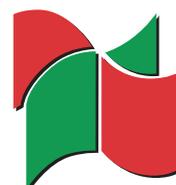
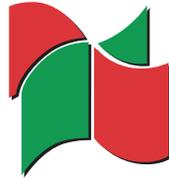




**UNLOCKING  
HUMAN RIGHTS  
DURING COVID-19  
PANDEMIC BULLETIN**



Zimbabwe  
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## PART I

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# UNLOCKING HUMAN RIGHTS DURING COVID-19 RESPONSE MEASURES

### 1. INTRODUCTION

On 17 March 2020, President Emmerson Mnangagwa declared a state of disaster in response to the COVID-19 pandemic. The declaration was in terms of section 27 of the Civil Protection Act [Chapter 10:06] and was followed by the imposition of a nationwide lockdown. The declaration allowed the government to make emergency disaster response regulations and allocate financial and human resources to respond to the pandemic. Consequently, the Minister of Health and Child Care acting under section 68 of the Public Health Act [Chapter 15:17], promulgated several regulations to implement public health measures to curb the pandemic. Most important, the Minister of Health and Child Care published the following:

- **Statutory Instrument 83 of 2020** - the COVID-19, Prevention, Containment and Treatment) (National Lockdown) (Amendment) Order, 2020 (SI 83/2020), implementing a 21-day lockdown order. Gatherings of more than two people were prohibited, borders were closed and there was an automatic extension of permitted residence of foreign nationals. Airports were closed and restrictions imposed on aerial transportation.

- **Statutory Instrument 93 of 2020** - the Public Health (COVID-19, Prevention, Containment and Treatment) (National Lockdown) (Amendment) Order, 2020 (No. 3) (SI 93 of 2020) which extended the period of the lock-down to the 3rd May.
- **Statutory Instrument 99 of 2020** - the Public Health (COVID-19 Prevention, Containment and Treatment) (National Lockdown) (Amendment) Order, 2020 (No. 5). It has introduced level 2, which is a phased relaxation of the national lockdown effective until 17 May 2020.

The police and the army were deployed to enforce the lockdown. In addition to the national lockdown measures, Government also designed the Zimbabwe Preparedness and Response Plan which outlined how government, line ministries and key institutions would respond to the COVID-19 pandemic. A budget pledge of \$20 million was announced, and an economic recovery, stimulus and social package of \$18 billion dollars towards recovering the economy during the pandemic was also launched. The 18 billion stimulus package will be distributed in the following manner: Agriculture support (\$6,08 billion), Working Capital Fund (\$3,02 billion), Mining Sector Fund (\$1 billion), SME Support Fund (\$500 million), Arts Sector Fund (\$20 million), Liquidity Release from Statutory Reserves (\$2 billion), Health Sector Support Fund (\$1 billion), Broad Relief Measures (\$1,50 billion), Food Grant (\$2,40 billion).

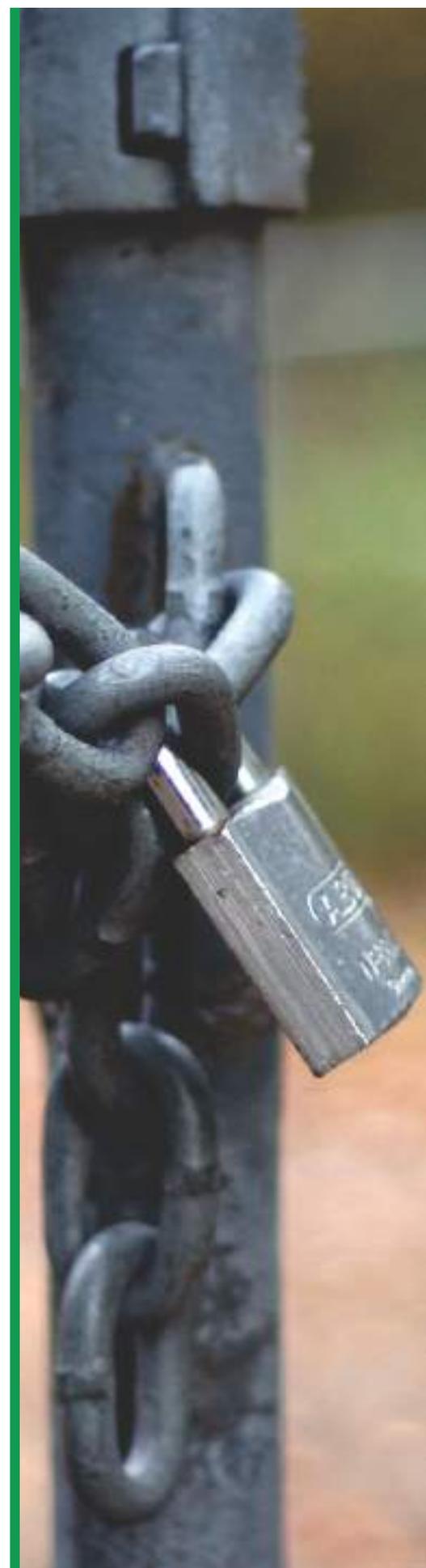
## 2. WHAT RIGHTS DO THE MEASURES LOCKDOWN?

### ■ **Freedom of Assembly and Association; Religion**

Assembly and association has been limited. This is through the closing of schools, churches, and restriction of gatherings or meetings for the purpose of public worship, the closing of any place or places of public entertainment, recreation or amusement, or where intoxicating liquor is sold by retail.

### ■ **Freedom of Movement and Residence**

Every individual is required to stay at his or her home, save for attending to work for those deemed essential service providers under the various regulations promulgated, and to buy essential goods such as groceries and medicines. People can also leave to



exercise, provided social distancing and mask wearing measures are employed. In addition, the regulations prohibit overcrowding or the maintenance of any house or building in an unsanitary state.

#### ■ **Freedom to carry on a Profession, Trade or Business**

Industries and business offering essential services in terms of the various regulations are allowed to conduct business during the period of the national lockdown. Essential services are defined in the regulations to include the following:

- health service providers and health workers,
- journalists, newspaper vendors and other employees of communications services,
- transport service providers and their employees,
- mining sectors and manufacturing sectors.
- supermarkets, pharmacies and stores selling essential goods

In addition SI 90/2020, also extends permission to businesses in the formal commercial and industrial sector to operate and their employees to go work under level 2. Section 11E of SI 90/2020 defines a business in the formal commercial and industrial sector as a business, industry, trade or occupation that deals in goods or services for the generation of income or the making of profits. This means, any business or trade that is not offering services or goods for making profit or generating income is not allowed to return to work under level 2.

Not for profit organisations are therefore excluded. The classification also leaves out informal trade for the further period of 14 days.

The ban will impact heavily on many families in Zimbabwe who depend on informal trade and vending. The ban on non-profit organisations also negatively impacts the work of non-profit organisation which is indispensable in the time of the lockdown.

#### ■ **Right to Liberty & Freedom of Conscience**

The regulations impose mandatory medical examination, medical observation or surveillance, removal, detention and isolation of persons who may have recently been exposed to the infection or to persons who are suspected of being exposed to the infection. This is until a medical examination certifies the individual to be free from any infectious disease and their baggage and personal effects have been disinfected. Further, the right to choose medical facilities and personnel of one's choice has also been limited.

#### ■ **Access to Justice**

The Chief Justice of Zimbabwe issued a practice directive in which he postponed all non-urgent cases before the courts until the end of the lockdown.

Court registries will be open for litigants, legal practitioners and the public on weekdays from 8am until 3pm; filing of court documents will proceed in terms of existing court rules, legislation or as directed in court orders; all matters are to be determined expeditiously without delay in order to limit contact and attendance at courts by litigants; the Sheriff will continue to serve all court process and orders, but will not carry out evictions, executions or conduct sales in execution for the duration of the lockdown period and the Marriages Registry will remain closed in the lockdown period.



The direction also requires all litigants and court users to be subjected to temperature checks and sanitization of hands at entrances; to wear face masks; to avoid person to person contact and maintain social distancing. In addition, only litigants and witnesses will be allowed inside courtrooms, and letters of clearance issued by the police will be required for litigants who are required to attend court in another province or district.

### 3. CAN RIGHTS BE LIMITED?

Section 86 (1) of the Constitution states that fundamental rights and freedoms must be exercised reasonably and with due regard for the rights and freedoms of other persons. Section 86 (2) allows for limitations on fundamental rights and freedoms in terms of a law of general application. Such a limitation is required to be fair, reasonable, necessary and justifiable in a democratic society. Under section 86 (2) (b) to (f) certain considerations are required to be taken in balancing fundamental rights and freedoms and the limitation.

In addition to the limitations permitted by section 86, section 87 of the Constitution also allows further limitation of fundamental rights and freedoms by a written law providing for measures to deal with situations arising during a period of public emergency, but only to the extent permitted by the Constitution.

### 4. WHAT RIGHTS ARE NOT LOCKED DOWN?

Section 86 (3) of the Constitution states that no law may limit, and no person may violate the following rights:

- the right to life, except to the extent specified in section 48 in relation to the death penalty;
- 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 placed in slavery or servitude;
- the right to a fair trial; and
- the right to obtain an order of habeas corpus as provided in section 50(7)(a).



## PART II

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# A HUMAN RIGHTS-BASED APPROACH TO COVID-19

A human rights-based approach in enforcing the Public Health Act (2018) and regulations is critical. It satisfies public health goals at the same time respecting, promoting, and protecting the rights of the affected.

### 1. THE RIGHT TO SAFE, CLEAN AND PORTABLE WATER

The World Health Organisation (WHO) has advised that hand washing and increased personal hygiene are key to preventing the spread of COVID-19. WHO has further noted that the provision of safe water, sanitation, and hygienic conditions is essential to protecting human health during the COVID-19 pandemic.

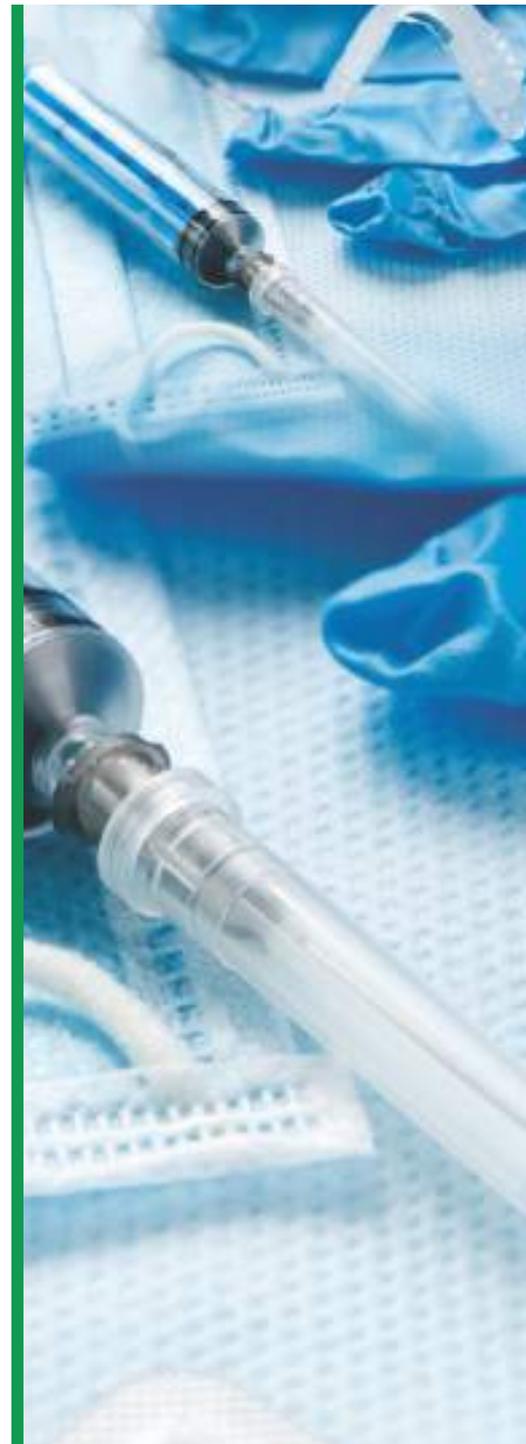
Before the pandemic arrived in Zimbabwe, local and central government authorities were failing to meet their duty of supplying safe, clean and adequate water. For instance, lack of sanitation and clean water has in the past caused cholera and typhoid outbreaks. Inadequate water supplies have forced residents to spend long hours in queues at boreholes, in contravention of lockdown and social distancing requirements. Six residents associations from Harare, Mutare, Masvingo, Gweru, Chitungwiza and Hwange filed lawsuits to force their central and local governments to ensure safe, portable, and uninterrupted supply of water during the lockdown.

For the Mutare, Chitungwiza and Harare residents, the courts confirmed that water was essential to fight the pandemic and ordered the municipalities to ensure constant supply of water to residents. However, the Bulawayo High Court dismissed the challenges from the Hwange and Gweru residents associations, on the basis that the matters were not urgent. In addition to access to water being a right, it is all the more essential now in light of the pandemic. Residents must continue to call on authorities to meet their duties in this respect.

## 2. THE RIGHT TO HEALTH

The country's public healthcare system, upon which most are dependent, is severely underfunded, lacking adequate medical resources and medicines. The levels of testing are low, meaning that Zimbabwe's true rate of infection remains unknown. Enforcement officers and frontline health workers lack adequate personal protective clothing. Doctors and nurses have on several occasions embarked on strike actions against low pay. These issues remain unaccounted for in the response plan.

Zimbabwe Association of Doctors for Human Rights (ZADHR) filed an application to compel the government to take effective and proper actions to handle COVID-19. In that application, the High Court ordered the Ministers of Health and Child Care; Finance and Economic Development and Transport and Infrastructural Development, during the duration of the national lockdown or extended period thereof, to ensure that adequate measures are put in place to prevent, contain and treat the incidence of COVID-19, including supply of adequate personal protective equipment (PPE).



## 3. THE RIGHT TO SUFFICIENT FOOD

Government has recently committed to providing ZWL200 per month for three months to help vulnerable individuals in need. Yet ZIMSTATS estimates that the minimum monthly amount needed for a five-person household is ZWL\$6 420.87 in March 2020. The government measure is thus inadequate to provide for even the most basic of needs. Provision of food is critical, and without adequate supplies, many will find the need to be outside the safety of their homes in search of survival, increasing the risk of exposure to the virus. Government must thus lead a transparent and adequately resourced social protection plan to distribute food to all in need.

## 4. FREEDOM FROM TORTURE, INHUMAN AND OR DEGRADING TREATMENT

Section 53 of the Constitution of Zimbabwe 2013 guarantees freedom from torture, inhuman and/or degrading treatment. However, police and army officers have used undue and unnecessary force when enforcing public health measures to curb the corona virus. The security forces are not allowed to use undue and disproportionate force against citizens, or to arbitrarily arrest citizens and interfere with their lawful activities.

*In Lucia Masvondo and Zimbabwe Lawyers for Human Rights v Minister of Home Affairs and Cultural Heritage & Others*, a matter heard at the High Court of Harare, the High Court issued an order for the police and the army to respect the human rights and freedoms in their policing duties in enforcing the lockdown. This was after a number of violations that include assault and unlawful arrest were recorded nationwide. In spite of the court order, violations continue. Residents need to report any violations to the authorities and organisations dealing with torture.

## 5. ACCESS TO INFORMATION AND FREEDOM OF THE MEDIA

The right of access to information is central to the management and containment of the virus. Whilst sharing accurate, timely, and lifesaving information is a constitutional obligation, it also ensures that people comply with and adopt measures implemented by the government.

Government has established a Task Force on COVID-19, but this entity has not been providing the nation with comprehensive, transparent, accurate and timely information.

*The Ministry of Health and Child Care's daily summary report lacks sufficient details on the state of preparedness and the precautionary measures being taken to curb the spread of COVID-19. The report also does not articulate the response at population level and information on clinical management. This lack of sufficient information conduces to fear, misinformation and mistrust. There has also been a gap in information on how resources allocated and are being utilised.*

Journalists and the media are critical in ensuring access to information, hence their designation as an essential service. The law allows them to do their work freely and unhindered. The police have in some cases been arresting, assaulting and harassing journalists covering the COVID-19 pandemic. The High Court in Harare granted an interim order in the case of *Media Institute of Southern Africa v Minister of Media, Information and Publicity and Others* for the police to allow journalists to do their work unhindered.

Access to information must be ensured through various methods that cater for all groups, taking into account language and disability. In the case of *Deaf Zimbabwe Trust and Others v Minister of Media, Information and Publicity, the Zimbabwe Broadcasting Corporation and Others*, the High Court granted an order that the Ministry should produce and distribute information about Covid-19 in braille and that the broadcasting corporation should increase provision of sign language in their broadcasts.



## PART III

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# WHAT CAN CITIZENS DO?

### 1. PROTECTION OF RIGHTS

Everyone has a role to play to ensure that human rights are respected and also that the spread of the pandemic is stopped. The World Health Organisation has provided guidelines to governments to ensure that the following conditions exist before lifting restrictions:

- Disease transmission is under control;
- Health systems are able to detect, test isolate and treat every case and trace every contact;
- Hot spot risks are minimized in vulnerable places;
- Schools, workplaces and other essential places have established preventive measures;
- The risk of importing new cases “can be managed”; and
- Communities are fully educated, engaged and empowered to live under a new normal.

While there remains a consensus on the need to adopt strict and controlled measures to flatten the curve regarding the spread of infections from both internal and external sources, the reality is that Zimbabwe is far from creating the right conditions where the pandemic can be effectively dealt with.

It is the duty of every citizen to exercise due diligence and take reasonable precautions under one’s control to avoid, control or mitigate a public health risk, and to actively promote compliance with the Public Health Act, the regulations that have been passed, and the measures being enforced.

Both the Public Health Act and the COVID-19, Prevention, Containment and Treatment) (National Lockdown) (Amendment) Order, 2020 (SI 93/2020), provide for penalties for noncompliance.

Any person who contravenes any provision of regulations made by the Minister will be guilty of an offence and liable to a fine not exceeding level twelve or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

## 2. ACTIONS WHEN RIGHTS ARE UNDER THREAT OR HAVE BEEN VIOLATED

If you believe that a protected right has been violated or is being threatened, you must take action.

### Document the violation

Gather information about the victims, perpetrators and the circumstances of the violations. Validate that the information is correct by checking that the facts and allegations are true. Collect evidence of the violations. This can be done by taking videos, or getting witness testimonies, or visiting the places where the violation took place and obtaining physical evidence. It is important to make sure that the information is true.

### File a complaint

You may report at your nearest police station. Contact us, Zimbabwe Human Rights NGO Forum on the following:

- Toll free on Econet 08080242
- Toll free on Net One 08012020
- Via WhatsApp or SMS on 0772232046
- Twitter @ZimHRNGOForum
- Email: admin@hrforum.co.zw

You may also contact other non-governmental organisations or institutions established to protect human rights. Contact the **Zimbabwe Lawyers for Human Rights** on their hotline 0772257247 or visit their website at [www.zlhr.org.zw](http://www.zlhr.org.zw).

Or you may also contact the **Zimbabwe Human Rights Commission** on toll free on 08080245 or via WhatsApp on 0771838654-6. Also visit their website at [www.zhrc.org.zw](http://www.zhrc.org.zw)

## 3. WHAT TO PROVIDE WHEN REPORTING A VIOLATION

When you report a violation, you need to give as much information as you can about the issue. You should include the following information if you have:

- name of the complainant, home address and contact details;
- a description of what happened, when and how;
- the harm you have suffered;
- who was involved in the violation, their identity and any other information you can provide;
- who was there and who saw the violations;
- what kind of help you need; and
- any other important information you may have.



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