



**Quarterly Political and Human Rights  
Violations Report – January to March  
2020**

**By**

**The Zimbabwe Human Rights NGO Forum**

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## ACRONYMS

ARTUZ	Amalgamated Rural Teachers Union of Zimbabwe
GEMS	Government Employees Mutual Savings fund
OVT	Organized Violence and Torture
MDC-A	Movement for Democratic Change Alliance
S.I	Statutory Instrument
ZANU-PF	Zimbabwe African National Union – Patriotic Front
ZRP	Zimbabwe Republic Police

*The environment was characterised by a wide range of human rights violations in the first quarter of 2020. The human rights situation was marked with the critical constitutional question over the supremacy of the Constitution ushered in by yet a second amendment bill proposing 27 amendments to the current Constitution of Zimbabwe. The quarter was also characterised by tough economic times affecting many households as the prices of goods and services continued to soar out of reach of many. There were outcries from teachers over low salaries and protests from students over their access to education where teachers are poorly remunerated. There were many cases on the harassment and intimidation of communities, assaults and arbitrary arrests mainly perpetrated by the Zimbabwe Republic Police (ZRP) and ZANU-PF supporters, presenting a picture of lack of tolerance for divergent political views as well as impunity. The use of torture on civilians by the ZRP was seen presenting in the first quarter despite numerous calls in 2019 by the Forum and other groups for the ZRP to employ a human rights-based approach in policing.*

*On health issues, Zimbabwe joined in the global fight against COVID-19 unprepared to handle the pandemic. Health workers called on Government to ensure their safety as they went on strike against unsatisfactory and unsafe working conditions in the face of COVID-19. As at the end of the first quarter, 8 cases of COVID-19 in Zimbabwe were recorded including 1 death due to the dreadful disease. President Emmerson Mnangagwa announced a 21-day lockdown on 27 March 2020 commencing on 30 March 2020 and Statutory Instrument 83 of 2020 was promulgated on the 28<sup>th</sup> of March 2020 to give effect to the directive. During this period in the fight against COVID-19, human rights such as the right to health, safe and clean water and access to information were violated. This violation of rights was largely caused by the Government's lack of preparedness and empathy.*

*In this report, the Forum urges the following:*

- The Government to provide sufficient food and clean and portable water for all as provided in section 77 of the Constitution.*
- The Government to ensure that everyone has access to information on COVID-19.*
- The state security agents to comply with the procedure laid out in section 4(5)(a) and 4(5)(b) of Statutory Instrument 83 of 2020 in handling cases of non-*

*compliance with the lockdown.*

- *The state security agents to stop using excessive force on civilians and harassing media practitioners.*
- *The Government to provide adequate protective clothing for all health workers handling COVID-19 cases. The Government to provide testing and treatment centers for COVID-19 in all the 10 Provinces in Zimbabwe.*
- *The Government to ratify the International Convention against Torture as commitment to ending torture in Zimbabwe in line with international best practices.*
- *The Government to enact a law in terms of section 210 of the Constitution for the establishment of an Independent Complaints Handling Mechanism for investigating state security agents where there are allegations against them of violating human rights.*
- *The state security agents to stop arbitrary arrests and abide by the rule of law.*
- *The Government to preserve the supremacy of the Constitution by stopping all unnecessary amendments to the Constitution.*

## INTRODUCTION

The Zimbabwe Human Rights NGO Forum (the Forum) consistently monitors the human rights environment in Zimbabwe, analyzing the trends in line with its mandate of coordinating the human rights agenda in Zimbabwe. Through its various members, the Forum collates and verifies human rights violations and designs advocacy strategies in order to promote a culture of human rights for all. The information in this report is derived from verified media reports, information from members of the Forum, civil society reports, information reported to the Forum Public Interest Unit (PIU) and the monitoring platform in the Forum Research Unit (RU). This information is not exhaustive of human rights violations that occurred during the quarter but presents a documented picture of the state of human rights in Zimbabwe between January and March 2020. The basis of this report is the full understanding of the supremacy of the *Constitution of Zimbabwe, 2013 (the Constitution)*, the acknowledgement of the founding values of Zimbabwe<sup>1</sup> including the respect for fundamental human rights and freedoms, and the rule of law.

## FORMS OF ABUSE

Most of the violations recorded during the first quarter of 2020 were in the form of harassment and intimidation. The reports received ranged from assault, torture, harassment, intimidation, malicious damage to property, partisan distribution of food and farming implements, and arbitrary arrests. In January, the number of violations recorded was 200. 206 cases were recorded in February and a reduced number of 156 cases were recorded in March. The violations were mostly perpetrated by the ZRP and ZANU-PF and occurred in all 10 provinces, mainly in Mashonaland Central, Mashonaland East, Harare, Bulawayo and Midlands. This brings the total to 562 human rights violations in the quarter.

*The following should be considered when reading this report:*

- *Human rights violations contained in this report are derived from statements made to the Forum's Public Interest Unit, its members and partner organisations.*

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<sup>1</sup> Section 3 of the *Constitution of Zimbabwe Amendment (No.20) Act, 2013*.

*Reference is also made to press reports.*

- *The identities of victims whose names have not been published in the press and are not public officials are protected. This is done in order to protect the victims from further violence, intimidation and possible reprisals.*
- *One incident may contain multiple cases.*
- *The Report cannot be considered as the exhaustive record of all incidents of politically motivated violence in Zimbabwe in the period under review.*

## CIVIL AND POLITICAL RIGHTS

### THE RIGHT TO PERSONAL SECURITY

Every person has the right to bodily and psychological integrity which includes freedom from all forms of violence from public or private sources.<sup>2</sup> It is a basic entitlement guaranteed by the *Universal Declaration of Human Rights*, adopted by the United Nations in 1948 and ratified by Zimbabwe. The right to personal security is an expansion of rights based on prohibitions of torture, inhumane and degrading treatment, assaults, intimidation, threats of violence and abductions, among other violations.

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#### ASSAULT

Section 89 of the Criminal Law (Codification and Reform) Act [Chapter 9:23] defines assault as:

- a) *any act by a person involving the application of force, directly or indirectly, to the body of another person, whereby bodily harm is caused to that other person; or*
- b) *any act by a person that causes, directly or indirectly, the injection into or application to the body of another person of any substance without that person's consent; or*
- c) *any act by a person that causes any substance to be consumed by another person without that person's consent; "bodily harm" means any harm causing pain or*

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<sup>2</sup> Section 52 of the Constitution of Zimbabwe, 2013, hereinafter referred to as the Constitution.

*discomfort to the body, or any impairment of the body or its functions, whether temporary or permanent.*

Consolidated figures gathered by the Forum and the Zimbabwe Peace Project [ZPP] totaled 58 reports of assault for the period between January - March 2020 covering all provinces in Zimbabwe. Most of the reported violations occurred in 5 provinces mainly, Mashonaland Central, Mashonaland East, Harare, Bulawayo and Midlands. The main perpetrators were the ZRP and ZANU-PF supporters. Below are some case narratives as reported:

- On 2 February 2020, ARTUZ president Obert Masaraure was assaulted by suspected state security agents in Waterfalls, Harare on his way home. It is reported that an unmarked vehicle blocked Masaraure's car before 2 men jumped out and assaulted him with fists before taking off with his laptop.
- On 16 February 2020, Paul Teta, the ZANU-PF Deputy Chairman for Ward 2, Nyanga and Fadzi Teta, a ZANU-PF activist, allegedly assaulted WS of Kanhukamwe Village with fists for allegedly being a sell-out and converting allegiance from ZANU-PF to MDC-Alliance. WS was assaulted at Mutanda bottle store resulting in him sustaining minor bruises.

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#### HARASSMENT AND INTIMIDATION

Intimidation is intentional behavior that causes a person of ordinary sensibilities to fear injury or harm. It is not necessary to prove that the behavior was so violent as to cause mean terror or that the victim was frightened. According to consolidated statistics from the Forum and ZPP, there were over 280 incidents of harassment and intimidation reported across the country. The following are some of the documented cases:

- On 6 March 2020, a reporter at Newsday was reportedly summoned and appeared before ZANU-PF politicians and the party's provincial chairperson for Mashonaland Central, Kazembe Kazembe at a meeting in Mvurwi to explain a story about an alleged rift between MPs and war veterans in the province.
- On 24 March 2020, Tendai Nhau a ZANU-PF member led a group of ZANU-PF youths to force farmers at Dhawe Farm in Mazowe ward 26 to attend a meeting with

Martin Dinha who is the Provincial Governor and resident minister of Mashonaland Central. It is alleged that Tendai Nhau and other ZANU-PF Youths went door to door threatening citizens to attend the meeting or else they would face consequences.

- On 25 March 2020, Nicodimus Mudenha a ZANU-PF Youth member forced farmers at Frogmore Farm in Mazowe to attend a ZANU-PF meeting at the neighboring Forester Farm. He instructed the farmers to bring their national identity cards and ZANU PF party cards. It was reported that these farmers were forcefully summoned to the ZANU PF meeting owing to the failure of the previous meeting due to low turnout.

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TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

The *International Convention Against Torture (CAT)*<sup>3</sup> defines torture as:

*“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed; such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”.*

Section 53 of the Constitution guarantees freedom from torture, cruel, inhuman or degrading treatment or punishment. The state security agents, however, were assaulting civilians in the first quarter. The Government has not ratified the above-mentioned CAT. Ratification would mean that Zimbabwe takes a further and meaningful step to come up with legislation specific to prohibition of torture. This will benefit the ordinary citizen by criminalizing the acts of torture and providing penal provisions for the perpetrators of this violation to be held accountable. The following are some of the documented assault cases falling under torture;

- On 24 January 2020, AM of Gambadziya resettlement, Ward 13 in Chipinge East Constituency, was assaulted by four police officers including Sergeants Sonela, Mpofo, Madonda and Simon with baton sticks for allegedly selling farm produce at an

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<sup>3</sup> Article 1 of the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment.

undesigned selling point.

- On 3 March 2020, LN, a male adult was assaulted by 8 ZRP officers at C-Junction in Chitungwiza with baton sticks. The victim sustained injuries to his face and back.
- On 2 March 2020, CN, a male adult was assaulted by ZRP officers on the face with a baton stick. It is alleged that police officers were looking for MDC supporters who had barricaded roads on 29 February 2020 and picked on the victim as a suspect.

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#### ARBITRARY ARREST OR DETENTION

*“No one shall be subjected to arbitrary arrest, detention or exile”<sup>4</sup>*

Arbitrary arrest or detention is the arrest or detention of an individual in a case in which there is no likelihood or evidence that they committed a crime against a legal statute or in which there has been no proper due process of law. The Forum recorded 19 cases of arbitrary arrests. The following are some of the reported cases:

- On 30 March 2020, Tatenda Julius, a student journalist who is attached at Pungwe News (New Ziana) was arrested in the city’s residential suburb of Dangamvura while taking pictures related to the Coronavirus (COVID–19) lockdown and accused of practicing journalism without a press card. Efforts by Pungwe News to convince the ZRP that Tatenda was indeed a student journalist were fruitless and eventually MISA-Zim engaged a lawyer to represent Tatenda at court. There was no evidence to sustain a charge in this case.
- On 30 March, senior journalist Kudzanai Musengi was arrested in Gweru Central Business District around 8.00am and the police accused him of practicing as a journalist without valid accreditation despite the Zimbabwe Media Commission advising that journalists can use 2019 accreditation cards. The police then released Kudzanai without charging him at 10.45am.

#### RESPECT FOR CIVIL LIBERTIES

Civil liberties or personal freedoms are personal rights and guarantees that the government

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<sup>4</sup> *Universal Declaration of Human Rights*, Article 9.

cannot abridge, either by law or by judicial interpretation, without due process. Though the scope of the term differs between countries, civil liberties may include the freedom of conscience, movement, freedom of the press, freedom of religion, freedom of expression, freedom of assembly, etc.<sup>5</sup> Such rights are guaranteed in the Constitution. Civil liberties are either explicitly identified in the Bill of Rights and the Constitution, or interpreted or inferred through the years by legislatures or the courts<sup>6</sup>. In Zimbabwe, Part 4 of the Constitution provides for civil liberties. Although these rights are constitutionally provided, they are not absolute with the exception of the right to life except to the extent specified in section 48 of the Constitution, the right to human dignity, the right not to be tortured or subjected to cruel, inhuman or degrading treatment or punishment, the right not to be put in slavery or servitude, the right to a fair trial and the right to obtain an order of *habeas corpus*<sup>7</sup>.

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#### VIOLATION OF FREEDOM OF ASSEMBLY, EXPRESSION AND ASSOCIATION

Despite provisions in the Constitution protecting the right to freedom of expression, assembly and association, the Government and state security operatives continue to commit human rights violations by restricting these freedoms. Freedom of assembly and association is safeguarded in sections 58 and 59 of the Constitution. Freedom of expression and that of the media are both important freedoms provided for in section 61. The rights include seeking, receiving and communicating ideas and other information. The following are some of the reported cases:

- On 20 January, BM, a biology teacher was arrested by ZRP officers in Bulawayo for allegedly mobilizing 153 Njube High School Form 1, Form 3 and Form 6 learners to stage a demonstration against the absence of teachers and fees hike.
- On 27 February 2020, the Zimbabwe Republic Police Anti-Riot Unit reportedly assaulted, arrested and forcefully disbursed students from the National University of Science and Technology (NUST), in Bulawayo using tear gas and water cannons. The students were peacefully demonstrating for their right to education due to the increase in tuition.

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<sup>5</sup> [https://en.wikipedia.org/wiki/Civil\\_liberties](https://en.wikipedia.org/wiki/Civil_liberties)

<sup>6</sup> <https://civilrights.findlaw.com/civil-rights-overview/civil-rights-vs-civil-liberties.html>

<sup>7</sup> Section 86(3) of the Constitution of Zimbabwe, 2013.

Freedom of the media is a key component of democracy and is provided for in Section 61 of the Constitution. The role of the media is critical to ensuring citizens have access to information necessary for the protection of any rights as provided for in section 62(2) of the Constitution. A total of 5 media practitioners were arrested during the first quarter for various reasons. MISA-Zimbabwe recorded the following cases on violations of media freedoms and cases impacting access to information during the quarter. The table below presents the cases reported on freedom of the media and access to information.

Table 1: Violations of Media Freedoms and Access to Information

Name	Date	Narration of violation
<b>Robert Tapfumaneyi</b>	21 Jan-20	Robert Tapfumaneyi, a Zimbabwean journalist with <i>Sly Media Productions</i> , was on 21 January 2020 harassed by MDC Alliance (MDC-A) security details while covering the opposition party's meeting in Harare's high-density suburb of Mbare.
<b>Simbarashe Sithole</b>	06 Mar-20	Simbarashe Sithole a reporter with NewsDay was on 6 March 2020 reportedly summoned before ZANU PF politicians by the party's Provincial Chairperson for Mashonaland Central, Kazembe Kazembe at a meeting in Mvurwi to explain a story about an alleged rift between MPs and war veterans.
<b>Tatenda Julius</b>	30 Mar-20	The ZRP arrested student journalist, Tatenda Julius who is attached at Pungwe News (New Ziana) in the city's residential suburb of Dangamvura while taking pictures during the 21-day lockdown in response to the COVID-19 pandemic.

<b>Kudzanai Musengi</b>	30 Mar- 20	Senior journalist, Kudzanai Musengi was arrested in Gweru Central Business District in the course of his official duties. Police accused him of practicing as a journalist without valid accreditation.
<b>4 Newspaper Vendors</b>	31 Mar- 20	Police in Masvingo dispersed several newspaper vendors and arrested four, being 3 females and 1 male at around 12:00hrs for violating S.I 83 of 2020 which seeks to enforce the Presidential directive for a national lockdown. The four were arrested at Belmont Press, the main selling point for newspapers in Masvingo, where all the provincial and national newspapers are sold.

## ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Economic, social and cultural rights include the rights to adequate food, to adequate housing, to education, to health, to social security, to take part in cultural life, to water and sanitation, and to work<sup>8</sup>. These are also called second generation of rights and have a bearing on finances, society and the culture of people. The Constitution provides for these rights with the mandate on the Government to progressively realize these rights in order to ensure that there is fulfillment and protection of the rights.

## THE RIGHT TO FOOD

The right to food is a fundamental human right protecting the right to sufficient food for people to survive in dignity and calls for Government to avail access to sufficient food to

<sup>8</sup> <https://www.ohchr.org/EN/Issues/ESCR/Pages/ESCRIndex.aspx>

every person. The right to sufficient food is guaranteed in **section 77(b)** of the Constitution. In connection with this right, local government councilors and traditional leaders ought to be apolitical and desist from partisan distribution of food or farming implements<sup>9</sup>. However, there remains allegations of traditional leaders and community leaders being actively involved in partisan distribution of food and farming inputs.

In the preliminary findings of Hilal Elver, the UN Special Rapporteur on the Right to Food during her visit to Zimbabwe made on 29 November 2019, 60% of Zimbabwe's population of 14 million is considered food-insecure, living in a household that is unable to obtain enough food to meet basic needs. This makes it critical for the Government to ensure food aid or inputs distributed are so distributed in a fair and non-partisan manner.

Below are some of the cases recorded on harassment, threats and actual conduct in relation to partisan distribution of food and farming inputs:

- In Mafara village, Ward 3 Nyanga North, village head Ponzi Mafara reportedly instructed VK to record every MDC Alliance supporter's full names and cell phone number. She went on to intimidate the villagers by telling them that the exercise was meant for MDC Alliance supporters who will be excluded from the presidential farming input scheme. MDC Alliance activist in Ward 3 Kawarawsa village confirmed the incident and reported that the MDC Alliance supporters did not benefit from the fertilizer distribution that took place.
- In Buhera South, Ward 27 Mutiusinazita, Village Head Tototai convened a village meeting and warned MDC supporters that they would not benefit from the ongoing Government drought relief program.
- In Mazowe North, an alleged team of 5 ZANU-PF activists led by a district member identified as Cde Rukani in Ward 26 at Eastwoods Farm, Coolderry, Welmode and Sandford farms reportedly refused to give MDC Alliance supporters farming inputs.

## THE RIGHT TO HEALTH

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<sup>9</sup> Section 281(1)(c) and 281(2) (b) of the Constitution of Zimbabwe Amendment (No.20) Act.2013.

Section 76 (1) and (3) of the Constitution provides for the right to health as well as emergency healthcare. The right to health care in Zimbabwe has been a cause for concern with heightened deterioration in the last quarter of 2019 as doctors went on an over 2-month strike<sup>10</sup> in Government hospitals over paltry salaries and lack of medical utilities<sup>11</sup>. This resulted in over 200 doctors being fired as reported in the media<sup>12</sup>. The state of health in Zimbabwe was put in the spotlight during the first quarter after the outbreak of the COVID-19 pandemic first detected in Wuhan, China and reported to the World Health Organization on 31 December 2019. The pandemic became a declared global concern on 30 January 2020<sup>13</sup> and by 31 March 2020, 36 405 deaths had been recorded globally with 750 890 confirmed cases<sup>14</sup>. The following were some of the issues and developments on health care in Zimbabwe in the first quarter:

- Zimbabwe declared its first case of COVID-19 on 20 March 2020 amidst bald assertions that the country was prepared to handle these cases<sup>15</sup>. Barely 3 days later, a 2<sup>nd</sup> confirmed case of Zororo Makamba who died while admitted at Wilkins Hospital where COVID-19 cases were being taken for treatment in Harare, was reported<sup>16</sup>. This devastating outcome unearthed the truth of the state of the Wilkins Hospital, revealing that Zimbabwe was not prepared for handling COVID-19 cases<sup>17</sup>. It was a case of no ventilators and compatible electric plugs among other concerns. By 30 March 2020, Zimbabwe had reported 8 cases of COVID-19 including 1 death<sup>18</sup>.
- On 25 March 2020, Government doctors and nurses went on strike over lack of protective clothing to ensure their safety as they stood at the frontline in

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<sup>10</sup> <https://www.newsday.co.zw/2019/11/uk-lures-fired-zim-doctors/>

<sup>11</sup> <http://www.hrforumzim.org/press-releases/lamenting-the-state-of-health-care-in-zimbabwe/>

<sup>12</sup> <https://www.newsday.co.zw/2019/11/chaos-as-govt-fires-over-200-doctors/>

<sup>13</sup> <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>

<sup>14</sup> [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200331-sitrep-71-covid-19.pdf?sfvrsn=4360e92b\\_8](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200331-sitrep-71-covid-19.pdf?sfvrsn=4360e92b_8)

<sup>15</sup> <https://www.chronicle.co.zw/updated-zim-records-first-covid-19-case/>

<sup>16</sup> <file:///C:/Users/Zim%20Human%20Rights/Downloads/23%20Mar%20COVID%20Update.pdf>

<sup>17</sup> <https://www.zimlive.com/2020/03/24/if-you-go-to-wilkins-you-will-die-makamba-family-says-zim-not-ready-for-coronavirus/>

<sup>18</sup> <https://www.cnbc africa.com/africa-press-office/2020/03/31/coronavirus-zimbabwe-coronavirus-covid-19-update-30-march-2020/>

receiving and handling COVID-19 cases<sup>19</sup>.

- On March 27, President Emmerson Mnangagwa declared a 21-day lockdown to fight against the COVID-19 pandemic commencing on 30 March 2020. The declaration was validated by Statutory Instrument 83 of 2020 on 28 March 2020.

## THE RIGHT TO WATER

Section 77(a) of the Constitution provides that every person has the right to safe, clean and portable water. This means that water sources must be available for all. The right to water is even more critical in the fight against the COVID-19 pandemic with most affected areas at risk in the absence of constant running water to ensure the constant and thorough cleaning of hands which is one of the recommended preventative measures against the disease<sup>20</sup>. The following were some of the issues and developments on the right to water:

- Gwanda residents in Spitzkop residential area have not had supplies of water for many years and as a result they have resorted to buying water from other residents with privately owned boreholes<sup>21</sup>.
- Lupane Residents and Ratepayers Association expressed concern over residents queuing up until late at night to get water from boreholes as this is breeding ground for contracting COVID-19. The residents have no access to proper constant water supply<sup>22</sup>.
- Chitungwiza Residents Trust (CHITREST) protested the pro-longed lack of running tap water supplies and said residents were experiencing erratic and at times no provision of safe and adequate water for domestic use. They filed their case against Chitungwiza Municipality at the High Court of Harare on 31 March 2020 seeking an order compelling the Chitungwiza Municipality to ensure provision of water to residents at a time of the outbreak of the deadly coronavirus<sup>23</sup>.

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<sup>19</sup> <https://nypost.com/2020/03/25/zimbabwe-doctors-nurses-strike-over-lack-of-protective-gear/>

<sup>20</sup> <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>

<sup>21</sup> <https://www.thestandard.co.zw/2020/03/22/water-projects-delays-irk-residents/>

<sup>22</sup> <https://zimbabwe.shafaqna.com/EN/AL/710564>

<sup>23</sup> <https://www.zlhr.org.zw/?p=1990>

## COLLECTIVE OR GROUP RIGHTS

The collective or group rights are also known as third generation rights, or "solidarity rights," cover group and collective rights, and they include, the right to self-determination, the right to development, the right to peace and the right to a clean environment<sup>24</sup>.

## ENVIRONMENTAL RIGHTS

Section 73(1)(a) of the Constitution provides that every person has the right to an environment that is not harmful to their health or well-being. The following is a case on environmental rights recorded in the first quarter through Zimbabwe Lawyers for Human Rights:

- On Saturday, 28 March 2020, a Mt Pleasant suburb resident in Harare filed an urgent chamber application against Sakunda Holdings in the High Court of Harare to stop the establishment of a medical facility in a residential suburb to cater for some people suffering from the deadly coronavirus. Roger Stringer, who lives at a place adjacent to the medical facility in issue feared that his family, other residents and himself would be exposed to a greater risk of contracting coronavirus if the medical facility would be used for the admission of some patients and averred that his right to an environment that is not harmful to his health or well-being was about to be violated<sup>25</sup>. While the court agreed with the justiciability of environmental rights, the court dismissed the case on the basis that the applicant failed to prove his exposure to a harmful environment.

## SUPREMACY OF THE CONSTITUTION

Section 2(1) of the Constitution states that the Constitution is the supreme law of Zimbabwe and any law, practice, custom or conduct inconsistent with it is invalid to the

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<sup>24</sup> <http://www.peacebuildinginitiative.org/indexa7ff.html?pageId=1847>

<sup>25</sup> <https://www.zlhr.org.zw/?p=1981>

extent of the inconsistency. The supremacy of the Constitution means there should not be unnecessary and unreasonable tinkering with it. The 31<sup>st</sup> of December 2019 saw the Government gazetting the *Constitution of Zimbabwe Amendment (No.2) Bill, 2019* (the Bill). Due to procedural irregularities in the gazetting of the Bill, it was re-gazetted on the 17<sup>th</sup> of January 2020, to bring the gazetting in line with section 328 of the Constitution. The Bill seeks to make 27 amendments with changes to the Constitution on, among other things, appointment of Vice-Presidents and the Prosecutor-General, terms of office of Judges and the appointment of a Public Protector, placing extensive powers on the President of Zimbabwe to make such appointments.

We Lead Trust, a civil society organization in Zimbabwe, started a campaign called - *Zimbabweans Must Reject The Constitution Amendment Bill No.2* while the Forum ran the *Why Now- Defend the Constitution Campaign* in a drive to preserve the supremacy of the Constitution<sup>26</sup>. The *Constitution of Zimbabwe Amendment (No.20) Act, 2013* came into effect in 2013, yet to this day, many citizens are not aware of its provisions. This is in spite of section 7 of the same which unequivocally mandates the State to promote public awareness of the Constitution by translating it into all official 16 languages and disseminating it widely. Section 7 also requires the Constitution to be taught in schools and to be part of curricula for training security services and employees of public institutions and encourages all persons and civil society organisations to raise awareness on the Constitution. As of January 2020, 50 laws remained outstanding, in need of alignment to the Constitution according to the Government <sup>27</sup>.

On 31 March 2020, the Constitutional Court of Zimbabwe declared the passage of the *Constitution of Zimbabwe Amendment (No.1) Act of 2017* (the Amendment No.1 Bill) unconstitutional. The application was filed in September 2017 by MDC party legislator, Honorable Innocent Gonese and former MDC party Harare West legislator Honorable Jessie Majome. The two legislators averred that the Senate failed to fulfil the constitutional obligation defined in section 328(5) of the Constitution, which requires a Constitutional Bill to be passed by two-thirds of its membership when it passed

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<sup>26</sup> [https://www.change.org/p/government-of-zimbabwe-zimbabweans-must-reject-the-constitution-amendment-bill-no-2?recruiter=false&recruited\\_by\\_id=e2606e90-717e-11ea-9765-5bfa92acf42c](https://www.change.org/p/government-of-zimbabwe-zimbabweans-must-reject-the-constitution-amendment-bill-no-2?recruiter=false&recruited_by_id=e2606e90-717e-11ea-9765-5bfa92acf42c)

<sup>27</sup> [http://kubatana.net/wp-content/uploads/2020/02/IMT-Bill-Tracker\\_as-@-January-2020.pdf](http://kubatana.net/wp-content/uploads/2020/02/IMT-Bill-Tracker_as-@-January-2020.pdf)

Constitutional Amendment Bill (No.1) of 2017 into law on 1 August 2017. The Act sought to amend section 180 of the Constitution and other related provisions by giving the President sole powers to appoint the Chief Justice, his deputy and the Judge President of the High Court, and adding a provision relating to the appointment of the Senior Judges of the Labour Court and the Administrative Court by the Chief Justice<sup>28</sup>. The ruling of unconstitutionality was based on that the Senate did not reach a two thirds majority when the Senate voted to pass the Amendment No.1 Bill.

## ANALYSIS OF THE FIRST QUARTER OF 2020

While the start of 2019 was characterized by numerous violations as a result of a crackdown on freedom of assembly and association by state security agents during the January 14 fuel price hikes protests dubbed the #ZimShutDown protests, the year 2020 was kickstarted by the government proposing to amend the *Constitution* as highlighted above. This amendment was a great cause for concern and set the Forum on a defend the constitution campaign. The amendment came at a time where the Government was not fully implementing the Constitution raising critical questions as to the reasons behind pushing for amendments that mainly sought to vest much authority with the President to make critical appointments in the Judiciary and the Executive.

The state of the economy was at a deepening fall with inflation rates soaring out of reach of many. Socio-economic rights were at their worst with the state of health and the right to food being violated by the state. The priorities of the Government were misplaced. The re-alignment of 50 laws with the Constitution was still outstanding and long overdue. The economy continued to deteriorate with no address by the Government to alleviate the burden on livelihoods. On the 31<sup>st</sup> of December 2019, a deadly disease which was first detected in Wuhan China was reported to the World Health Organization exposing the state of Government unpreparedness in handling the deadly pandemic. At the end of the first quarter, the question lingered as to whether Zimbabwe was prepared to handle COVID-19 cases amidst concerns over unavailability of enough testing kits, protective masks and clothing for health workers.

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<sup>28</sup> <https://www.zlhr.org.zw/?p=1983>

In terms of the policy making function of Government, on the 26th of February 2020 Cabinet passed a decision to tax already struggling civil servants mostly earning less than US\$100 by deducting 2.5% every month from all civil servants every month under item 4(c) of the *Fourth Cabinet Meeting Decisions Matrix: 26 February 2020 (the Cabinet Decision)* proposing to put a strain on civil servants earning paltry salaries. Furthermore, item 4(e) on the Cabinet Decision stated that garrison shops must be established to enable all members of the Defence Forces who will be on the GEMS Fund to have the additional benefit of accessing subsidized basic commodities that would be sold in the specialized shops located within cantonment areas. This action which makes provision to cater for the army to access food at a cheaper rate was exclusionary as it failed to also provide for many struggling people in the tough economic times. Sound policy must address the issue of food security in a broader way that seeks to realize section 77(b) of the Constitution for the benefit of all.

The civil and political rights continued to be affected with the Zimbabwe Republic Police and the ZANU-PF supporters cited as the key perpetrators of the assaults, arbitrary arrests, harassment and intimidation of the victims. The first quarter recorded 562 human rights violations across all the generations of human rights. The highest number of violations were recorded in the month of February 2020.



Figure 1: Statistics of collated violations of human rights.

**CONCLUSION**

The Forum continues to coordinate the human rights agenda in Zimbabwe monitoring and documenting the human rights violations in Zimbabwe as they arise. As Zimbabwe continues to fight the COVID-19 pandemic, the Forum calls on the following:

- The Government to provide sufficient food and clean and portable water for all as provided in section 77 of the Constitution.
- The Government to ensure that everyone has access to information on COVID-19.
- The state security agents to comply with the procedure laid out in section 4(5)(a) and 4(5)(b) of *Statutory Instrument 83 of 2020* in handling cases of non-compliance with the lockdown.
- The state security agents to stop using excessive force on civilians and harassing media practitioners.
- The Government to provide adequate protective clothing for all health workers handling COVID-19 cases. The Government to provide testing and treatment centers for COVID-19 in all the 10 Provinces in Zimbabwe.
- The Government to ratify the *International Convention against Torture* as commitment to ending torture in Zimbabwe in line with international best practices.
- The Government to enact a law in terms of section 210 of the *Constitution* for the establishment of an Independent Complaints Handling Mechanism for investigating state security agents where there are allegations against them of violating human rights.
- The state security agents to stop arbitrary arrests and abide by the rule of law.
- The Government to preserve the supremacy of the Constitution by stopping all unnecessary amendments to the Constitution.