



ZIMBABWE

3rd Cycle United Nations Universal Periodic Review

Civil Society Organisations, Stakeholders' Report

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List of Acronyms

ACRWC	African Charter in the Rights and Welfare of the Child
BEAM	Basic Education Assistance Module
BVR	Biometric Voter Registration
CAT	Convention against Torture
CCZ	Constitutional Court of Zimbabwe
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CSOs	Civil Society Organisations
GBV	Gender-based Violence
GFPs	Gender Focal Persons
GoZ	Government of Zimbabwe
HCP	Harmful Cultural Practices
HRBA	Human rights based approach
HRC	Human Rights Council
HRDs	Human Rights Defenders
IECMS	Integrated Electronic Case Management System
VFUs	Victim-Friendly Units
LAD	Legal Aid Directorate
MDC	Movement for Democratic Change
MOPA	Maintenance of Peace and Order Act
MWAGCD	Ministry of Women Affairs, Gender, and Community Development
NA	National Assembly
NGO	Non-Governmental Organisation
NPRC	National Peace and Reconciliation Commission
PVO	Private Voluntary Organisations (Act)
PWDs	Persons with Disabilities
SADC	Southern Africa Development Community
SGBV	Sexual and Gender-based Violence
SR	Special Rapporteur
SRRHR	Sexual Rights and Reproductive Health Rights
UN	United Nations
UNCRC	Convention on the Rights of the Child
UNCRPD	Convention on the Rights of Persons with Disabilities
UNHCR	United Nations High Commissioner for Refugees
UPR	Universal Periodic Review
VAW	Violence against Women
WCOZ	Women's Coalition of Zimbabwe
WHO	WHO World Health Organisation
ZADHR	Zimbabwe Association of Doctors for Human Rights
ZEC	Zimbabwe Electoral Commission
ZGC	Zimbabwe Gender Commission
ZHRC	Zimbabwe Human Rights Commission
ZLHR	Zimbabwe Lawyers for Human Rights
ZNA	Zimbabwe National Army
ZRP	Zimbabwe Republic Police

PART A: INTRODUCTION AND BACKGROUND

Overview of the human rights situation

1. Despite the progress made in implementing some recommendations from the 2nd Cycle highlighted below, there were many human rights issues of concern during the period under review.
2. The political transition of November 2017 saw military intervention in national politics leading to the constructive resignation of former President Robert Mugabe. This development has altered the governance architecture of the country leading to militarisation of governmental functions.
3. General elections were held on 30 July 2018, which were generally peaceful, but independent observer missions issued hundreds of recommendations for electoral reform, many of which remain outstanding as the country heads for its next elections in 2023. During public protests demanding election results on 1 August 2018, security agents used excessive force resulting in the death of six people from shootings, and several injured. The recommendations of a Commission of Inquiry established to look into the violence remain unimplemented.
4. Economic challenges led to protests in January 2019 to oppose a fuel-pricing policy that had ripple effects on the cost of living. Security agents, especially the army and police, responded with disproportionate force, dragnet arrests and summary trials.
5. In February 2020, Zimbabwe adopted lockdown measures to contain the spread of coronavirus (COVID-19). The selective partisan and violent enforcement of measures, and conditions imposed on the exercise of rights and freedoms, unduly limited enjoyment of human rights.
6. Civic space continues to shrink at an alarming rate. Proposed new laws such as amendments to the PVO Act and Criminal Law (Codification and Reform) Act (Criminal Code), and the "Patriotic Bill", will undermine the work of human rights defenders and NGOs, especially those working on governance issues.
7. Since 2017, the government has pushed through parliament two Bills introducing several amendments to the Constitution. The amendments have a devastating impact on separation of powers, increasing executive control over appointments within the judiciary and of the Prosecutor-General. The amendments also undermine the oversight role of parliaments over actions of the executive.

Methodology

This Report on selected recommendations was developed through a series of consultative meetings by CSOs that have, since 2016, been monitoring implementation of supported recommendations. The information was provided and compiled by the CSOs operating in Zimbabwe with diverse programmatic mandates, and the Report reflects these areas of expertise. Much of it is personal information known to them and generated in the course of their work. The above listed CSOs thereafter validated the Report as submitted. UN Women provided technical and financial support to these CSOs throughout the process of drafting this report.

PART B: IMPLEMENTATION OF PREVIOUS CYCLE UPR RECOMMENDATIONS

F31 - CHILDREN: PROTECTION, CHILD MARRIAGE¹

Partially implemented:

8. Buoyed by the Constitutional Court judgment in the *Mudzuru* case (2016),² the GoZ is in the process of adopting legislative measures to amend the Marriages Act to outlaw marriage to any person under the age of 18 years. On the policy front, a National Action Plan to End Child Marriage was launched in May in 2021.³
9. Child marriage prevalence in the country remains worrying. The Multiple Indicator Cluster Survey of 2019 found that about 1 in 3 (34%) of women age 20-24 were first married or in union before age 18. The urban-rural dynamic is two in five women age 20-24 got married before age 18 in rural areas compared to one in five urban areas.
10. Although the Constitution now prohibits child marriages there is no law penalising adults who enter into marriages with children. As a result, the country is far behind in achieving the global target of ending child marriages by 2030.

11. Recommendations:

- a. Expedite the implementation of the National Action Plan on Ending Child Marriages.
- b. Adopt legislative measures to ensure criminalisation, through the new Marriages Act and the Criminal Code, of the practice of child marriages, as a harmful cultural/traditional/religious practice.
- c. Provide livelihoods interventions for children in the situation of child marriages in accordance with the SADC Model Law on Child Marriages.

F31 - CHILDREN: ACCESS TO BIRTH REGISTRATION⁴

Partially implemented:

12. There has been very little progress since 2016, with isolated efforts to improve access in urban areas and through mobile registration systems, but these efforts are inadequate. There are no efforts to reach a comprehensive solution to this permanent problem especially due to politicisation of documentation in the country.
13. In 2019, during the High-Level Segment in Geneva organised by the UNHCR under the Global Action Plan to End Statelessness, the GoZ made the pledge to “by 2024, simplify and improve access to birth registration procedures, including issuance of birth certificates to descendants of former migrant workers and failed asylum seekers to ensure universal birth registration”.
14. Domestically, in 2019, the ZHRC conducted a National Inquiry on Access to Documentation and found that access to documentation including birth registration is limited.
15. Further challenges include physical access to registration centres, the cost of registration,

cumbersome registration requirements, and inefficiency of the registration offices, among others.

11. Recommendations:

- a. Fulfil its UNHCR pledge and take measures to achieve universal birth registration in the country by 2024.
- b. Establish registration centres at every district hospital.
- c. Consider scrapping all administrative and operational impediments including fees for birth registration and search fees, which is out of reach for most rural dwellers and refugees.
- d. Align the Citizenship Act, the Births and Deaths Registration Act and the Immigration Act to the Constitution to deal with birth registration and documentation issues.
- e. Ratify the 1961 Convention on the Reduction of Statelessness and domesticate its provisions through nationality/citizenship laws so as to ensure that every child enjoys the right to acquire a nationality.

F13 - VIOLENCE AGAINST WOMEN⁵

Partially implemented:

17. Given that GBV prevalence in Zimbabwe is at 35%, with 14% of women aged 15-49 having reported sexual violence and 25% reporting physical violence since the age 15,⁶ the GoZ is commended for its efforts to put in place legislative measures to deal with VAW.
18. Key legislation includes the Domestic Violence Act establishing the Anti-Domestic Violence Council; Trafficking in Persons Act and the Criminal Code. The Code is being amended to provide for minimum mandatory sentencing for rape and sexual offences ranging between five (5) and 20 years.
19. Also commendable is the policy and institutional framework to address GBV. These include: National Programme on Gender-Based Violence, Prevention and Response (2016–2020); and National Action Plan against Trafficking in Persons (2019 – 2021), which seeks to operationalise the Trafficking in Persons Act [Chapter 9:25]; The Victim Friendly system, which includes courts, police and probationers, and a Case Management System for a coordinated approach to ending VAW.
20. GBV prevalence has worsened with the introduction of COVID-19 lockdown measures. A 2020 Report documented that Intimate Partner Violence increased proportionally during lockdown with 71.1% of GBV cases reported with poor women, women in rural areas and women and girls with disabilities being most affected.
21. Musasa Project national GBV Hotline recorded 6,200 GBV calls from the beginning of the lockdown on 30 March 2020 until 27 November 2020 with an overall average increase of over 60 percent compared to the pre-lockdown trends (OCHA, 2020).
22. In politics, the outcome of the National Assembly elections recorded only 12% females made it outside the 60 reserved quota seats for women. This is a regression from the 14%

won in 2013. In Local government 15 % of women won seats. Although for the first-time women competed for the Presidential position they constituted 17% of the candidates and faced a lot of hate speech.

23. Recommendations:

- a. GoZ should coordinate intervention to ensure programming is extended to Sexual and Reproductive Health Rights (SRHR); Sexual Gender-Based Violence (SGBV), and Harmful Cultural Practices (HCP).
- b. Amend the legal framework to ensure that it recognises other forms of violence such as verbal, economic, psychological, and emotional abuse.
- c. Designate all GBV services (including shelters, VFUs and helplines) as essential workers at all times during the lockdown.
- d. Simplify procedures for women to obtain protection orders against perpetrators of GBV.
- e. Adopt measures that address the negative attitude of men towards participation of women in politics.

F12 - DISCRIMINATION AGAINST WOMEN; EMPOWERMENT⁸

Partially implemented:

24. Based on section 56 of the Constitution on gender equality, the GoZ has made significant strides in promoting gender equality and women's economic empowerment and financial inclusion over the period under review. There is vibrant gender machinery due to the diversity of its members including the Ministry of Women Affairs, Gender, and Community Development; Gender Focal Persons; women's groups; the Zimbabwe Gender Commission (ZGC); the National Gender Policy; and other institutions and structures promoting gender equality. Legislative efforts on extending to 2028 the current constitutional quota of 60 parliamentary seats reserved for women is noted. However, what is required is implementing section 17 of the Constitution to achieve 50% representation in the 210 direct election parliamentary seats. Women representation in elected and appointed offices currently stands as follows: Cabinet members 22.7%; National Assembly 31%, Local Government Councillors 13,3%, Diplomats 25,6%, and Judiciary 39%.
25. In elections, out of the 47 political parties that fielded candidates in the National Assembly in 2018, only 27 fielded at least one-woman candidate. Approximately 15 percent (243) of 1652 candidates contesting in the National Assembly were female and 146 women out of 290 candidates were contesting for Senate.
26. In education, while nearly 78% of pupils complete primary school, transition to secondary school remains a challenge for girls, who are often targeted with early marriage or pregnancy at a prevalence of 48%.
27. Girls also drop out of school for lack of menstrual health resources, even though the Education Act guarantees their provision.⁹
28. As for empowerment, there is a Women's Bank in Zimbabwe. It was opened in 2018, with only 27% of women having access to formal banking products and accounting for only 10%

of total bank loans (UN, 2018). As at November 2018, the Bank issued 149 loans valued at a cumulative \$1 million USD.

29. Recommendations:

- a. GoZ to facilitate coordination of the national gender mechanism by availing sufficient funding with the view to developing and implementing gender equality programmes in all key sectors of society.
- b. Accelerate efforts to domesticate core treaties on women's rights.
- c. Implement constitutional provisions requiring 50% gender representation in executive elective and appointed positions.

E41 - RIGHT TO HEALTH – PRIMARY AND SECONDARY HEALTH-CARE INFRASTRUCTURE; TRAINING OF HEALTH PERSONNEL¹⁰

Partially implemented:

30. The COVID-19 pandemic has prompted upgrades of some rundown facilities to cater for infected patients, establishment of new sites, procurement of PPE, test kits and vaccines among other interventions. Vaccines were readily available free of charge until May 2021 but are now scarce. As at 30 June 2021, there have been 48,533 confirmed cases of COVID-19 with 1,761 deaths, reported to WHO and as of 28 June 2021, 1,146,378 vaccine doses had been administered.¹¹
31. However, health sector financing has dropped significantly from an average of US\$745 million over the period 2016 – 2018, to below US\$500 million in 2020. The latest 2020 health budget fell short of the 15% Abuja Declaration Target though there was a slight improvement from 7% in 2019 to 10% in 2020.¹²
32. The welfare of health workers, incidents of reprisals from GoZ, remains a concern, as shown by frequent strikes.

33. Recommendations:

- a. Continue to strengthen the public health system by improving institutions (governance), enhancing human resource capacity (especially community-based health workers), and addressing infrastructure deficits.
- b. To improve the welfare of health workers to avert crippling strikes.
- c. Adopt a HRBA to public/national budgeting processes to ensure funds support specific human rights-related services.
- d. Expand specialist services to district hospitals throughout the country.
- e. Invite the SR on the Right to Health.

E22/E26 - RIGHTS TO DRINKING WATER, SANITATION, FOOD¹³

Partially implemented:

34. Water augmentation projects are ongoing, including revamping of water reticulation systems for some urban areas such as Morton Jaffray water plant in Harare in 2019. Resources have been allocated to the construction of water reservoirs such as dams in different parts of the country including Kunzvi-Musami dam and Gwayi-Shangani dam.
35. However, freshwater scarcity in urban and rural communities has remained acute, leading to conflicts and violence at urban water points especially targeting women, girls, people with disabilities and the elderly. Construction on wetlands remains endemic threatening natural sources of clean water.
36. The Auditor General's Report covering 2013-2017 has recorded that there is widespread contamination of water sources; sewage leaks into boreholes, thus undermining all efforts of access to clean drinking water.
37. Concerning food security, the Special Rapporteur on Food who visited Zimbabwe in November 2019 found that despite the constitutional protection of the right to food and an array of laws and policies, "man-made starvation is slowly making its way in the country, with more than 60 per cent of the population now considered to be food-insecure owing to extreme poverty, high inflation and poor agricultural productivity, among other causes".¹⁴
38. The ZHRC has, through inspection, found that food aid distribution in the country is often politicised especially in the rural areas where most vulnerable people live.¹⁵

39. Recommendations:

- a. Adopt a HRBA to budgeting and allocate sufficient funding for provision of potable water for all in urban and rural areas.
- b. Implement all recommendations of the Special Rapporteur on the Right to Food given after her visit to Zimbabwe in 2019.
- c. Invite SR on the Right to Drinking Water and Sanitation.

E51 - RIGHT TO EDUCATION – FREE, COMPULSORY PRIMARY EDUCATION¹⁶

Partially implemented:

40. Section 64 of the Education Act (amended in 2020) now provides for free and compulsory primary education. The law further provides for free sanitary ware for girls to keep them in school and outlaws corporal punishment in schools.
41. However, no policy measures are in place to implement free and compulsory primary education in the true sense. The BEAM programme was introduced in 2001 to assist the vulnerable, but many pupils remain unsupported due to limited resources (currently 1.5 out of 4.5 million eligible children receive assistance) through poor funding and administration models.

42. COVID-19 has exacerbated the situation by introducing e-learning as a new mode of learning, which is only accessible to few children from privileged family backgrounds. Children in rural low-income schools, especially rural schools, have no access to e-learning at all due to poverty and lack of funding of e-learning infrastructure (broadband and gadgets).
43. COVID-19 has induced high school dropout rates in vulnerable communities who cannot afford school fees and lack adapted learning amenities.
44. A non-performing economy has induced labour action such as stay-aways by teaching professionals claiming incapacitation to provide services, thus undermining the quality of education.

45. Recommendations:

- a. Take measures to implement genuine and comprehensive free and compulsory primary education.
- b. Seek international assistance to provide infrastructure that supports learning during COVID-19 pandemic especially for rural schools.
- c. Adopt measures for sustainable funding to improve teachers' working conditions to stop brain drain and retain critical skills.

F4 - PERSONS WITH DISABILITIES; INCLUSIVE EDUCATION, ACCESS TO PUBLIC BUILDINGS¹⁷

Partially implemented:

46. The GoZ is drafting a law to domesticate the UNCRPD but it is not yet public. The new law will repeal the Disabled Persons Act and similarly outdated legislation, which has become obsolete in the disability rights discourse.
47. On 9 June 2021, GoZ launched the National Disability Policy, developed with support from various stakeholders including the UN, seeking to address the marginalization and discrimination of PWDs, to empower them to improve their own quality of life and enable them to contribute towards the national development agenda.
48. On inclusive education, the new section 68B of the Education Act mandates every registered school to provide infrastructure suitable for use by pupils with disabilities.
49. However, there is no plan in place with timelines within which the infrastructure should be availed for pupils with disability to access education in equality with others.
50. Access to public buildings by PWDs remains constrained as the policy on access only covers persons with physical mobility challenges. Those with other impairments, such as visual, are unable to access public buildings without assistance. This is contrary to the concept of independent living and inclusion as provided in the UNCRPD.

51. Recommendations:

- a. Expedite the enactment of the law domesticating the UNCRPD in consultation with

PWDs, and their organisations.

- b. Take clear steps to ensure progressive realisation of school infrastructure that supports genuine inclusive education in all schools, especially rural public schools.
- c. Make information available in appropriate format to PWDs especially regarding measures to prevent the spread of the COVID-19 virus and its mutations.
- d. Adopt a national action plan to implement the National Disability Policy.

D32 - ENFORCED DISAPPEARANCES: POLITICALLY MOTIVATED VIOLENCE; DISAPPEARANCE OF ITAI DZAMARA¹⁸

No implementation:

- 52. A 2015 High Court order instructing the state to investigate the disappearance of activist Itai Dzamara has not been complied with. The police gave empty fortnightly updates for a number of years but no substantive investigations were conducted.
- 53. Instead, cases of abductions are now rampant. In August 2019, a social commentator and comedian, Samantha Kureya was abducted, beaten, and forced to drink sewage after unknown persons picked her up from her home and accused her of undermining the government with her satirical skits. No investigation was conducted.
- 54. Other activists such as Tawanda Muchehiwa and Tatenda Mombeyarara have also been victims of abductions and torture.
- 55. MDC activists, Joanna Mamombe, Netsai Marova, and Cecilia Chimbiri were abducted and tortured, including by sexual assault, in May 2020.
- 56. No investigations have been made in all cases hence the perpetrators have not been brought to justice.
- 57. While a law on accountability of security forces is underway, it has not been passed.
- 58. The GoZ has not demonstrated political will to investigate politically motivated violence. It has customarily extended clemency orders for perpetrators of politically motivated violence shielding them from arrest and prosecution.

59. Recommendations:

- a. Investigate and prosecute those responsible for the abduction of Itai Dzamara.
- b. Investigate incidents of the abduction of other activists, including Joana Mamombe, Netsai Marova, Netsai Chimbiri, Samantha Kureva, Tatenda Mombeyarara and Tawanda Muchehiwa.
- c. Adopt a law on the rights of HRDs in accordance with the UN Declaration on the Rights of HRDs.
- d. Enact the Independent Complaints Mechanism Bill to hold the security sector accountable.

D43 - FREEDOM OF EXPRESSION²⁰

Partially implemented:

60. While the GoZ repealed Public Order and Security Act in 2019, the new law, Maintenance of Peace and Order Act (MOPA), is just as restrictive. The only notable difference is the removal of section 27 (ban on protests in particular areas for particular periods), a provision declared unconstitutional by the court. The new law remains a key tool for restricting freedom of association, assembly, and expression.
61. Two bills, the Zimbabwe Media Commission Bill and the Protection of Personal Information Bill, have been developed to replace Access to Information and Protection of Privacy Act, but are yet to be enacted.
62. Respect for freedom of expression has worsened since the last review. In January 2019, the GoZ shutdown the internet to suppress public protests aimed at opposing retrogressive policies. Journalists such as Hopewell Chin'ono are being followed and persecuted for exposing bad governance and corruption in government.
63. Much as there is some sense of freedom of expression on social media platforms, there is still crackdown on particular activists: MDC officials Fadzai Mahere and Job Sikhala and journalist Hopewell Chin'ono were charged with making false statements prejudicial to the State for online posts.
64. GoZ is actively seeking to criminalize the unauthorised communication by private citizens with foreign governments adding vile provisions to the Criminal Code.

65. Recommendations:

- a. Take measures to repeal MOPA and align it to constitutional rights to freedoms of assembly, association and expression.
- b. Desist from targeting dissenting voices on social media platforms thus criminalising freedom of expression.

A61 – CO-OPERATION WITH CIVIL SOCIETY; FOLLOW-UP TO THE UPR²¹

Partially implemented:

66. Some UPR-related meetings were held between civil society stakeholders and GoZ. However, the meetings were to tick the boxes and “approve” government action and content of its reports, not truly consultative. Thus, CSOs have made these submissions to ensure comprehensive coverage of the human rights situation in the country.
67. Consequently, the cooperation between the GoZ and CSOs is illusory.

68. Recommendations:

- a. Take measures to facilitate genuine engagement with CSOS in all pre and post-preparatory meetings for UPR processes.

H1 – HRDs - ENVIRONMENT FOR CSOS²²

Not implemented:

69. The GoZ is shrinking civic space by cranking up over-regulation of the sector through the use of the PVO Act, which is not suitable to regulate different kinds of CSOs registered under different legal regimes.
70. PVOs lack representation on the PVO Board created by the PVO Act to oversee the work of PVOs operating in the country. This law fails to open up civic space, as it does not recognise self-regulation in the sector.
71. Registration as a PVO in terms of the PVO Act is liberal on paper but cumbersome in practice. It takes the PVO Board years to determine an application for registration. Such delays keep out potential CSOs, which could complement government efforts in implementing some UPR recommendations.
72. CSOs are being compelled to submit memorandum of understanding and work plans to provincial administrators, who are thus trying to realign CSO programming away from governance issues and controlling CSOs activities. There are no cases of constructive de-registration through manipulation of programmatic focus.
73. Further, the latest proposed legislation including amendments to the PVO Act/ Criminal Law code and a law on patriotism are major issues of concern.²³The GoZ desires to amend the PVO Act to tighten the regulation framework under the pretext of implementing recommendation 8 of the Financial Action Task Force, yet the recommendation acknowledges the need for governments to desist from adopting disproportionate measures thus interfering with genuine charitable work.²⁴
74. The proposed law on patriotism further targets civic space through criminalisation, any utterances deemed to be a negative portrayal of the image of the state. During the submission of the motion in parliament in March 2020, supporters of the motion singled out opposing politicians and CSOs as the targets of the law.

75. Recommendations:

- a. Adopt before next review, a law that specifically protects the rights and freedoms of HRDs and CSOs;
- b. Invite the Special Rapporteur on the Situation of Human Rights Defenders to visit and assess the situation and give pointed recommendations on creating a safe and enabling civic space;²⁵
- c. Amend the PVO Act to empower the regulator to be independent, effective and representative of the PVOs operating in the country.
- d. Abandon and discourage the enactment of a law on patriotism²⁶ as existing laws are adequate to preserve the integrity of the state and promote its foreign and international image.
- e. Recognise and implement self-regulation of CSOs following a consultative process.

D33 - ARBITRARY ARREST AND DETENTION - USE OF FORCE, TORTURE, INTIMIDATION, AND HARASSMENT²⁷

Not implemented:

76. The GoZ continues to struggle with exercising governmental power within the bounds of rule of law. It uses arbitrary arrests and prosecution as a weapon to silence or intimidate HRDs. In 2020 alone, the arbitrary arrest and lengthy pre-trial detention of persons who openly opposed oppressive methods of governance such as Hopewell Chin'ono, Jacob Ngarivhume, Godfrey Kurauone, Job Sikhala, Fadzai Mahere, and students including Takudzwa Ngadziore, Tawanda Mucheyiwa and Allan Moyo highlight the continued groundless prosecution.
77. The fact that prosecution of these otherwise simple charges remain pending shows that their arrests and prosecution have been used as a weapon to silence and harass dissenting voices with no intention to genuinely prosecute.²⁸
78. To assist targeted persons, in 2018 alone, the ZLHR handled 541 cases, 122 of which were to assist HRDs arrested for challenging the state, with 419 being filed in public interest. A further 273 constitutional/strategic litigation cases were filed to enforce the Constitution while 146 cases dealt with challenging impunity.²⁹

79. Recommendations:

- a. The GoZ should ratify the CAT and the Optional Protocol to the ICCPR;³⁰
- b. Meanwhile, amend the Criminal Code to provide for the crime of torture based on the absolute prohibition of torture in terms of section 86(3) of the Constitution and international law;
- c. Cease groundless arrest and prosecution of people as a way to persecute opposing voices.

B51 - EFFECTIVE REMEDY - IMPROVE ACCESS TO JUSTICE³¹

Partially implemented:

80. The GoZ is commended for taking steps to decentralise courts from urban centres to different areas. There are two more High Courts, one in Masvingo (2016) and another in Mutare (2018). More Magistrates' courts have been established and set up across the country to enhance physical access to courts.
81. The Legal Aid Directorate (LAD), a key indicator of access to justice, is operational in Harare, Bulawayo, Masvingo, and Mutare to serve indigent communities. However, LAD is underfunded thereby incapacitated. Many people generally are unable to afford legal services.
82. CSOs as providers of legal aid complement state efforts by providing legal aid to persons seeking specific justice requirements or acting in public interest.
83. COVID-19 has impacted access to justice. A significantly reduced number of cases (42% less for all courts) were filed before the courts in 2020 compared to 2019 owing to lockdown restrictions.³²

84. Recently, there have been attacks on the LSZ, threatening its independence, and the profession's self-regulation, and discouraging its members (lawyers) from taking up politically sensitive cases.

85. Recommendations:

- a. Ensure that legal aid, education, and awareness are intensified notwithstanding the pandemic to enable citizens to seek justice and monitor its provision.
- b. Provide sufficient fiscal and human resources, as well as the necessary legislative/policy framework to enable the expansion of the scope of the courts to include video conferencing and virtual hearings.
- c. Consider and implement alternative access to justice initiatives such as formal recognition of paralegals to ensure that marginalised communities such as rural areas have access to justice.
- d. Invest in accelerating digitisation to enable initiation and full functionality of Integrated Electronic Case Management System (IECMS) to enhance e-justice.

D51 - ADMINISTRATION OF JUSTICE AND FAIR TRIAL AND JUDICIAL INDEPENDENCE³³

Partially implemented:

86. Since 2016, the independence of judiciary and fair trial rights in politically motivated cases has deteriorated.
87. Between 2020 and 2021, numerous human rights defenders, opposition party affiliated suspects and independent journalists have been arbitrarily subjected to protracted pre-trial detention. For example, Hopewell Chin'ono and Jacob Ngarivhume were denied bail for posting tweets. Meanwhile persons facing serious charges such as corruption, like the former Minister of Health and Child Care Obadiah Moyo, have been granted bail on first attempt.
88. Following the January 2019 protests dragnet arrests, suspects appeared before magistrates in split sessions despite being charged for the same offences, were arbitrarily denied bail, and subjected to summary trials.
89. Courts are also extending pre-trial detention periods by reserving judgments in bail applications and delaying production of court records for appeals despite the legal position that bail hearings are urgent matters.
90. Concerning judicial independence, there have been retrogressive steps through constitutional amendments watering down public interview-based judicial appointments in favour of executive appointments.
91. Independent judges face the risk of removal from office. In May 2021, three judges of the High Court who ruled on the question of the propriety of the extension of the Chief Justice's tenure on reaching retirement age, at the behest of the President, were publicly vilified and threatened with unspecified action by the GoZ through the Minister of Justice.

92. In another case, Justice Erica Ndewere was removed from office by a Tribunal constituted to inquire into her fitness for the office of judge, yet it is public knowledge that this was victimisation following her refusal to take directives from the Chief Justice to take an executive-inclined approach in dealing with bail appeals by opposition political party members.

93. Recommendations:

- a. Put in place measures (specific) to affirm the independence of the judiciary.
- b. Apply the law without favour and guarantee equal protection of the law for all and desist from further amending the Constitution.
- c. Facilitate the visit of the Special Rapporteur on the Independence of Judges and Lawyers.

A41 - CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK; REVIEWING AND ALIGNING THE LAWS WITH THE CONSTITUTION³⁴

Partially implemented:

94. An inter-ministerial taskforce was established by Cabinet in February 2015 to facilitate the legislative alignment process to the Constitution. Out of the 59 targeted laws for alignment, only 30 laws have been amended to date, while 29 are currently awaiting Cabinet approval.
95. While some positive legislative reform has come out of the alignment process, for example the Public Health and Education Amendment Acts, many new Acts such as the MOPA (repealing POSA) are simply window-dressing, and do little to substantively align the legislation with the Constitution.
96. Parliament has also recently passed Constitutional Amendment Bills (No.1) and (No.2) amending the Constitution, unprocedurally, and critically removing the public consultation process in the appointment of judges and the Prosecutor General, and giving the President unfettered powers to extend the tenure of judges.

97. Recommendations:

- a. Desist from further constitutional amendments before alignment of the legislation to the Constitution.
- b. Complete the constitutional alignment process, with substantive reforms aligning legislation to the Constitution.

D7 - RIGHT TO PARTICIPATION IN PUBLIC AFFAIRS AND RIGHT TO VOTE; INDEPENDENT ELECTORAL COMMISSION³⁵

Partially implemented:

98. The ZEC is the independent commission responsible for managing elections. The ZEC issued a Statutory Instrument 85 of 2017 'Electoral (Voter Registration) Regulations' to set out the voter registration regulations and procedure. The new BVR system was used for

the first time in Zimbabwe for the development of a new voters' roll. It was also the first time that ZEC conducted the voter registration, having assumed this role from the Registrar General. Furthermore, a polling station-based voting system was used for the first time in harmonised elections.³⁶

99. The ZEC is obliged to promote transparency and accountability, and initially ZEC took several steps toward more active stakeholder engagement, including outreach to CSOs and facilitating government's decision to accredit international election observers.

100. However, concerns remain that section 23 of the Electoral Act requires that a person should be resident in a constituency for them to register a voter. This was prejudicial to citizens in the diaspora, prisoners, and others, such as tenants, who were unable to prove their place of residency leading to unnecessary disenfranchisement.

101. Recommendations:

- a. Adopt legislation to ensure that the right to vote is extended to all citizens including those imprisoned and in the Diaspora.
- b. Invest in procurement of integrated systems that allow for one gadget to be used for multiple purposes such as enrolling voters, voter verification on Election Day and transmission of results.
- c. Government and ZEC are urged to continue to establish user-friendly polling stations to cater for people with disabilities, including the provision of braille ballot papers;
- d. Facilitate access to identity documents to enable people to register as voters and to vote.
- e. Implement recommendations from national and international independent observer missions to the 2018 harmonised elections.

Endnotes

- ¹ (Madagascar); 131.69; (Mexico); A/HRC/34/8; 131.59.
- ² CCZ 2015-12 Mudzuru & Anor v The Minister of Justice, Legal Parliamentary Affairs & Ors.
- ³ <https://www.zimgbvportal.org.zw/download/zimbabwe-national-action-plan-and-communication-strategy-on-ending-child-marriage/>.
- ⁴ (Kenya) 131.62; A/HRC/34/8 - Para. 131
- ⁵ 131.70 (Israel); 131.71 (Turkey); 131.72 (Timor-Leste); 131.73 (Canada).
- ⁶ ZDHS 2015, available at <https://dhsprogram.com/pubs/pdf/FR322/FR322.pdf>.
- ⁷ Stopping Abuse and Female Exploitation (SAFE) Zimbabwe Technical Assistance Facility, "Violence Against Women and Girls during the COVID-19 Crisis in Zimbabwe: Analysis of practice-based data from Women's Coalition of Zimbabwe" at <http://www.adultrapeclinic.org.zw/wp-content/uploads/2020/09/SAFE-Report-on-Gender-Based-Violence-Data-in-Zimbabwe-during-C19-for-publication-with-logo.pdf>.
- ⁸ (Slovenia) 131.52; (Maldives) 131.57; (Mexico) 131.59; (Pakistan); 131.38;
- ⁹ <https://www.unicef.org/zimbabwe/gender-focus>.
- ¹⁰ (Panama) 131.116; budgetary allocations to health (Kenya) 131.120; A/HRC/34/8 - Para. 131.
- ¹¹ <https://covid19.who.int/region/afro/country/zw>.
- ¹² <https://www.unicef.org/esa/media/6501/file/UNICEF-Zimbabwe-2020-Health-Budget-Brief.pdf>.
- ¹³ (Spain) 131.111; fair distribution (Chile) 131.107; A/HRC/34/8 - Para. 131
- ¹⁴ Report on Zimbabwe available at: <https://digitallibrary.un.org/record/3871294?ln=en>.
- ¹⁵ Zimbabwe NGO Forum: The Politics of Food: A Contextual Analysis of the Distribution of Food Aid in Zimbabwe, 2021.
- ¹⁶ (Slovenia) 131.131; access in rural areas (Morocco); 131.124; (Mexico); 131.108 (A/HRC/34/8 - Para. 131).
- ¹⁷ (Israel) 131.18; rights of PWDs (Algeria) 131.133.
- ¹⁸ 131.64; A/HRC/34/8 - Para. 131.
- ¹⁹ Repeated recommendation.
- ²⁰ (New Zealand) 132.90; A/HRC/34/8/Add.1 - Para. 22.
- ²¹ (Norway); 131.62; A/HRC/34/8 - Para. 131 (split civic space issues form UPR collaboration).
- ²² (Ireland); 132.96; A/HRC/34/8/Add.1 - Para. 34.
- ²³ <http://www.veritaszim.net/node/4827>.
- ²⁴ See Recommendation 8 and its Interpretation Note here <https://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html>.
- ²⁵ This is a repeated Recommendation.
- ²⁶ Insert link to Hansard when Motion was moved and debated.
- ²⁷ (Ukraine); 131.63; A/HRC/34/8 - Para. 131.
- ²⁸ Some CSOs represented in this submission are the attorneys of record hence are aware of the personal circumstances of these court cases.
- ²⁹ ZLHR 2018 Annual Report, p6.
- ³⁰ Repeated Recommendation from the previous Cycle.
- ³¹ (Togo); 131.87; A/HRC/34/8 - Para. 131.
- ³² International Commission of Jurists Zimbabwe, Report on the Impact of COVID-19 on Access to Justice in Zimbabwe, January 2021 p6.
- ³³ (New Zealand); 131.84.
- ³⁴ (Islamic Republic of Iran), 131.6; (Germany), 131.7; (Congo), 131.8 ; (Uganda), 131.10; (Egypt), 131.11; (Togo), 131.13; (Republic of Korea), 131.2; (Ghana), 131.3; (Australia), 131.5; (Thailand), 131.12; (Netherlands), 131.16; (France), 131.14; (Czechia), 131.15 - A/HRC/34/8 - Para. 131
- ³⁵ (United States of America); 131.34.
- ³⁶ <https://www.zesn.org.zw/wp-content/uploads/2015/10/Final-ZESN-2018-Harmonised-Election-Report.pdf>.

ZIMBABWE
3rd Cycle United Nations
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14 July 2021



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