

ZIMBABWE CONGRESS OF TRADE UNIONS (ZCTU)

**Report of Human and Trade Union Rights Violations
2009, Zimbabwe**

**Prepared by the Legal Department
22 January 2010**

Acknowledgement

The Zimbabwe Congress of Trade Unions would like to thank all its affiliate unions, ZCTU staff members who documented and reported cases referred in this report. The labour body acknowledges the following people for compiling and editing this report:

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1. Executive Summary

This is a report of human and trade union rights violations for 2009. In this report, we only highlighted what we believed to be the most serious violations of trade union rights.

The year 2009 started with high hopes from workers in economic recovery and improvement in the political land scape. This comes after the three main political parties entered into a government of national unity (GNU) that became functional in February 2009. It is reported by economists and the government that the economy improved from -14.1% in 2008 to 4.7% as of December 2009.

However, this economic recovery did not bring much joy to the working class because the capitalist employers claim that they had no money to capitalise their businesses. Even those that reported better financial improvement declined or ignored to pay workers a living wage.

The average salaries for both private and public sector employees remained stagnant at an average of US\$150-00. The precedent of paying US\$150-00 against a poverty datum line wage of US\$500 was set by the government and the private sector employers followed suit. The worst wages remained very low in the agriculture sectors at US\$32.00 per month and nothing legalised in the domestic sectors with employers paying whatever they like.

Government Ministers interfered in collective bargaining agreements. In the energy sector, Minister of Energy, Engineer Elias Mudzuri ordered a reduction of wages voluntarily agreed at the National Employment Council level between management of the Zimbabwe Electricity Supply Authority (ZESA), the National Oil Company of Zimbabwe (NOCZIM) and the Zimbabwe Energy and Allied workers Union.

In the security industry, Co-Minister of Home affairs Giles Mutseyekwa pleaded with minister of Labour P Mpariwa to discourage workers from demanding a living wage. Industry and Commerce Minister Welshman Ncube advocated for the re-orientation of labour arbitrators because they were trying to bridge the gap between the rich and the poor in industries. However, a wage survey showed that top management of private and public companies awarded themselves hefty salaries and perks that ranged between US\$4.000 per month to US\$12000-00 per month excluding fringe benefits (Herald 24-09-09 pgB1) and The Standard 27-10-09)

In an attempt to tilt the bargaining power to their favour, some workers engaged in collective job action which resulted in unfair dismissal. Some persevered silently in fear to loose their jobs. The Zimbabwean law on strike remained in favour of the employers despite having been criticised by the International labour Organisation for not complying with convention 87 and 98 respectively. The two conventions guarantee the right to strike and collective bargaining respectively.

Despite the GNU set up, the government continued to breach its own laws. State agents particularly the Zimbabwe Republic Police defied High Court Orders that ruled in favour of the ZCTU. The results of the lawlessness were as follows: 78 workers were arrested for their trade union activity, 2306 workers were either assaulted or threatened, 4 workers were tortured in Victoria falls, 3 workers were shot with live bullets in Zvishavane, 175 workers were dismissed for embarking on strike, CIO agents attempted to abduct 2 ZCTU members and 4 ZCTU activities were banned. No report was received from Masvingo province which is the ZCTU's Southern region as police cooperation significantly improved.

This report excludes the serious violations of workers rights that occurred on Zimbabwe Farms. We are grateful to our affiliate union The General Agriculture and Plantation Workers Union (GAPWUZ) that produced and launched a special report for this sector titled '*if something is wrong... The invisible suffering of commercial farm workers and their families due to 'Land Reform'*' The report is attached hereto

As a result of lawlessness, trade union work remained risky job in the country. The year 2009 recorded the following incidences.

2. Leonard Madechawo and others vs. Willowvale Mazda Motor Industries (WMMI) (Strike)

Harare

On the 24th of February 2009, Wollowvale Mazda Motor Industries Employees (hereinafter called the WMMI Employees) had still not been given their salary advice slips (pay slips). They were advised that they would be paid in the local currency through a direct deposit into their banks and would be given a complimentary food voucher/ food coupon redeemable at National Foods Limited. They were advised that the food voucher/ food coupon could not be exchanged for cash and they were required to use the entire coupon in obtaining food equivalent to US\$100 at National Foods premises.

The employees were not happy with this arrangement and requested to meet the Human Resources Manager to discuss their concerns with him. Their concern was that they required paying rentals, meeting transport costs and other basic necessities for which they required the use of foreign currency following the liberalization of the economy.

The Human Resources Manager declined to meet employees about this issue, prompting the employees to send their workers committee representatives to engage management on the issue and try to persuade him to address the employees who were waiting anxiously to be addressed but to no avail.

On the 25th of February 2009, employees were instructed to return to their workstations, stating that the employees were engaging in an illegal collective job action. Employees were assured that their concerns will be dealt with and returned to their workstations.

On the 26th of February 2009 employees were paid cash in lieu of the food coupon/ vouchers. From the 27th of February 37 employees were suspended for allegedly engaging in an illegal collective job action. The following were later dismissed as a result of the strike:-

1. Leonard Madechawo
2. Jacob Chingozo
3. Israel Fiya
4. Musekiwa Chiriseri
5. Godfrey Mubaira
6. Solomon Kwenda
7. Lawrence Katesi
8. Charles Chiduku
9. Stanford Mushamba
10. Nhamo Matewe
11. Isaac Ngove.

The ZCTU challenged the suspension and dismissal in the Labour court case Nos. LC/Rev/H/05/09 and LC/Rev/H/15/09. The court heard the matter and reserved judgment. The substantive issues were heard by Arbitrator Manase Manase and the Arbitral award is also reserved.

3. International Woman's Day

Bulawayo

Fourteen members of the ZCTU Western Region were arrested on Saturday 7 March 2009 during commemorations for International Women's Day. The fourteen who comprised of ten (10) women and four (4) men from the region were cleaning up at Fife Street market as part of the day's activities. Police pounced on them and accused them of staging an illegal demonstration and detained them at Bulawayo Police Station for three (3) hours. The members were only released after the Western Region Paralegal Officer intervened and corrected the Police's misinformed position. Those arrested were:

1. Adrian Moyo
2. Mathew Nyanhete
3. Sthabile Phinda
4. Inviola Lunga
5. Nqobile Ndlovu
6. Sheila Ngulube
7. Susan Dube
8. Egnator Sibanda
9. Sifelani Mlilo
10. Khulekani Ndlovu
11. Jabulani Sibanda
12. Elias Chibi
13. Getrude Tabvuma
14. Siphathisiwe Mabhena

4. Harassment of ZCTU Witnesses for ILO Commission of Inquiry

Rusape

On the 9th of April 2009, CIO operatives blessing Chigango and Chiutsi threatened the ZCTU Rusape District chairperson Mr Amos Masumuse with unspecified action if he proceeded to testify before the ILO Commission of Inquiry. The CIO officers advised him that they would make his life difficult in Rusape unless he relinquishes his trade union post. He was shown a place where a person was murdered during the violent June 27 2008 elections and that this could happen to him. The ZCTU complained to the Minister of Labour Social Services.

On the 4th of May 2009 at around 6.30pm, Blessing Chigango unlawfully abducted Mr Masumuse and sped off with him in a vehicle to an unknown destination. The CIO accused Mr Masumuse of having reported the harassment to ZCTU and to the Minister of Labour. Mr Masumuse managed to jump from the moving vehicle.

On the 5th of May 2009, the CIO agents banned the sell of a ZCTU newspaper "The Worker" in Rusape. They threatened the newspaper agents that if they continue selling the paper, they will "see what will happen to them". They were ordered to return the papers to Mr. Amos Masumuse and they complied.

The ZCTU engaged Lawyer Trust Maanda of Maunga Maanda and Associates in Mutare to apply to the Magistrate's court for a peace order. The Mutare magistrate Court granted the order on the 2nd of June 2009(Case No.238p/2009) the court ordered the CIO agents to refrain from harassing, assaulting, threatening, or engaging in conduct likely to interfere with Mr Masumuse.

5. Arrest and Detention of ZCTU Journalist

Harare

On the 11th of April 2009, at about 1630hrs Christopher Mahove, a senior reporter for the ZCTU publication, 'The Worker' was arrested by Dzivarasekwa police officers and detained at Dzivarasekwa police station. Mahove was arrested for taking photos of police officers harassing informal traders' workers and looting their wares. The police officers confiscated Mahove's camera and deleted all the pictures he had taken. The ZCTU instructed lawyer Alec Muchadehama of Mbidzo Muchadehama and Makoni and Mahove was released after paying a fine of US\$20-00.

6. May Day Celebration 2009

Hwange

On the 2nd of May 2009 around 9:00am Mr. C. Ncube received a call from Sgt Sibanda of ZRP Hwange saying that the Officer in Charge Mr. Chivandere wanted him to report to the Police Station.

Mr. C. Ncube sought advice from the ZCTU paralegal officer Mr. Mandla Sibanda who advised him to go into hiding since it was a weekend and police have a culture of detaining people during weekends.

On Monday the 10th of May 2009 at around 8:00am, a truck with four (4) policemen came to Mr. C. Ncube's workplace, they did not find him but left a message for him to report to the police station before 2:00pm.

As from the 10th of May 2009 to the 15th of May 2009 Mr Ncube reported to police between 8:00am to around 5:30pm and was not allowed to eat. No charges were laid against Mr Ncube except abusive questions. He was warned that if he does not resign from conducting ZCTU activities, life will be difficult for him in Hwange.

7. Dismissal of Striking Workers by The Victoria Falls Hotel

Victoria Falls

On the 7th of July 2009, 161 employees of the Victoria Falls Hotel were engaged in a collective job action in the form of a sit in.

The General Manager of the Victoria Falls Hotel Mr. Karl Scafer allegedly found an anonymous letter slid through the bottom of his office door one morning and he alleges that this letter had serious threats of violence.

It is alleged that the General Manager called for a management meeting and updated other managers about the threat to his life. It is also alleged that the meeting resolved to have the matter reported to the Zimbabwe Republic Police (ZRP), and that the referral to the police did not have any names attached to it.

On Friday the 19th of June 2009 there was a telephone call to the hotel by the ZRP, Criminal Investigations Department (CID) and the officer requested to speak to the workers committee chairperson a certain Mr. Siboniso Mwela and requested Mr. Mwela to report to the police station on the following day being the 20th of June 2009. On the same day the 19th June 2009 the same officer phoned again requesting Mr. Nawu N. Ndlovu the workers committee member and the Zimbabwe Catering and Hotels Workers Union chairman for the Victoria Falls branch, to also report to the police station the following day.

On the 20th of June 2009 Mr. Msizi Mlalazi and Mr. Nigel Njanji a member of the workers committee and the secretary of the workers committee respectively were also summoned to the police station.

The four members of the workers committee arrived at the police station and they saw an officer named Sugare and popularly known as "Mpostori" who was well known to be a good friend of the Human Resources Manager. The officer demanded the four to tell him about a meeting that was convened on the 10th of May 2009 which meeting resulted in the hatching of a plan to threaten the General Manager's life.

Mr. Mwela and Mr. Ndlovu who were the first to arrive at the police station were brutally tortured through severe beatings which included buttering underneath their feet. The two tried to explain to the officer that the meeting on the 10th of May 2009 was convened for the purposes of arranging to source representation from the union for some workers who had been suspended from work. The officer did not want to accept this explanation but instead he continued beating the workers representatives forcing them to admit that the meeting was convened to hatch the alleged plan to threaten the life of the General Manager.

Mr. Msizi Mlalazi and Mr. Nigel Njanji were also harassed and physically tortured by the same officer and they were told to go and get the minutes of the meeting of the 10th of May 2009 and all the minutes of other workers committee meetings that had been convened during the course of that part of the year, and this was done in a very short space of time. This however, did not spare the two from harassment as they were being accused of bringing the wrong set of minutes.

At the end of the day the four were released without any charges with Mr. Mwela having suffered the most severe injuries as he was visibly limping from injuries sustained underneath his feet.

On the 21st of June 2009 the entire workers committee convened a meeting to update each other of the fate of their four colleagues at the hands of the ZRP officer and they resolved to call for a general meeting of all workers and inform them of their ordeal.

On the 22nd of June 2009 the entire workers committee was summoned to the police station to see officer Sagure but when they got to the station the officer was not on duty. They went back again on the 24th of June 2009 and when they arrived the officer told them that "**someone was going to die**", he gave all of them papers and told them to write reports on who wrote the anonymous letter threatening the life of the General Manager and the Human Resources Manager. All the committee members were then later released without charged.

A general meeting of all the workers was convened and a resolution was made at this meeting to petition management to address the workers on the treatment that their leadership was subjected to at the hands of the police upon management's request. This petition was addressed to the General Manager Mr. Karl Seafer and copied to the following Deputy General Manager Mr. M. Mabona, TVFH partnership chairperson, TVFH Partnership Board Executive Committee chairperson, ZCTU Secretary General Mr. W. Chibebe, National Employment Council (NEC), General Secretary Mr. J. Ndebele and Zimbabwe Catering and Hotel Workers Union General Secretary Mr. T. Nxumalo.

The workers made it clear in their petition that if management did not address them on their concerns they were going to engage in a collective job action in terms of section 104 (4) (b) of the Labour Act, because they felt that the proceeding incidents had been tantamount to an immediate threat to the existence of their workers committee.

Management never addressed the workers concerns, and on the 7th and 8th of June 2009 the workers engaged in a sit in and demanded for an address by management prior to them going back to work. Management did not budge but instead proceeded to inform the workers that they were engaging in an unlawful collective job action and that they should immediately return to work or leave the premises. The workers also refused to budge and management then suspended all the 161 workers and summoned them to hearings one by one. Some of the workers were not subjected to any hearing at all due to the pressure of work at the hotel and were just instructed to resume work which they did.

69 workers subsequently had their contracts of employment terminated and they lodged an appeal with the NEC where conciliation was conducted and a certificate of no settlement was issued and the matter was referred to arbitration which was held on the 25th of September 2009 in Gweru. The arbitrator Mr Musiiwa reserved his decision.

The workers' committee members were then ordered by police to continuously report to the police station. The ZCTU then deployed a lawyer Mr Jabulani Ndlovu of Jabulani Ndlovu and Associates (Victoria Falls) who was advised by the police officers that they were not willing to take the matter of the alleged threat to the General Manager to court. The matter was suspended until further notice. Nothing happened till time of compiling this report.

8. September 13 Commemorations

Harare

Police in Harare banned ZCTU from commemorating September 13 event in which ZCTU leadership and members were tortured by Police while in custody.

On the 10th of September 2009, following Police ban of the September 13 commemorations, the ZCTU made an application to the High Court of Zimbabwe to have the ban declared unlawful and that the commemorations proceed as they were legal. On the 11th of September 2009 at 2:30 pm, the High Court heard the matter and granted a **provisional order** in favour of the ZCTU that declared Police action illegal and that the commemorations proceed as planned. The case is referred to as ZCTU vs. Co-Ministers of Home Affairs and Others case No. HC4195/09.

- 8.1 Surprisingly, on the 12th of September 2009 at 8:30 am, in total disrespect of the rule of law or in defiance of the High Court Order, Police Officers besieged the rendezvous and ordered people to disperse. They came in a truck dressed in riot gear, wielding baton sticks numbering about 40. They jumped out of their vehicle running into ZCTU members threatening abusive language and singing revolutionary songs dispersing people. Three people were arrested for holding ZCTU banners. These are Jokonia Mawopa, Phillip Gavaza and Juliana Gonhedza. They were detained at Southerton Police Station for 2 hours and later released without charges.
- 8.2 ZCTU staff members Zakeyo Mtimtema (Legal Advisor) and Michael Kandukutu (Head of Organising) tried to explain to the Police that their action was illegal but to no avail. They were ordered to talk to the Officer Commanding Police Superintendent T. A. Chagwedera.
- 8.3 When Superintendent Chagwedera was approached, he stated that he was acting on instruction from their Police Headquarters to defy the Court Order and ban the ZCTU activity. He handed a letter banning the activity to the ZCTU Legal Advisor Zakeyo Mtimtema in the presence of the ZCTU Regional Officer Nyikadzino Madzonga, Tecla Masamba, Paralegal Officer and ZCTU external lawyer Mr. Alec Muchadehama. The police commander charged that court orders do not work but police orders. He also stated that his letter was adequate evidence for the ZCTU to apply for contempt of court but nothing will happen even if the court issues a contempt order.
- 8.4 While a meeting was held between ZCTU officials and Superintendent Chagwedera, Police Officers were busy chasing people at the venue of the commemorations. More than 20 Police Officers barricaded the entrance to the venue. Some were placed in groups of 10 patrolling the route to the venue and two Israel made Police water canons vehicles were patrolling the road to the venue.
- 8.5 As a result of the Police being above the law, the ZCTU failed to commemorate the "September 13" day. An application for contempt of court has since been lodged in the High Court. As has become the norm in Zimbabwe, Police Officers and their superiors are above the law and even if they are found to be in contempt of court, enforcement of the decision is problematic in our system because of a lack of political will and interference by the executive branch of government to abide by court orders.

9. Chegutu

In Chegutu District, about 105km from Harare, Police Officers visited the home of the ZCTU District Chairperson, Mr Edward Dzeka, in connection with the "September 13" commemorations that were held in Chegutu on the 12th of September 2009. Police allege that the gathering was illegal as it was not approved by their office. They sent text messages to the ZCTU Chairperson demanding that he report to their offices on the 13th of September 2009. On the 13th of September 2009, 2 Police

Officers, one armed visited the ZCTU District Chairperson's home to arrest him. He was away from home. Mr Dzeka communicated with the legal department which transmitted by fax a High Court order that sanctioned the processions. Mr Dzeka then approached the police officers and handed a copy of the High court order. The police officers advised him that they will call him whenever they like. Nothing transpired up to the time of compiling this report.

10. Assault on District Committee Member by ZANU PF thugs

Karoi

In Karoi District, 204km from Harare, our District Committee member Mr. Toindepi Tsigo was assaulted by ZANU PF thugs who were coming from a ZANU PF meeting in Harare. The ZANU PF youths were travelling in a ZUPCO bus, when the bus stopped at Chaedza Shopping Centre, 5 youths disembarked and undressed our member of his ZCTU red t/shirt. They molested him telling him that they do not want to see a ZCTU person in Karoi. They took away the t/shirt and our member went home naked. This barbaric action is inhumane and degrading. Our member is now leaving in fear to participate in union activities.

11. ZIMASCO Kwekwe Protest Action and Unfair Discrimination.

Kwekwe

ZIMASCO Pvt Ltd is an Iron and smelting company based in the city of Kwekwe 213km from Harare. The company dismissed 23 trade union leaders for inciting and participating in a strike. The strike was incited by management who failed to provide protective clothing to the workforce. The Labour court ruled in favour of the company. However, all employees were reinstated except union leaders who belong to the Zimbabwe Ferrow Alloys Workers Union (ZFAWU). This is a clear discrimination case on the grounds of being a union leader. Those dismissed are:

- | | |
|---------------------------|----------------------------------|
| 1. SHADRECK BVUMBURAI | - UNION PRESIDENT |
| 2. WATSON MABHENA | - TRADE UNION CHAIRMAN |
| 3. DARLINGTON MABUTO | - TRADE UNION SECRETARY |
| 4. MILLION MAJORE | - TRADE UNION VICE SECRETARY |
| 5. AGRIPPA NCUBE | - TRADE UNION EXECUTIVE MEMBER |
| 6. PAUL NJOVANA | - TRADE UNION EXECUTIVE MEMBER |
| 7. JOE WATUNGWA | - TRADE UNION EXECUTIVE MEMBER |
| 8. SAMUEL BUWA | - TRADE UNION EXECUTIVE MEMBER |
| 9. KUUYA KUUYA | - TRADE UNION EXECUTIVE MEMBER |
| 10. KURAUONE WITU | - TRADE UNION NATIONAL ORGANISER |
| 11. CHARLES HOVE | - TRADE UNION TREASURER |
| 12. MRS. CHIEDZA CHINGOVO | - WAC CHAIRPERSON TRADE UNION |

AND

- | | |
|------------------------|------------------------------|
| 13. MNCEDISI MUGADZIWA | - WORKERS COMMITTEE CHAIRMAN |
|------------------------|------------------------------|

14. GILBERT KAMHUNGA	- WORKERS COMMITTEE VICE SECRETARY
15. BROOKS NAMATE	- WORKERS COMMITTEE EXECUTIVE MEMBER
16. ELISHA KANOGWERE	- WORKERS COMMITTEE EXECUTIVE MEMBER
17. MOSES MANGWIRO	- WORKERS COMMITTEE EXECUTIVE MEMBER
18. MAMBOANESU DZIMATI	- WORKERS COMMITTEE EXECUTIVE MEMBER
19. PASSMORE CHINHEFU	- WORKERS COMMITTEE EXECUTIVE MEMBER
20. MUNYARADZI MATARUKWA	- WORKERS COMMITTEE SECRETARY
21. NORMAN KHUMALO	- WORKERS COMMITTEE EXECUTIVE MEMBER
22. NYASHA CHIVANDIKIRA	- TRADE UNION MEMBER
23. SAMUEL MANGENA	- WORKERS COMMITTEE EXECUTIVE MEMBER

The ZCTU challenged the dismissal in Gweru labour court and the matter will be heard on the 19 and 20th of January 2010.

In solidarity with the dismissed workers representatives, the ZCTU Kwekwe District organized a protest action in the form of a march. They intended to hand over a petition to the company management expressing their displeasure on the unfair treatment of union leaders. Police on 3 occasions declined to sanction the protest action. A High Court application was made on 17 September 2009 to nullify the ban. The order was granted and the protest action was successfully held. The case is referred to as ZCTU vs Co-Ministers of Home Affairs and Others case No. HC 4360/09.

12. Police Shot and Injured 3 Workers at Shabani Mine

12.1 Zvishavane

The Zimbabwe republic police officers in Zvishavane shot and injured 3 workers on the 25th of September 2009 at Shabani Mine. The workers were on strike since the 31st of August 2009. The strike was provoked by Shabani Mine management headed by Managing Director Mr. Nyagura, Mr. Ceasar Zishumba (General Manager) and Arafus Gwarazimba (Administrator).

12.2 This management team has failed to pay workers' full salaries since January 2009. Management has on several occasions lied to the workers that they will be paid in full but to no avail. Management continued to pay slave wages of between US\$20 – US\$40-00 per month.

12.3 Management then set the 31st of August 2009 as a day when all outstanding wages and allowances would be paid but failed to do so.

12.4 This prompted the 2280 workers to refuse to work under the notion of "no pay no work". It is known in the field of labour relations that it is a serious breach of contract to fail to pay wages when they are due and constitutes an unfair labour practice.

12.5 On the 25th of September 2009 at around 0700 hours, the strikers met 400 metres away from the company premises at a place called 'Pamushuku'. They were waiting to be addressed by management.

- 12.6 Unfortunately, management sent Riot Police to disperse the workers. On arrival, 6 Police Officers in riot gear, holding teargas canisters and branding AK 47 rifles led by Assistant Inspector Chimbima ordered the workers to disperse. They came in a MAZDA B1800 vehicle driven by a Mr Nyazika.
- 12.7 When one of the workers Alluwis Zhou (32) asked about the whereabouts of members of the management who were supposed to address the meeting, he was beaten with a gun and shot on his left hand and shot again on the left leg. Tear gas canisters were thrown to the sitting workers.
- 12.8 The other two Leonard Simbarashe Chinchadada (30 years) and Taurai Zhou (50 years) were shot on their right legs while running away from the Police Officers. They were shot by an AK47 gun No.2221 registered with Bukwa Mine Camp.
- 12.9 The rest of the workers fled in different directions fearing for their lives.
- 12.10 The injured workers were taken to hospital and admitted under police guard. More than 50 workers were arrested and detained at Zvishavane Police Station. They were then screened and 12 spent the weekend in Police cells. They were taken to court on the 28th of September 2009 and charged for public violence. The Zvishavane Magistrates' Court granted them bail of US\$10 each which was paid and ordered Police not to interfere with those in hospital.
- 12.11 The injured workers were then transferred to Harare at the instance of the ZCTU for specialist treatment and were admitted at The Avenues Clinic with the assistance of the Counselling Services Unit (CSU). The doctors did their best and the 3 injured workers were discharged. Alluwis Zhou had an operation on his injured hand.
- 12.12 On the 25th of September 2009 a Zimbabwe Lawyers for Human Rights (ZLHR) lawyer Mr. Tichaona Chivasa of Chivasa and Associates was denied the right to see the arrested workers at Zvishavane hospital. Police Officers then arrested the Lawyer accusing him of obstructing justice and later released him without charge after the intervention of another Lawyer Mr. Herbert Tafara of H – Tafara and Associates.
- 12.13 Workers arrested and appeared in court are (i) Alluwis Zhou (ii) Taurai Zhou (iii) Kudakwashe Shumba (iv) Phonos Murombedzi (v) Laft Moyo (vi) Givemore Nekai (vii) Jemina Ratisai (wife of Alluwis Zhou) (viii) Cleopas Mhlanga (ix) Edmore Moyo (x) Bernard Zhou (xi) Amos Sibanda.
- 12.14 On the 29th of September 2009, Police Officers, Central Intelligence Operatives (CIO) led by Kundiona and Shabani Mine Security Officers acting in cahoots, raided the workers' residences ordering them to return to work the following day (30 September 2009). The Police Officers were carrying AK47 rifles. Those who would fail to return to work were promised eviction

from the company houses and that they are Movement for Democratic Change (MDC) members who should disappear from Zvishavane.

- 12.15 On the 30th of September 2009, about $\frac{3}{4}$ of the workforce returned to work at gunpoint. Management then started holding Kangaroo Court hearings. Scores of employees were dismissed. They were charged for (i) absent from work without leave (ii) defying the General Manager's memo to return to work (iii) illegal work stoppage.
- 12.16 The workers' Lawyer Mr. Chivasa had earlier on wrote to management that he wanted to represent the workers in the hearings but management declined to inform him of the date and time of the hearings. The hearings proceeded without representation.
- 12.17 As of 30 September 2009, the following 8 employees were dismissed, Josphat Moyo, Kulekani Ndlovu, Pondai Kurundai, Mikeleti Shumba, Sithole, Mhlanga Kumbirai and Pride Tafara. These workers are known by management for their MDC activism. They hold posts in the MDC youth assembly and ward executive. This has become an issue of discrimination on political grounds. Those who are known to belong to ZANU PF were guaranteed their job back. The number of dismissed workers later rose to 71 employees including the 3 who were shot.
- 12.18 On the same day (30 September 2009) Police Officers raided the home of Ndodana Sithole who is the ZCTU Zvishavane District Secretary. They demanded to know what action the ZCTU was contemplating to take. Furthermore, Sithole was warned not to meet with any of Shabani Mine Employees. The Police Officers were also demanding to confiscate Alluwis Zhou's cell phone whom they allege had photos of the shooting incident. They threatened to abduct Alluwis Zhou's wife if she fails to tell them the whereabouts of her husband and the cell phone.
- 12.19 The ZCTU wrote to the Speaker of Parliament to set a commission of Inquiry to investigate this incident. Parliament has accepted the request and a commission will be dispatched to Zvishavane in 2010.

13. ZANU PF Threaten ZCTU District Members

Banket

In Banket, about 92km from Harare, ZANU PF youth members short listed our members Mr. Wonder Nyaupfipa, Mr. Tendenedzeli, Mr. Kabaya and Mr. Chiduwa as people who must be dealt with an unspecified action because of their co-ordination of ZCTU activities which they view as MDC activities. The names of the ZCTU members were to be sent to Minister Ignatius Chombo of ZANU PF for an unknown action.

Mr. Nyaupfira the ZCTU district Chairperson was approached by the wife of Brigadier Tapfumaneyi demanding that he stop co-ordinating and associating with ZCTU.

The ZANU PF youths were holding a youth tournament in Banket from the 14th to 16th of October 2009. A ZANU PF activist named Huteyasi had made several threats to ZCTU members. The ZCTU members reported the threats to the Police and Sgt Mukuvari of the Zimbabwe Republic Police, Banket was advised and no action was taken.

The action by ZANU PF members is a violation of human rights as well as an infringement of ILO Convention 87 which prohibits victimization of workers leaders conducting their trade union activities.

14. World Day for Decent Work

Mutare

On the 18th of October 2009, the ZCTU notified the Zimbabwe Republic Police in Mutare of its intention to commemorate the World Day for Decent Work. The ZRP sanctioned the commemorations but denied ZCTU Mutare members the right to hold a procession. The police also demanded to be included in the gathering to listen to the discussions and 4 police officers attended. The event was held at the Eastern Region offices in Mutare.

15. GAPWUZ Abduction

Harare

The General Agriculture and Plantation Workers Union (GAPWUZ) general Secretary Mrs Gertrude Hambira had her home ransacked by gun wielding men believed to be state agents from the Central intelligence organisation (CIO) on the 5th of November 2009 during the night.

Hambira, a vocal trade union who has stood for the rights of the marginalised farming communities in the face of intolerable harassment and victimisation, was coming from the United States where she presented a dossier of a documentary highlighting the plight of farm workers during land reform process. Hambira's connecting flight from South Africa to Zimbabwe was delayed and she was supposed to have been home by the time the assailants broke into her house with the intention of abducting her.

Hambira's husband who was at home said the assailants held guns to his head, demanding to know where Gertrude was. Gertrude on arrival to Zimbabwe went into hiding for sometime. The assailants have not yet returned by the time of compiling this report.

16. Arrest and Detention of MR Lovemore Matombo and 4 Others

Victoria Falls

Messrs. Lovemore Matombo the ZCTU President, Michael Kandukutu ZCTU National Organiser, Percy Mcijo ZCTU Western Region ,Regional Officer, Dumisani Ncube

ZCTU Victoria Falls District Chairperson and Nawu Ndlovu were arrested by Victoria Falls police on Sunday the 8th of November 2009 in Victoria Falls at Ngqondo Ngqondo Complex. Mr. Matombo was holding a consultative meeting with members of the ZCTU Victoria Falls District in preparation for a labour forum that was to be held at the same venue the following day, 9 November 2009. Police allege that Mr. Matombo's meeting was illegal because it was not sanctioned by the police. They were charged under section 25 1(b) of the Public Order and Security Act Chapter 11:17.

Mr. Matombo and 4 others denied the charges. They appeared in court on the 12th of November 2009 in Victoria Falls represented by ZLHR lawyers, namely Gugu Manhlangu and Kucaca Phulu. The Magistrate ruled in favour of Matombo and others and warned police to respect the law and acquaint themselves with provisions of the law before arresting people. The five are suing the State for unlawful arrest and detention. They are being assisted by the Zimbabwe Lawyers for Human Rights (ZLHR).

Kadoma

On the 14th of November 2009, the ZCTU President Lovemore Matombo wanted to address a consultative meeting in Kadoma at Specks Hotel. Kadoma Police ordered the hotel to cancel the booking unless ZCTU obtains a clearance letter from police. The meeting was later moved to Kadoma Ranch Motel. Some workers failed to attend due to a sudden change of venue.

The following table gives a description of the violations

CITY/TOWN	ARRESTS	ASSAULT /Threats	TORTURE	GUNSHOT	BANNED ACTIVITIES	DISMISSALS	Attempt/ Abduction	Perpetrator
Harare	4	4	-	-	1	12	1	ZRP/CIO
Chegutu	1	-	-	-	-	-	-	ZRP
Banket	-	1	-	-	-	-	-	ZANU PF
Karoi	-	1	-	-	-	-	-	ZANU PF
Kwekwe	-	-	-	-	1	23	-	ZRP/ZIMASCOI
Zvishavane	51	2280	-	3	1	71	-	ZRP/SHABANI MINE
Bulawayo	14	14	-	-	-	-	-	ZRP
Victoria Falls	7	4	4	-	1	69	-	ZRP/VICTORIA FALLS HOTEL
Hwange	1	1	-	-	-	-	-	ZRP
Rusape	-	1	-	-	1	-	1	CIO
Total	78	2306	4	3	5	175	2	

17. Ministerial Interference in Collective Bargaining

The Zimbabwe Congress of Trade Unions noted with concern that Cabinet Ministers joined the bandwagon of castigating the workers for their demands. The labour movement was shocked by the behaviour of the co-Minister of Home Affairs Giles

Mutsekwa who wrote a pleading correspondence to the Minister of Labour and Social Services Paurina Mpariwa asking that the salaries in the security industry be reduced.

More shocking is the fact that Mutsekwa is a member of the Security Association of Zimbabwe and is trying to use his influence as Minister and member of the Security Association to short change workers in the sector. Mutsekwa belongs to the MDC, a political party founded on the principles of the working people. Mutsekwa should be on the forefront, fighting for workers to earn decent salaries and not to be defending the interests of employers who are paying slave wages.

ZCTU was also taken aback by Minister Welshman Ncube's scathing attack on labour arbitrators saying they need re-orientation because their awards were progressive but the Minister view the awards negatively. (Herald 28-10-09 pB3)

Between February and March 2009, The Minister of Energy, Engineer Elias Mudzuri castigated the Zimbabwe Electricity Supply Authority management for having awarded employees reasonable wages and benefits. The Minister signed a document ordering a reduction of the agreed wages and allowances. As a result, ZESA and NOCZIM slashed workers' wages and benefits to comply with the Minister's directives.

The city of Harare also slashed agreed wages after its management was castigated by allegedly Minister of local government Ignatius Chombo for awarding employees better wages. Ironically, it was reported that a Mercedes Benz for the wife of the Mayor was bought, while workers languish in poverty.

The ZCTU deplores such behaviour where Cabinet Ministers put their own interests before the interests of thousands of workers. Ministers should not compromise workers' rights to decent work which includes decent wages under the guise of economic growth. Instead the economic issue is so broad as it does not only include workers but government policies and good corporate governance.

19. Conclusion

Human and trade union rights reports declined in most sectors in 2009 except the agriculture sector which is engulfed in lawless farm invasions. The ZCTU did not embark on national protest actions in 2009 thereby minimising state brutality to workers. Another contributing factor was the partial will by parties in the GNU to uphold the rule of law. Some workers failed to report their ordeal because of fear of retribution.

However, police officers in most regions except Masvingo disrupted some ZCTU activities. In some areas, unlawful arrest, detention, harassment, abductions and threats remained the order of the year. The perpetrators were state agents namely the ZRP, CIO, ZANU PF members and Company management. It is high time that business be sued for complicity in human rights violations.

It is important to note that the police officers' action of arresting trade unionists conducting their lawful activities is an illegal conduct. The Public Order and Security Act (POSA) Chapter 11:17, section 24, 25 and 26 does not apply to organizations like the ZCTU. The schedule to section 24, 25 and 26 of POSA clause (j) is clear on this aspect. Furthermore, the High Court of Zimbabwe has made several judgments which made it clear that the Public Order and Security Act does not apply to trade unions ***(see the case of Zimbabwe Congress of Trade Unions vs Officer Commanding Police, Harare District and Others HH 56/2002***.

The arrest and disruption of union activities is also a clear and intentional violation of the International Labour Organisation (ILO) Convention 87 that protects Freedom of Association and Protection of the Right to Organise and Convention 98, the Right to Organise and Collective Bargaining. The ZCTU maintain that the rule of law is still in the intensive care unit. The ZCTU demands that the government of Zimbabwe must fully comply and respect international treaties like the Universal Declaration of Human Rights (1948) and others and give workers and the people of Zimbabwe their rights.