Chronicle* and the *Herald*, and a new daily, *Harare Metro*. 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 three main independent domestic weekly newspapers, *The Zimbabwean*, the *Zimbabwe Independent*, and the *Standard*, and a semi-independent weekly newspaper, the *Financial Gazette*, all of which continued to operate despite threats and pressure from the government. The independent newspapers continued to criticize the government and ZANU-PF; however, they also continued to exercise some self-censorship due to government intimidation, a reluctance to criticize the MDC-T for fear of further strengthening ZANU-PF, 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, supervised by the MMIP. The popularity of independent short-wave 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 Voice of America's (VOA) Studio 7 and SW Radio Africa. The government controlled the only domestically based television

broadcasting station, the Zimbabwean Broadcasting Corporation. International satellite television broadcasts were available through private firms but too expensive for most citizens.

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 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. Senior ZANU-PF officials repeatedly criticized both local and foreign independent media for what they deemed biased reporting meant to discredit President Mugabe and misrepresent the country's political and economic conditions. For example, in September army commander Lieutenant-General Philip Sibanda accused private radio stations and NGOs of waging "asymmetric" warfare against the government by spreading hate messages that he claimed would lead to "rioting, despondency, and eventually cause war." Sibanda stated that Western countries were using "disinformation" through "pirate radio stations," citing VOA's Studio 7.

On October 20, security officials in Harare from the President's Office detained an al Jazeera news crew as they were filming outside the Munhumutapa Building, where the prime minister's office and cabinet room are located. Reporter Haru Mutasa and camera operator Austin Gundani were interrogated for approximately three hours. They were later transferred to Harare Central Police Station, where they were released without charge. The crew was outside the building to cover events in the wake of a highly-publicized MDC-T decision not to attend cabinet meetings.

Security forces arbitrarily harassed and arrested local and foreign journalists who contributed to published stories critical of government policies or security force operations. On March 17, 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 April 7, Bulawayo magistrate John Masimba charged the two with defamation under the Criminal Law Codification and Reform Act; the case was pending at year's end.

On May 11, police arrested *Zimbabwe Independent* editors Constantine Chimakure and Vincent Kahiya for publishing a May 8 story that revealed the role and names of police and intelligence agents in the abduction of human rights activists (see section 1.b.). The two were charged with publishing or communicating a statement with the intention of undermining public confidence in law enforcement agents under the criminal code. The information in the article had already been revealed in public court indictments filed on May 4 in the case of activists abducted in 2008. Chimakure and Kahiya were granted bail on May 12; on July 30, a Harare magistrate agreed to refer the matter to the Supreme Court, and the case was pending at year's end.

On October 8, 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 detained overnight in Chiadzwa before being transferred to Mutare Central Prison, where she was detained for four days. Mpalume was charged with violating the Protected Areas Act and released on bail; the case was pending at year's end.

In the 2008 case of the government seizure of a satellite truck and camera belonging to the South African company GlobeCast Satellite, a magistrate ruled in favor of the company, and the police subsequently returned their equipment in July.

On July 14, a magistrate dismissed the April 2008 public violence charges against freelance journalists Frank Chikowore and Luke Tamborinyoka for lack of evidence.

There were no developments in the May 2008 bombing case of a truck belonging to *The Zimbabwean*. Government and ZANU-PF officials continued to display open hostility towards the newspaper, labeling it part of what they called the "regime change" agenda.

The May 2008 case involving Davison Maruziva, editor of *The Standard*, for publishing an opinion article critical of President Mugabe, was pending in the Supreme Court at year's end.

There were no developments in the 2007 cases of harassment, abuse, and detention of journalists.

Journalists and publishers continued to practice self-censorship as a result of government action and threats. There were credible reports that the permanent secretary of the MMIP, George Charamba, routinely reviewed state-owned media news and excised reports on the activities of groups critical of the government. For example, on October 23, the independent media reported that the ministry ordered government-controlled print and electronic media to stop reporting on MDC ministers until the party reversed its decision to suspend contact with ZANU-PF. In November local NGOs reported that three managers at Zimbabwe Broadcasting Holdings had been suspended for 10 days for allegedly leaking information on the order.

The government continued to use the Access to Information and Privacy Protection Act (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 January 2008 the government amended AIPPA in order to abolish the Media and Information Commission (MIC). During its existence the MIC, under the MMIP, denied many local and foreign journalists accreditation. However, in 2008 MMIP officials continued to demand MIC accreditation from journalists. On May 28, High Court Judge Bharat Patel overruled the MMIP and found for applicants Stanley Gama, Valentine Maponga, Jealous Mawarire, and Stanley Kwenda, all freelance journalists, stating that MIC was abolished in January 2008. Patel ordered the MMIP minister and permanent secretary to retract statements that journalists had to register with MIC to cover an upcoming Common Market for Eastern and Southern Africa (COMESA) summit and also ordered them to place notices to that effect in the media. Patel stated that his ruling would have effect notwithstanding any government appeal. However, security officials at the June 7 COMESA summit refused the journalists entry, claiming they could grant entry only to those on the list provided by the ministry.

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

Amendment 19 of the constitution provides for the establishment of the Zimbabwe Media Commission (ZMC), a statutory media regulatory body, to succeed the MIC and oversee media regulation, registration, and accreditation. On August 18, the Parliamentary Standing Rules and Orders Committee announced that it had selected 12 candidates for the ZMC to forward to the president. According to amendment 19, the president should then appoint nine persons from the list of 12 to serve on the ZMC, and three of the remaining six nominees to serve on the Broadcasting Authority of Zimbabwe (BAZ), the regulatory body that licenses radio and television stations. At year's end neither committee was formally constituted.

In its annual meeting in July in Libya, the African Commission on Human and Peoples' Rights (ACHPR) ruled that the Zimbabwean government should repeal sections 79 and 80 of AIPPA because they contravene article 9 of the African Charter on Human and Peoples' Rights. Section 79 addresses compulsory accreditation requirements for journalists and optional accreditation for part-time or freelance journalists. It prohibits the permanent accreditation of noncitizens, although they may be granted temporary accreditation for a period not exceeding 60 days. Section 80 addresses abuse of journalistic privileges in relation to publication of falsehoods and injurious statements. The ACHPR also ruled that statutory media regulation was contrary to the principle of media self-regulation as enunciated under the African Charter to which Zimbabwe is a party. The government took no action by year's end to comply.

In January the government published application and registration fees for mass media services that were significantly higher than the regional norm and described by civic and media groups as exorbitant. For example, foreign media houses wishing to establish a representative office were required to pay an application fee of \$10,000, an additional \$20,000 for permission to operate, and \$2,000 in administration fees. Local journalists working for foreign media organisations were required to pay \$1,000 and \$3,000 as individual application and accreditation fees, respectively. Temporary accreditation for a foreign journalist was \$1,500. This contrasts sharply with the accreditation and administration fees for journalists working in the rest of SADC, which were \$150 and \$200 respectively.

ZANU-PF elements of the government continued to politicize licensure of media outlets. In March a private company, Zimind Publishers, applied for a license to start the daily *Newsday*; at year's end Zimind was still waiting for a license to print. On October 7, Charamba threatened *Newsday* editor Barnabas Thondlana with arrest if the newspaper began publishing without a license.

On August 7, the BAZ issued regulations for television and radio but did not invite applications for new broadcasting licenses as required by the law. The new regulations announced high fees for broadcasters.

On September 7, the government-controlled media group, the Zimbabwe Newspapers Private Limited, launched the daily newspaper *Harare Metro*. Civic organizations, including the NGO Media Institute of Southern Africa, argued that the government had used its "political prerogative to expand state-funded newspapers in the country to the distinct disadvantage of other media players awaiting licensing."

The Broadcasting Services Act, which Parliament's legal committee found to be unconstitutional when it was passed in 2001, was amended in January 2008 to give the BAZ 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 MMIP minister. During the year Deputy Minister of the MMIP Jameson Timba stated that the frequency spectrum allocated to BAZ by the Postal and Telecommunications Regulatory Authority allowed for over 30 commercial radio and an additional four television stations. Independent journalists welcomed Timba's statements as the government had historically limited alternative television and radio options.

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 recommends 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 have 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. For example, since the transfer, making a false statement prejudicial to the state now carries a maximum prison sentence of 20 years. Failure to give police the requisite advance written notice of a meeting or demonstration remains an offense under POSA.

In July Minister of Finance Tendai Biti removed the 40 percent import tax on all foreign newspapers imposed by ZANU-PF in June 2008. Several newspapers published in South Africa subsequently began circulating in Zimbabwe. The removal of the tax encouraged a number of Zimbabweans to publish newspapers from outside the country. These included the *Zim Star* and the *News Leader*.

In the September 2008 GPA that led to the formation of the inclusive government, all parties agreed to ensure the immediate processing of all applications for reregistration of media houses and new registrations. However, at year's end a system to register new independent media organizations had not yet been established.

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 2008, approximately 11.4 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. The 2006 National Council for Higher Education Act mandated the establishment of a nine-member council made up of members of the higher education community from both public and private institutions. The council advises the minister of higher and tertiary education on matters pertaining to education, including funding for higher education and accreditation of higher education institutions. The minister, however, selects and appoints the council members, controls state universities, and nominates vice chancellors; the minister also appoints the deans of faculty, and most members of the university council. The appointed deans and heads of departments require faculty to submit final examinations well in advance of the end of term and have the right to censure exam content if they feel it is too controversial or threatens "sovereignty and national interest." During the year some lecturers were asked to revise final exams, and department chairs rewrote exam questions before they were given to students.

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 criticize government policies and actions. CIO officers regularly attended all lectures where noted MDC activists were lecturers or students. In response both faculty and students often practiced self-censorship in the classroom and academic work.

According to the Students Solidarity Trust, a local NGO that provides assistance to student activists, 128 students were arrested or detained and 43 students were expelled or suspended for engaging in student activism during the year.

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 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. During the year the two teachers' unions continued to pressure the government to further improve wages. In May 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.

In December police or ZANU-PF local officials in Mashonaland East and Central cancelled eight performances of the play "Heal the Wounds," which dramatized healing and reconciliation processes after the violent 2008 election and included a facilitated discussion on healing with audiences. In most cases the performances were blocked despite prior permission from police and the successful showing of the play in other provinces.

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 seven days in advance. Failure to do so results in criminal prosecution as well as civil liability. In January 2008 POSA was amended as part of constitutional amendment 18 to require police to go to a magistrate's court and to state in an affidavit why a public gathering should not take place. Although many groups that conducted 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 June 18, 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. After four police officers arrested Clara Manjengwa, they forced her into a police vehicle and proceeded to jump on her and beat her with batons. One of the demonstrators, who was carrying her baby, and the three journalists were released without charge on the same day. Four women, including Manjengwa, were kept in custody at the police station and denied medical treatment for injuries sustained during their arrest. Four of the arrested demonstrators suffered severe deep tissue injuries, one had a broken finger, and two were unable to walk without assistance. The four were charged with disturbing the peace and released on bail on June 18. One police officer accused WOZA lawyers from ZLHR of "stage-managing" the demonstration to embarrass authorities during the visit of Amnesty International Secretary General Irene Khan. On July 3, the prosecutor withdrew the charges, as the government could find no witnesses. During the hearing ZLHR defense attorney Beatrice Mtetwa insisted that the magistrate address the issue of the assaults carried out by police. The officer in charge of the Law and Order Unit at Harare Central Police Station claimed that he had not received a report of the assaults from the four WOZA members while they were under arrest. Mtetwa stated that she had personally shown him the women's injuries and had requested medical treatment for them on June 18. Magistrate Majonga postponed the case to allow the police time to prepare a report. No further action was taken by year's end.

On September 22, approximately 1,300 WOZA members in Bulawayo marched to commemorate the UN's International Day of Peace. Riot police disrupted the march and beat a number of protesters. According to witnesses, police searched for WOZA leaders Jenni Williams and Magodonga Mahlangu to beat them. One victim, Frances Vale, was unable to walk after being beaten by four police officers; he also suffered a fractured arm. In all, 23 persons sought medical treatment for injuries inflicted by police.

Police erected roadblocks in urban and rural areas to prevent public gatherings, repeatedly used excessive force in dispersing demonstrations by the opposition and civil society, and arrested numerous demonstrators during the year.

No further action was taken in the 2008 or 2007 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 at increasing tuition, the government continued its harassment of university student unions and student demonstrators. On February 3, police used excessive force to

disperse a group of approximately 200 students who gathered to protest an announcement that the University of Zimbabwe was planning to charge \$400 in student fees. Approximately 80 riot police beat and used tear gas against the students as they fled, resulting in 10 injuries. Police arrested 60 persons. Vitalis Mudzonga, Tawanda Katsuro, and Justice Chikanya were charged with public violence and released on bail on February 9; the rest were released without charge on February 3 and 4. On June 2, after a series of court hearings, a Harare magistrate removed the case from remand, effectively removing it from the list of pending cases, and advised the government to summon the three to court if it wished to pursue the case.

On April 16, 10 students from the National University of Science and Technology were beaten by school guards and riot police and then arrested following a demonstration on campus against the suspension of students who failed to pay tuition and examination fees. Two of the students sustained serious injuries after being assaulted by a university security guard--one student sustained a fracture, and another suffered blurred vision after being hit on the nose with a truncheon. The students were held at Bulawayo Central Police Station and charged with malicious injury to property before being released on April 20 after meeting strict bail conditions. The case was pending at year's end.

On August 5, 14 representatives of the Zimbabwe National Students' Union were arrested at the University of Zimbabwe while speaking to students about school fees. Ten were immediately released; Clever Bere, Kudakwashe Chakabva, Archieford Mudzengi, and Brian Rugondo, were held overnight at a police station. Police refused to advise the students or their lawyers of the charges for more than 24 hours. The detentions came days after the coministers of home affairs assured the public that peaceful gatherings would not be disturbed and stated that arbitrary arrests would no longer be tolerated. On August 7, the students were charged under the Criminal Law (Codification and Reform) Act with participating in a gathering with intent to promote public violence, breach of peace or bigotry and granted bail by a Harare magistrate. During a hearing on September 1, a magistrate conceded that the section of the law the students were accused of contravening had been found unconstitutional and repealed several years before. The case was pending at year's end.

There were no developments in student cases reported in 2007 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 the opposition. Suspected security force members visited the offices and inquired into the activities of numerous NGOs and other organizations that it believed opposed government policies.

For example, on March 18, in Shamva, Mashonaland Central Province, police disrupted a civic education meeting led by the NGO Crisis in Zimbabwe Coalition. The meeting was held to solicit public views on the new inclusive government. Police, who earlier provided clearance for the meeting, ordered organizers to stop the meeting, saying it had started late. Police accused the organizers of being sympathetic to the MDC and threatened them with arrest.

On October 25, police arrested National Association of NGOs director Cephas Zinhumwe and chairperson Dadirai Chikwengo after a two-day NGO meeting that concluded with a statement expressing concern about the slow progress in implementing the GPA. Police charged the two with contravening POSA for holding a meeting without police clearance. In a hearing on November 25 in Victoria Falls, Magistrate Richard Ramboea dismissed the charges, stating that the association's meeting was exempt from POSA.

The formation of political parties and unions was not restricted; however, security forces and ZANU-PF supporters interfered with activities of both during the year. For example, on March 25, 10 ZANU-PF supporters disrupted an MDC meeting of an estimated 50 persons in Mufakose. The ZANU-PF supporters attacked with a metal bar the man leading the meeting. Several MDC supporters were injured in the attack. The perpetrators threatened to kill the local MP, who was not at the meeting. The incident was reported to police; however, no action was taken by year's end.

c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right in practice. The government and the religious communities historically have had good relations; however, the government continued to criticize and harass religious leaders who were critical of government policies and who spoke out against the government's human rights abuses. Church leaders and members who criticized the government faced arrest, detention, and, in the case of foreigners, possible deportation. Although not specifically aimed at religious activities, POSA and other laws continued to be used to interfere with religious and civil society groups organizing public prayer rallies.

The government arrested, harassed, and prevented church attendance of Anglican clergy and parishioners from the Church of the Province of Central Africa (CPCA), the regional body of the Anglican Communion. Police continued to disrupt Anglican church services and strike worshippers, primarily women, with batons. They arrested parishioners, interrogated priests and lay leaders, and locked the doors of churches to keep worshippers away.

On October 18, police detained and questioned Brandon Conway, a Roman Catholic priest, after he read the Zimbabwe Roman Catholic Bishops' annual pastoral letter at his parish. The letter stated that the country was traumatized as a result of widespread violence in the period prior to the 2008 election and that politicians involved in committing acts of violence should not be allowed to hold any public office, as part of the national healing process provided for in the GPA. Conway was released the same day.

The government continued to favor Nolbert Kunonga, the ZANU-PF-affiliated, former Anglican bishop of Harare, who formed the Church of the Province of Zimbabwe in 2007. In late November and December, police and priests aligned with Kunonga renewed disruptions of CPCA church services and functions after several months of peaceful sharing of church facilities by Kunonga and the CPCA. On November 22, 10 police officers and six priests in Mangwende, Mashonaland East aligned with Kunonga interrupted services at St. Clare's Church and forced Reverend Chad Gandiya, bishop of the diocese of Harare of the CPCA, and church parishioners to leave.

On December 20, police blocked parishioners' access to every Anglican church in Harare during Sunday morning services and made several arrests. For example, an employee of the CPCA at the Harare Anglican Cathedral, Misheck Dangirwa, was abducted and beaten by men aligned with Kunonga before being arrested. He was released on December 23. The same day, Sam Chikumbirike, a warden for a church in the Harare suburb of Hatcliff, was beaten and arrested for permitting a meeting of the church's women's group on December 19; he was released on December 21. At year's end it was unclear what charges, if any, Dangirwa and Chikumbirike faced.

On December 24 and 25, police again blocked access to Anglican churches in Harare, preventing parishioners' access to Christmas services. On December 27, both the archbishops of Canterbury and York condemned police intimidation of Anglicans in a statement.

Societal Abuses and Discrimination

There were no reports of societal violence, harassment, or discrimination against members of religious groups, including interreligious and intrareligious incidents, other than incidents that were politically motivated.

The Jewish community numbered approximately 270. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

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 and asylum seekers, but it interfered with some humanitarian efforts directed at internally displaced persons (IDPs).

During the year armed police continued routinely to erect roadblocks in and around cities and rural districts, especially before planned demonstrations. Security forces claimed that they were looking for criminals, smuggled goods, and food; however, in many cases police arbitrarily seized goods for their own consumption.

During the year travel bans on a variety of persons remained in effect. Foreign correspondents were denied visas during the year. On October 29, the government deported Manfred Nowak, the special rapporteur on torture and other cruel, inhuman, or degrading treatment, after security officers refused to grant him entry on October 28. Nowak was in South Africa in transit to Zimbabwe on October 27 when he learned that the government had rescinded its invitation for a fact-finding mission. Prime Minister Tsvangirai then invited Nowak for a meeting on October 29. However, when Nowak arrived in Harare, security officials claimed the Ministry of Foreign Affairs had not granted clearance for the meeting and refused him entry.

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 guaranteed 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 one has a parent or parents that are born out of the country, they are citizens of the other country by descent. In addition, some countries, including in southern Africa, do not have a means to renounce citizenship. Independent groups estimate that as many as two million citizens may have been disenfranchised by the law, including those perceived to have opposition 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

According to independent assessments, hundreds of thousands of 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. Since 2007 the International Organization on Migration (IOM) helped more than 200,000 displaced persons with temporary shelter and food. A total of 8 percent of citizens surveyed in 2007 stated they had moved in the last five years because they were "asked to move." 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). During the year the government acknowledged 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."

The government's campaign of forced evictions and the demolition of homes and businesses continued during the year under the land reform policy, which affected more than 5,000 farm workers and their families. 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 people might have been affected by the land reform program during the year. Most were displaced from farms taken over 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, during the year evictions increased and hundreds of workers' homes were burned by new proprietors

During the year some local government officials facilitated donor and NGO provision of humanitarian assistance to IDPs. However, in certain cases, particularly those involving disputed farms, the government refused to grant NGOs access to assist displaced persons.

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. The government did not provide assistance to IDPs, prohibited humanitarian agencies from assisting IDPs or conducting surveys to assess the scope of the problem, and refused to acknowledge that its policies had caused internal displacement. In August 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. During the year many IDPs continued to return to their rural home areas and rebuilt homes damaged or destroyed in 2008. At year's end some families continued to live in tents that were provided as temporary shelter in 2008 by independent organizations. Others had integrated into new communities within the country or in the diaspora.

In 2005 an estimated 700,000 persons lost their homes or businesses during Operation Murambatsvina, and approximately 2.4 million persons were directly affected. The government program "Operation Live Well," purportedly launched to build housing for those displaced, primarily benefited government officials and the police rather than victims of Operation Murambatsvina. The Swiss-based Internal Displacement Monitoring Centre's 2008 report *The Many Faces of Displacement: IDPs in Zimbabwe* reported that victims of Operation Murambatsvina continued to suffer and lacked permanent shelter. Some of those who returned to rural areas were regarded with suspicion by rural chiefs and were unable to remain. In urban areas the continued lack of housing contributed to high rent and overcrowding.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide 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.

By law refugees must live at the Tongogara refugee camp, where they had access to basic services and accommodation. However, the government's encampment policy posed limitations on refugees' freedom of movement and ability to earn a livelihood. In some cases the government permitted 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. 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 to have access to legal representation.

The UNHCR had a resettlement program that processed approximately 300 individuals for third-country resettlement during the year.

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 tilted heavily in favor of ZANU-PF, which has dominated since independence in 1980.

Elections and Political Participation

In 2007 SADC designated then South African president Thabo Mbeki to serve as mediator between Robert Mugabe's government and the MDC. The mediation aimed to produce a mutually agreed election date and procedures to rewrite the constitution. Mbeki described his main objective as facilitating elections "whose outcome would not be contested." While the mediation was ongoing, Mugabe announced in January 2008 that elections would be held in March 2008, despite Morgan Tsvangirai's protests that mediation was still under way and there was not enough time to campaign. On March 29, 2008, the country held harmonized elections for the presidency, House of Assembly, Senate, and local government.

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 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 carry out its responsibilities. 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. During the year 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 fraudulently 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 March 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. In August 2008 Lovemore Moyo of the MDC-T was elected Speaker of the House by secret ballot, marking the first time a member not affiliated with ZANU-PF ever held the seat.

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, 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 up to the run-off election were marred by widespread violence and intimidation perpetuated 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 Mugabe had won with more than 85 percent of the vote; he was inaugurated the same day.

Due to a government policy shift from the March election, 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 a means to curtail the ability of civil society to monitor the election, especially polling.

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

Following domestic and international protests of Mugabe's inauguration, ZANU-PF and MDC resumed negotiations, with 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, 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. On February 5, Parliament passed constitutional amendment 19, which added to 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 February 11 inauguration of MDC-T leader Morgan Tsvangirai as prime minister, alongside Deputy Prime Ministers Arthur Mutambara and Thokozani Khupe. On February 13, 41 ministers and 20 deputy ministers were sworn into office.

On December 21, several months after parliament submitted nominations to his office, President Mugabe named the members of three of four independent commissions, including for the Media, Human Rights, and Electoral Commissions, as provided for in the GPA. Nominees for the Anti-Corruption Commission had not been named by year's end, and none of the commissions were legally constituted, as their chairpersons had not yet been named.

A number of issues set forth in the GPA remained unresolved at year's end. There were selective prosecutions of MDC-T officials, and intimidation of civil society leaders and opposition members continued. In addition, President Mugabe appointed an attorney general and a reserve bank governor without consulting with Prime Minister Tsvangirai as stipulated in the GPA. On October 16, following months of protests from the prime minister and observers that Mugabe was not fulfilling his commitments under the GPA, Tsvangirai and MDC-T ministers announced they were "disengaging" from ZANU-PF. In subsequent weeks MDC-T officials did not attend cabinet meetings, and Tsvangirai sought intervention by numerous heads of state from other SADC countries before the matter was ultimately referred to SADC, as the guarantors of the GPA. On November 5, SADC heads of state, including South African President Jacob Zuma, the SADC-mandated mediator, reaffirmed their commitment to ensuring the implementation of the GPA; the MDC-T subsequently returned to government. By year's end the three parties had resolved most of the more than 20 outstanding GPA issues. However, there was no resolution of several high priority issues, including the appointments of provincial governors, the reserve bank governor, and the attorney general.

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. ZEC is comprised 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. ZEC also has provincial and district offices. Since ZEC's inception, observers have questioned its independence and impartiality. President Mugabe announced the eight members of the ZEC on December 21 but had not named a chairperson at year's end. Without a properly constituted ZEC, there is no legal body authorized to oversee elections in Zimbabwe.

In September 2007 Parliament unanimously passed constitutional amendment 18. Among other changes the amendment expanded the House of Assembly by increasing the number of constituencies from 120 to 210. It also empowered ZEC to set the boundaries of parliamentary and local constituencies. The delimitation report was finalized in January 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, the ruling party and security forces intimidated and committed abuses against opposition 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, has sole power to dissolve Parliament and to appoint or remove a vice president and any minister or deputy minister, and directly appoints eight provincial governors who sit in Parliament and six senators.

The government routinely interfered with MDC-led local governments. In the 2008 elections, the MDC won a majority of seats in city councils across the country. 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 should fill "gaps" by including members of business and civil society in the councils. However, Minister Ignatius Chombo used this authority to appoint losing ZANU-PF candidates to councils across the country. City councils in Mutare, Harare, Bulawayo, and other cities challenged such appointments.

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 House and Senate elected positions, 57 were filled by women, constituting 21 percent of the total, short of the SADC target for female representation of one-third. In 2006 Rita Makarau became the first

woman to hold the position of judge-president of the High Court. 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, and his replacement selected by the ZANU-PF party congress, Vice President Joshua Nkomo, who was sworn in on December 14. 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. The most recent World Bank's Worldwide Governance Indicators reflected that corruption was a severe problem. Implementation of the government's ongoing redistribution of expropriated white-owned commercial farms substantially 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 one-farm per official policy. 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.

High level ZANU-PF officials and entrepreneurs supporting the ruling party received priority access to farm inputs such as fertilizer, seed, and fuel. The government's campaign to provide housing plots and vending sites for victims of Operation Murambatsvina mostly benefited civil servants, security forces, and ZANU-PF supporters.

A government-appointed Anticorruption Commission was established in 2005 but had yet to register any notable accomplishments. Constitutional amendment 19 required the previous commission to be disbanded and a new one to be appointed; however, commission members had not been named by year's end.

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. For example, in March Brigadier General Douglas Nyikayaramba, head of a committee to administer the provision of farming inputs, 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 of Dzivarasekwa, Ernest Mudavanhu of Zaka North, Hamandishe Maramwidze of Gutu North, Edmore Marima of Bikita East, Heya Shoko of Bikita West, Ransome Makamure of Gutu East, Tachiona Mharadza of Masvingo West, and ZANU-PF MPs Tranos Huruba of Chivi North and Ivine Dzingirayi of Chivi South. The nine stood trial separately. On July 21, Mudavanhu was found guilty and sentenced to two years in jail with six months suspended if he paid a fine of \$15,000. He was released on bail on September 11 pending appeal. Makamure, Marima, and Shoko were acquitted; the remaining cases were pending at year's end. Convicted MPs could lose their seats in Parliament.

There were reports that ZANU-PF officials in the government removed from the civil service and the military persons perceived to be MDC supporters. There also were reports that the government assigned soldiers and youth service members to work in government ministries. In August the comptroller and auditor-general submitted a report to Parliament that documented significant irregularities within the Ministry of Youth Development, Indigenisation, 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 market stalls in the major cities. On August 14, a magistrate's court convicted MDC-T Mayor of Chitungwiza Israel Marange of accepting a \$1,000 bribe to allocate a vending stall and sentenced him to one year in jail. Marange was released on bail pending appeal in the High Court; the case was pending at year's end. On December 7, the MDC-T announced it was suspending Marange and several other MDC-T officials who were accused of corruption.

In April Transparency International-Zimbabwe's (TI-Z) Advocacy and Legal Advice Center began an anticorruption campaign by inaugurating a toll-free hotline for residents to report corruption, seek free legal advice, and propose solutions for the prevention of corruption, TI-Z also established a corresponding monthly newsletter to discuss hotline complaints. Although the hotline was initially advertised in government-controlled media, in August the national public broadcaster, Zimbabwe Broadcasting Holdings, refused to carry TI-Z's advertisements. Many of the hotline's callers complained about police soliciting bribes at traffic stops, corruption in the allocation of vending stalls, and officials' misappropriation of funds.

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 AIPPA; election observation; constitutional and electoral reform; increasing poor women's access to the courts; raising awareness of the abuse of children; conducting civic education; preserving 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, ZPP, 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." On July 27, President Mugabe criticized NGOs, describing them as having "exceeded their terms of reference" and questioned "the advisability of having NGOs."

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

The government harassed some NGOs it believed opposed government policies, investigated their activities, and harassed their leaders. Unlike in previous years, there were no known cases of police raids of NGO offices. The government continued to obstruct the activities of organizations involved in humanitarian activities, particularly in rural areas.

Representatives of international and foreign NGOs were harassed. On September 23, security forces interrupted a workshop in Mutare and arrested Kenyan environmental activist Patrick Ochieng, the founder and executive director of the NGO Ujamaa Centre. Police charged him with attempting to incite villagers in the Chiadzwa region to subvert a constitutionally elected government, detained him for several hours, withheld his passport, and issued a "warned and cautioned" statement. On September 24, police returned Ochieng's passport and allowed him to leave the country.

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 on February 5. On October 12, the Judicial Service Commission and Parliament's Committee on Standing Rules and Orders forwarded a list of 16 names to President Mugabe for consideration, as required by the amendment. On December 21, Mugabe announced eight members of the human rights commission, four of whom are required to be women, but he had not named a chairperson by year's end.

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 was a widespread problem, particularly during the 2008 elections. 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 victims knew their rapists. The criminal code also makes it a crime to knowingly infect anyone with HIV. Local NGOs dealing with women's rights reported that rape cases were brought to the court and there were convictions; however, statistics were unavailable.

In December the international NGO AIDS Free World published a report entitled *Electing to Rape: Sexual Terror in Mugabe's Zimbabwe*, which was based on interviews with 70 women who survived rape in 2008. The women, most of whom were affiliated with the MDC, reported they were collectively raped at least 380 times by 241 different ZANU-PF youth militia and war veterans. Each woman reported being raped five times on average, although the actual number could be higher as many women fell unconscious during the attacks. Sixty-seven of the women reported that the perpetrator made political statements during the rape; most victims were affiliated with the MDC.

According to reports, soldiers and illegal miners continued to rape numerous women in the diamond fields in Chiadzwa during the year. One local NGO reported that at least 50 women were raped during the 2008 election-related violence. Because rape was underreported, NGOs believe the actual number was much higher. In a locally produced documentary entitled *Hear Us: Women Affected by Political Violence in Zimbabwe Speak Out*, survivors of rape and torture detailed their experiences.

In November IOM, the UN Children's Fund (UNICEF), and the UN Population Fund (UNFPA) announced plans to set up centers for survivors of sexual abuse to access medical and psychological help. The announcement came in response to a survey that found that the country's social, political, and economic instability had led to an increase of 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 said 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. In 2006 the Musasa Project, a local NGO that worked for the protection and promotion of women's rights, reported that approximately one-third of 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 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.

During the year the government continued a public awareness campaign on 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. 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--at 30 pages long, it was difficult to complete and photocopy.

Prostitution is illegal, and several civil society groups offered anecdotal evidence that the country's economic problems continued to force women and girls into prostitution. Police often tolerated prostitution at nightclubs, truck stops, and bars in urban areas. Clients were rarely arrested. The maximum penalty for soliciting for prostitution is a fine of \$200 or imprisonment up to six months. According to local lawyers, the maximum penalty was rarely imposed; those found working as prostitutes typically were forced to pay a fine at a police station. Although police occasionally arrested prostitutes, they usually paid small fines and were not detained at length. In March 12 women in Harare pled guilty to soliciting for prostitution clients after they were arrested while loitering outside a bar. One woman was sentenced to one month in jail because she was already out on bail for the same crime; the other 11 paid fines and performed community service. There were reports that girls as young as 12 worked as prostitutes for soldiers and illegal miners in the Chiadzwa diamond fields. There continued to be reports that women and children were sexually exploited in towns along the borders with South Africa, Botswana, Mozambique, and Zambia. During the year numerous media reports discussed police efforts to halt prostitution throughout the country. Police arrested both prostitutes and their clients during the year.

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 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. According to the UNFPA's 2009 *State of the World Population Report*, 58 percent of women used modern methods of contraception and 69 percent of births were attended by skilled attendants. 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. 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 and children continued to be adversely affected by the government's forced evictions, demolition of homes and businesses, and the takeover of commercial farms. Many widows who earned their income in the informal economy or by renting out 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. Traditionally, women joined their husband's family upon marriage and were considered an unwanted burden by their childhood families. Likewise, they were sometimes unwelcome in their husband's family in rural areas where resources were already strained.

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 military 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 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.

Children

Citizenship is derived from birth in the country (*jus soli*) and from one's parents (*jus sanguinis*). 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 of a government hospital. 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.

Schools and clinics reopened 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, and 100,000 children lived in child-headed households.

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 Orphans and Vulnerable Children designed to ensure that orphans and vulnerable children were able to access education, food, health services, and birth registration and were protected from abuse and exploitation. UNICEF reported in 2008 that the NGOs involved had reached more than 200,000 orphans and vulnerable children with comprehensive support and protection since the beginning of the program.

Primary education is not compulsory, free, or universal. During the year 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 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.

The continued low enrollment resulted from 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, inability to pay school fees, and Operation Murambatsvina.

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. In 2006, in collaboration with UNICEF and other partners, the government launched a National Girls' Education Strategic Plan to increase the likelihood of achieving universal primary education and ensuring that girls stayed in school.

Child abuse, including incest, infanticide, child abandonment, and rape, continued to be serious problems during the year. Police statistics showed that 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 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 and AIDS. In 2008 UNICEF and the government launched the "Stand Up and Speak Out" child abuse awareness and prevention campaign. In October 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.

The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued during the year, as did arranged marriage of young girls. The legal age for a civil marriage is 16 for girls and 18 for boys. 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 16 years of age. According to UNICEF in 2006, 29 percent of young women married when they were under 18 years of age. 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.

A child is defined as a person under 16 years of age. Statutory rape, legally defined as sexual intercourse with a child, carries a fine of \$2,000, imprisonment up to 10 years, or both. A person in possession of child pornography could be

charged with public indecency and face 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. There were reports of children as young as 14 engaged in prostitution in Chiadzwa; however, because of restricted access to the area, NGOs were unable to confirm the age of the girls.

The government gave preference to national youth service graduates among those seeking employment in the government, especially in the security forces. 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 saying 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. 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. Persons under 18 are prohibited from joining the military or police.

With 1.6 million orphans with HIV/AIDS, the country had the world's highest percentage of orphaned children at one in four, and the number increased during the year. Ninety percent 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, and to suffer discrimination and social stigma. Extended families and communities often refused to take in orphans out of 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 during the year. At year's end NGOs were uncertain how many children remained affected. Ongoing economic hardships and the government's lack of support for social welfare institutions contributed to a highly vulnerable population of approximately 5,000 street children throughout the country. NGOs operated training centers and homes for street children and orphans, and government officials referred children to these centers.

Trafficking in Persons

No laws specifically address trafficking in persons, and the country was a source, transit, and destination country for trafficking in persons. Domestic trafficking also occurred.

Trafficking was a serious problem. NGOs, international organizations, and governments in neighboring countries reported that Zimbabwean emigrants continued to face exploitation. Rural children were trafficked domestically and regionally into farms or cities for agricultural labor, domestic servitude, and commercial sexual exploitation, often under false pretenses of job or marriage proposals, according to one NGO. Reports suggested that those children in desperate economic circumstances, especially those in families headed by children, were most at risk. Women and children were reportedly trafficked for sexual exploitation in towns across the borders with the four neighboring countries. In recent years women and girls were lured to South Africa, China, Egypt, the United Kingdom, Canada, and Zambia with false employment offers that resulted in involuntary domestic servitude or commercial sexual exploitation. Women and children from the Democratic Republic of the Congo, Malawi, Mozambique, and Zambia were trafficked through the country to South Africa. Small numbers of South African girls were trafficked to the country for forced domestic labor.

Men also were trafficked in the region after being lured by the promise of employment. For example, at least one group of six Zimbabwean men was lured to Angola with the promise of employment in construction. On arrival, they were not paid and were subjected to forced labor.

Traffickers were typically independent businesspersons who were part of small networks of local criminal groups that facilitated trafficking within the country, as well as into South Africa or other surrounding countries. Anecdotal reporting indicated that traffickers approached a potential victim, usually young women or girls, with the offer of a lucrative job in another part of the country or in a neighboring country. Many young men and boys were exploited by "guides" when they attempted to cross the border illegally into South Africa to find work. Trafficked citizens often labored for months without pay in South Africa before their "employers" reported them to authorities as illegal immigrants. Traffickers often transported victims covertly across borders at unofficial border crossing points. The use of child laborers, especially as farm workers or domestic servants, was common in the country, often with the complicity of family members. Some children were trafficked internally to work as farm workers or domestic servants.

The constitution and law prohibit forced or compulsory labor, including by children, with the exception of working for parents or the national youth service, and traffickers could be punished under this law. Forced labor is punishable by a fine, two years' imprisonment, or both. It is a crime under the criminal code to transport persons across the border for sex. The law provides for a fine and a maximum prison sentence of two years (10 years if the victim is under the age of 16) for procuring another person to become a prostitute, whether inside or outside the country. Traffickers also can be prosecuted under other legislation such as immigration and abduction laws.

The government demonstrated interest in combating trafficking; however, it did not devote sufficient resources to investigating and prosecuting cases.

The primary government authority to combat trafficking was the ZRP, which relied on NGOs to alert them to cases. The Interpol National Central Bureau Zimbabwe's "antitrafficking desk" was staffed with ZRP officers who assisted with international investigations.

There were reports suggesting that corruption in law enforcement, especially at the local level, directly or indirectly facilitated trafficking. The government took steps during the year to educate and train officials to combat trafficking. Government officials attended IOM seminars on trafficking during the year. The IOM held numerous sector-specific training workshops during the year: four for law enforcement, eight for social services professionals, two for educators, and one for local government officials.

In 2008 the government signed a memorandum of understanding with the South African government for a joint project to regularize the status of illegal Zimbabwean migrant farm workers in South Africa's Limpopo Province and ensure them proper employment conditions.

Although the government lacked resources to provide protective services on its own, the police's Victim Friendly Unit, social services, and immigration officials used an established process for referring victims to international organizations and NGOs that provided shelter and other services. The government coordinated closely with the IOM-run migrant reception centers in Beitbridge on the border with South Africa and Plumtree near the Botswana border that provided social and reintegration services to the large number of repatriated illegal migrants and screened them to identify trafficking victims.

Victims suffering from child or domestic abuse were offered special procedures in victim-friendly courts, and trafficked persons had the option to take cases before such courts. Local immigration and social services officials referred trafficking victims to NGO-funded centers. Save the Children Norway also offered shelter and referrals for medical attention at the IOM reception centers in Beitbridge and Plumtree for unaccompanied children and trafficking victims.

The government-run media prominently featured articles about trafficking in persons, and the government had prevention programs to provide alternatives for children at risk. The government also continued to cooperate with the IOM and

Interpol in a public awareness radio campaign in five languages that led to the identification of several victims during the year. In 2008 the IOM and local NGO Oasis Zimbabwe launched an antitrafficking hotline. However, the hotline received few calls during the year due to lack of public awareness.

The State Department's annual *Trafficking in Persons Report* can be found at 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 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 children with disabilities often were hidden when visitors arrived. In 2008 the government announced it was reviewing the Disabled Persons Act, the Mental Health Act, and the constitution to align them with the Convention on the Rights of People with Disabilities; no further action was taken by year's end.

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.

The amendments to electoral laws changed voting procedures for the disabled. In February 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 violated persons with disabilities' right to cast their votes in secret. Ahead of the June 2008 run-off, 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. During the year 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.

Operation Murambatsvina in 2005 severely affected persons with disabilities and, according to the UN special envoy's report on the operation, the government held approximately 50 persons with physical and mental disabilities without care at a transit camp separated from the rest of the camp population.

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 less than 1 percent, and other ethnic groups 3 percent. There was some tension between the white minority and other groups, between the Shona majority and the Ndebele minority, and among the various Shona subgroups.

The government continued its attempts to attribute the country's economic and political problems to the white minority and Western countries. On several occasions President Mugabe, members of ZANU-PF, and the government-controlled media attempted to reignite resentment of the white minority. Ruling party 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 Mugabe signed the Indigenization and Economic Empowerment Bill into law. The bill's official purpose was to increase participation of indigenous citizens in the economy with the ultimate objective of at least 51 percent indigenous ownership of all businesses. An indigenous Zimbabwean was defined as any person, or the descendant of such person, who before April 18, 1980--the date of the country's independence--was disadvantaged by unfair discrimination on the grounds of his or her race. The bill was criticized as an attempt to create patronage for ZANU-PF.

During the year ZANU-PF used the bill 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, along with Shona or Ndebele, depending on the region, in schools. 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 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

Over a period of years, Mugabe publicly denounced the LGBT community, blaming them for Africa's ills. Although there was no statutory law proscribing homosexual conduct, common law prevents homosexual men, and to a lesser extent, lesbians, from fully expressing their sexual orientation and, in some cases, criminalizes the display of affection between men. In 2006 the 2004 amended criminal code became effective, broadening the definition of sodomy to include "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.

There was one organization, Gays and Lesbians of Zimbabwe (GALZ), that was dedicated to advancing the rights of the LGBT community. GALZ experienced discrimination and interference in its operations during the year. 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 to release the materials. Due to the courts' refusal to act, three cases from 2008, three cases from 2007, and two cases from 2006 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.

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, by 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 the LGBT community were reported.

Other Societal Discrimination

The government had a national HIV/AIDS policy that prohibited discrimination against persons with HIV/AIDS, and the law aims to protect against discrimination of workers 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, mounted increasingly vocal lobbies for improved wages and conditions during the year; however, union leaders and members were harassed, arrested, and beaten during the year. The government also restricted union activity indirectly by defining all senior employees as managers even though such employees did not enjoy benefits commensurate to the title; this 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 300,000 persons belonged to the 36 unions that form the Zimbabwe Congress of Trade Unions (ZCTU); approximately 65 percent of industries were unionized. The ZCTU estimated that 600,000 persons were employed in the formal sector. Approximately 3 million persons worked in the informal sector, of which 1.2 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. 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, and were not very influential during the year. In September over 20,000 teachers discovered that their pay slips showed a deduction for dues paid to the Teachers Union of Zimbabwe, a ZFTU affiliate. Thousands of teachers complained that their union membership was changed from one of the more prominent unions, or from no union affiliation, without their consent. The Ministry of Education, Sport, Art, and Culture corrected the error in subsequent months but did not reimburse the teachers.

ZANU-PF elements of the government openly targeted the ZCTU, declaring it aligned with the opposition 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. For example, unions were 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 May 22, police arrested Chris Mahove, a journalist with the ZCTU publication *The Worker*, after he took photographs of a demonstration by Harare municipal workers, and deleted the pictures from Mahove's camera. Police then arrested *The Worker* editor Ben Madzimure, when he enquired about the arrest of his colleague; both were released without charge the same day.

On September 12, riot police in Harare barred the ZCTU from holding a march commemorating a 2006 incident in which police violently dispersed a union protest. Police acted in defiance of a high court order by Judge Tedi Karwi permitting the demonstration when, armed with batons, guns, and water cannons, they cordoned off the road leading to the demonstration site. Union supporters dispersed peacefully, and police did not ultimately use force against the crowd.

On November 8, ZCTU president Lovemore Matombo and four other union leaders were arrested in Victoria Falls after they attempted to hold a labor meeting. Police held the five labor leaders without charge until a November 12 hearing. During the hearing the magistrate reprimanded police for arresting the labor leaders under POSA, as labor organizations are exempt from the legislation.

In 2008 the International Labor Organization's (ILO) Application of Standards Committee, in its report on trade union rights abuses, included cases filed by the ZCTU concerning violations of freedom of association and protection of the right to organize for the second consecutive year. Zimbabwe was one of two countries the committee 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. The International Trade Union Confederation also criticized government harassment of unions during the year.

In November 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, a three-person ILO commission of inquiry visited Zimbabwe and interviewed more than 100 individuals from government, civil society, unions, workers, and employers. The report was not completed by year's end.

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, and, in some industries, the government defined most employees as managers.

In practice the government harassed and arrested union leaders who called for strikes and union members who attempted to participate in strikes. In September teachers, including several members of the Progressive Teacher's Union Zimbabwe,

were threatened or beaten by ZANU-PF youths for not going on strike. For example, Duncan Mapasure, a teacher at Mtasa Primary School in Mtasa district, Manicaland, was beaten by ZANU-PF youth militias outside his classroom. Mapasure told the press the youths "demanded that all teachers should stop teaching and stay home until Tsvangirayi removes sanctions." 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 2008 or 2007 cases of union harassment.

b. The Right to Organize and Bargain Collectively

The LRAA provides workers with 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. For example, the Apex Council, which represents civil servants, negotiated with the government over salaries. Teachers, the largest civil servant sector, engaged in labor actions during the year.

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 himself directly in labor negotiations unless requested to do so by one of the parties.

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 are 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. Forced child labor occurred across a wide range of sectors; however, no detailed information was available on the extent of the practice.

HRW 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 HRW 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 HRW, "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.

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 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, as domestics, in illegal gold and diamond mining, as street vendors, and as car-watchers. There were continued reports of large numbers of girls subject to sexual exploitation. 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. Given the economic downturn and reduction in school hours in 2008 and continued low school enrollment, the organization believed the percentage of children working was higher than one-third during the year.

Most economically active children still 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; and on tea and coffee plantations and 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. HRW 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. According to HRW, a 13-year-old girl reported that "for two weeks in January 2009, I worked in the diamond fields together with several other children to carry sacks of diamond ore from the field and to fetch water to sieve the ore. I was too afraid to run away. Every day I would carry ore and only rest for short periods when the men were digging. We always started work very early in the morning before eight and finished when it was dark after six. All I want now is to go back to school." Teenage girls also reportedly were sexually exploited by soldiers and diamond diggers in the Chiadzwa area. Children working in agriculture, mining, as street vendors, or who were sexually exploited faced threats to their health and safety.

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 in small spaces in abandoned gold mines shafts near Shurugwi in Midlands Province. 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 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 used AIDS-orphaned children 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 July 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.

e. Acceptable Conditions of Work

There is no national minimum wage except for agricultural and domestic workers. Government regulations for each of the 22 industrial sectors continued to specify minimum wages, hours, holidays, and required safety measures. 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 the 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. In April the National Social Security Administration (NSSA) announced that pensioners would receive \$25 per month; the ZCTU and pensioners complained that the pension was inadequate.

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 the 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 ineffective. The NSSA continued to experience difficulty monitoring the thousands of work sites across the country; however, it continued to close shops and factories not in compliance. 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. In 2007 government media reported 64 workplace fatalities and 5,568 injuries through November. By 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 so.

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