

ZIMBABWE

Review of Rights Discourses in Zimbabwe

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Introduction

This paper examines the legal and social context of human rights discourses in Zimbabwe. It looks at the current constitutional framework, other laws bearing on human rights, the ratification of international and regional human rights instruments and compliance therewith. It examines the evolution of such discourses, focusing on the role played by civil society organisations in advancing human rights, the obstacles they have encountered, the strategies they have adopted and the impact of these strategies. In order to do this, the paper explores the power structures within the Zimbabwean state and the way in which power has been exercised particularly since 2000.

“Human rights” refers to universally accepted human rights. The term refers to civil and political rights, social, political and cultural rights and third generation human rights such as environmental rights and developmental rights.

‘Human rights discourses’ refers to political, legal, social and civic debates in which human rights is a central focal point.

Some of the key questions which the review seeks to answer are the following:

1. In what ways and at what stages have human rights discourses emerged and evolved in Zimbabwe?
2. Which non-state and state actors and agencies have been most prominent in raising and advancing issues of human rights?
3. What types of human rights have the actors and agencies sought to advance?
4. What approaches and strategies have they employed?
5. What obstacles have they faced and how have they attempted to overcome these obstacles?

6. Have local organizations acted in conjunction with regional and international organizations and what have been the relative contributions to the advancement of human rights by local and external actors?
7. Have the actors and agencies sought to raise social awareness of human rights and to what extent are Zimbabweans aware of their rights?
8. What strategies have been most successful in confronting power structures and advancing human rights?
9. What is the current state of human rights promotion and protection in Zimbabwe?

It will be seen that it has been predominantly non-state actors that have been seeking to advance human rights issues. The major thrust of the CSOs has been in the area of civil and political rights connected with issues of democratisation and the rule of law. They have employed various strategies to advance human rights, including advocacy, training, public information, litigation, both locally and internationally, and demonstrations and protests. These organisations, however, have operated in a hostile environment and the Mugabe administration has greatly resisted any reforms that would weaken its hold on power. The formation of the Inclusive Government in 2009 was supposed to usher in positive changes in relation to human rights, but to date it has conspicuously failed to deliver the expected improvements.

It will be seen that first decade after independence saw the involvement of local and international organizations in various aspects of social development. However, the focus shifted to civil and political rights as a result of the widespread abuses of these rights during Gukuruhundi. As repression intensified in the late 1990s, existing and new organizations focused on civil and political rights connected with issues of democratisation, the rule of law and electoral issues. In recent years the issues of accountability for human rights abuses and impunity, as well as restorative justice, have featured prominently in human rights discourses.

The context of rights discourse

Before Independence, the white minority government massively violated the civil and political and social and economic rights of the black majority. It fought a brutal war to try to prevent the black majority from liberating the country from oppressive rule and to achieve political democracy. Of the many grievances of the black majority during white rule was the totally racially discriminatory and unfair distribution of land resources. After independence in 1980 one of the key issues of social justice was the question of equitable land redistribution, as well as the fair re-allocation of other resources.

This review deals primarily with the post-independence period. The liberation struggle involved securing political, social, economic and cultural rights for the black majority. Political emancipation was secured with the achievement of independence in 1980, although ZANU (PF) soon showed its aversion for multi-party democracy. The first decade after independence in 1980 saw huge expansion in social and economic rights in fields, such as health, education and rural development. This benefited the black majority who had been disadvantaged and discriminated against by the racist policies of the white minority regime. There were various laws and economic policies and measures to improve the status of Zimbabweans, particularly black Zimbabweans, who were disadvantaged by the laws and policies of the previous racist regime. Over time, however, the government became less responsive to the demands for civil and political rights as it became more repressive.

The pervasive theme of the review is that dominant power, especially over the last decade, has often been exercised in Zimbabwe for negative purposes, namely the retention of power at all costs. Having liberated the country, the ruling elite strongly believed that only it has the right to govern the country. It has been prepared to use violence and intimidation to maintain its grip on power. Like many repressive regimes these days, the ruling elite in Zimbabwe has continued to maintain a pretence of legality. When necessary, it has been prepared to resort to naked terror and repression such as during Gukuruhundi and in the lead up to the re-run of the

Presidential election in 2008. However, usually it sought to disguise its repression by creating wide and vague criminal offences to use against its opponents and critics in order to criminalise ordinary democratic activities such a peaceful protest action. Democratic dissent was often characterised as treason and subversion. Dissent was usually depicted as being orchestrated by western countries intent upon bringing about the downfall of the Mugabe administration because it had taken away the land owned by whites. It pretended that laws, such as the Public Order and Security Act were applied equally to everyone, whereas its politicised police force applied it almost exclusively against members of opposition parties and critics of the ruling party. It used the law enforcement agencies, the intelligence agencies, the security forces and irregular forces such as youth militia to stifle dissent and opposition. It heavily politicised the judiciary in order to make it more compliant and more likely to rule in favour of the ruling regime and was prepared to apply pressure to members of the judiciary who were disinclined to rule in its favour. Recently it appointed a completely partisan Attorney-General who has used his prosecution powers to harass members of the opposition. The executive and the police have often ignored or refused to enforce court orders that were seen as being unacceptable to the ruling elite.

The ruling elite has also engaged in widespread corruption and has made use of an extensive patronage system. It has reshaped all the key State institutions, such as the police force, the army, the intelligence service and the judiciary, so they will serve the interests of the ruling elite rather than the national interest.

The key constraint on the struggle for human rights in Zimbabwe has been the often politically abusive use of “power over” by the regime. This has determined the nature of the challenges to power structures by civil society organizations. Because of the widespread and systematic and violent repression that has occurred, many human rights CSOs, such as Zimbabwe Lawyers for Human Rights, the Zimbabwe Human Rights NGO Forum, Zimrights and the Counselling Services Unit (previously part of the Amani Trust), have had to concentrate on reactive and remedial work in relation to the consequences of violent use of power over. They have documented human

rights abuses, to challenge the regime's denial that it was violating human rights. They also provided medical and legal assistance to the victims, brought legal challenges to the constitutionality of repressive legislation, and reported human rights violations to external agencies, such as African Commission on Human and People's Rights and the United Nations agencies.

This work has been primarily in the field of civil and political rights, although organisations like WOZA have mounted protests to raise concern about socio-economic issues such as health care and education. Additionally some of the litigation mounted by ZLHR has concerned socio-economic issues such as the litigation challenging the legality of actions taken by the authorities during the blitz on the urban poor during Operation Murambatsvina.

There has been considerable civil society action to raise awareness of rights through information dissemination, community discussion and social outreach programmes. Organizations falling into this category include the Legal Resources Foundation of Zimbabwe, Africa Community Publishing and Development Trust, Zimbabwe Lawyers for Human Rights and the Zimbabwe Human Rights NGO Forum.

There are a whole range of organizations that have been involved in seeking to advance women's rights and to reform the law relating to women. These include Zimbabwe Women's Lawyers Association, ZILSA, SEARCWL and Women of Zimbabwe Arise.

There are organizations that have been challenging the dominating power of the regime through protest action. Membership based organizations such as Women of Zimbabwe Arise , Crisis in Zimbabwe Coalition and the National Constitutional Assembly, have been pre-eminent in this regard.

General context

In the first decade after Independence in 1980 the Mugabe Government made enormous strides in uplifting the black majority who had suffered as a result the racially discriminatory policies of the previous white minority regime. It massively expanded health and education services for ordinary Zimbabweans and made substantial advances in fields such as housing, agricultural production, access to water and electricity supplies by rural communities and rural development generally. Many local social movements, including the trade union movement, joined forces with the incoming Government, to assist Government in implementing its large scale social and economic reform programme. Bilateral and multilateral funders contributed substantial sums of money to these social development programmes.

However, in the early 1980s Mugabe's Fifth Brigade engaged in a brutal military crackdown in Matabeleland and the Midlands in the early 1980s. Many civilians were killed or tortured. This campaign was aimed at eliminating opposition from ZAPU by terrorising its members and forcing its leaders into a unity deal as a junior partner. When local and international non-governmental organizations revealed the gross human rights abuses that were occurring, there was widespread revulsion and condemnation. The Mugabe regime denounced the organizations that had documented these atrocities and accused them of lying. These organizations were subjected to threats and intimidation.

The massive pro-poor social outreach programme was, ultimately, economically unsustainable and in the early 1990s the Zimbabwean Government came under pressure to adopt the Economic Structural Adjustment Programme. This led to the rolling back of many of the pro-poor programmes and the Mugabe Government finally abandoned this programme.

By the late 1990s, the country was experiencing grave economic hardship, stemming primarily from serious mismanagement of the economy and large-scale corruption. The economy had suffered a number of body blows, the most significant of which was the 1997 award of massive unbudgeted increases in the stipends for war veterans. This led to the single largest drop in the Zimbabwean currency.

Towards the end of the 1990s the Government's popularity was rapidly declining as a result of the economic hardships. It was faced with serious food riots and demonstrations, and then with the first major challenge to its stranglehold on power – the birth of the Movement for Democratic Change (MDC). The MDC which was formed in 1999 was supported by the main labour confederation, the Zimbabwe Congress of Trade Unions.

The disastrous economic decline continued apace after the widespread violence surrounding the 2000 elections and subsequent elections. Ahead of the 2000 elections there were country wide land invasions. The Mugabe administration claimed that these invasions were spontaneous, and were symptomatic of land hunger and the need for equitable redistribution of the land resources. In fact, the Mugabe regime orchestrated these invasions with a clear political purpose, to smash the support for the MDC on white commercial farms and to use land redistribution as a device to win back electoral support from rural Zimbabweans.

The violent land invasions completely devastated agricultural production and left destitute large numbers of farm workers and their families. In practice, the major beneficiaries of this land grab were elite elements connected with the Mugabe administration. All the prime land went to high-ranking ZANU (PF) officials as well as being used to buy continued loyalty to ZANU (PF) by high-ranking army and police officers and members of the judiciary. Many ZANU (PF) officials acquired multiple farms.

There had been widespread human rights abuses in Zimbabwe starting soon after 1980. The primary cause of these abuses has been the complete intolerance to political opposition by ZANU PF, the party that held the reins of government from 1980 to 2008.

ZANU (PF) has always firmly believed that because it fought and won the liberation war and freed the country from colonialism, it alone has the right to govern the

country in perpetuity. Consistent with this view, throughout the 1980s the Government proclaimed its intention to pass legislation to make Zimbabwe a *de jure* one-party State. Although it dropped this plan in 1990, it continued to take measures to ensure that the country remains a *de facto* one-party State.

As previously noted, in the 1980s the Mugabe government used the pretext of combating a relatively small scale of banditry by “dissidents” to launch a brutal military campaign against the entire civilian population in areas of Matabeleland and Midlands where ZAPU had strong support. The aim of this campaign was to completely crush ZAPU. This military campaign resulted in the deaths of many civilians and thousands more were tortured or assaulted. The end result of this onslaught was that ZAPU leaders were forced to capitulate politically and enter into a so-called Unity agreement as a junior partner.

Despite its denial that its security forces had committed human rights violations during this campaign, in July 1982, government passed the Emergency Powers (Security Forces Indemnity) Regulations. These regulations gave government officials and its security forces immunity from any legal responsibility for past and future misdeeds. In 1988, an amnesty was granted to all government forces involved in the so-called anti dissident operations, as well as to dissidents for all human rights abuses committed between 1982 and the end of 1987. (Clemency Order No. 1 of 1988, Statutory Instrument 257A/1988).

During the 1990s, the political opposition was weak and posed no real threat. Nevertheless, in the 1990 and 1995 elections, ruling party supporters and State agents violently attacked members of the opposition before and after the elections.

In 2000 when it became apparent that ZANU (PF) was in danger of being voted out of power, it responded with extreme violence and literally declared war on the MDC. In the run-up to the General Election in June 2000, it embarked upon a violent campaign to suppress political opposition, using the land issue to mask its true objective – the retention of power.

From 2000 to 2008, ZANU (PF) used violence as a political tool, conducting a widespread and systematic campaign of violent persecution directed against the MDC. There are numerous instances of statements by leaders and officials in the ruling inciting violence against members of the opposition. The violence against the opposition has peaked at the time of Parliamentary and Presidential elections. A series of amnesties have been granted to the perpetrators of this violence.

In 2002 two laws were passed that were used to clamp down on protest and dissent. These are the Public Order and Security Act [*Chapter 11:17*] (Act No. 1 of 2002) ["POSA"] and the Access to Information and Protection of Privacy Act. [*Chapter 10:27*] (Act No. 5 of 2002). ["AIPPA"]. The police applied the POSA to prevent most public demonstrations by those opposed to Mugabe and to block many political meetings and rallies by the MDC. These gatherings were often brutally broken up and many of the participants were often arrested and often subjected to ill-treatment in custody. On the other hand, pro-Mugabe gatherings were freely allowed, often with the police providing escorts for the demonstrators.

AIPPA was used to close down the only independent daily newspaper and several other publications critical of the Mugabe regime. Many independent journalists were prosecuted under this legislation for operating without being accredited or for making "false statements." A whole raft of other criminal offences was created to stifle criticism and freedom of expression. These were originally contained in POSA but they were later transferred to the Criminal Law (Codification and Reform) Act. These offences include making false statements prejudicial to the State, bringing the President into disrepute, criminal defamation and bringing the police into disrepute.

In a democratic country the police force, the prison service, the prosecution service, the army and the intelligence services will be politically neutral professional agencies that will serve the national interest. Everyone is entitled to equal protection from the law and the law will be applied equally to all without discrimination.

ZANU (PF) has set out to transform the law enforcement agencies, the prosecution service and the judiciary into politically partisan agencies that will serve and advance the interests of ZANU (PF).

The police, prison service, the army and the intelligence services are all headed by commanders who are fiercely loyal to the ruling party and who have publicly proclaimed that they will not recognise a political leader who did not participate in the liberation war. These commanders have all been beneficiaries of the ZANU (PF) patronage system and have all been allocated prime commercial farms. The police and prison service have been purged of officers considered to be sympathetic to the MDC and war veterans and youth militia have been placed in strategic positions within these services.

The end result of this process of political transformation of these agencies is that the law is now being applied in a discriminatory fashion. It is used as a weapon against opponents of ZANU (PF). The protection of the law was largely removed from opponents and critics of the Mugabe administration as the police and other security agencies often turned a blind eye to violence against members of the MDC and other opponents of the Mugabe administration. There are several reported cases of the police arresting the victims of the political violence instead of the perpetrators when the victims have gone to police stations to report the crimes committed against them.

The law enforcement agencies became a major source of human rights abuses in Zimbabwe. They were used to help ZANU (PF), to suppress opposition and retain power. When these agencies operate in conjunction with the army, there are often increased levels of brutality. For opponents of Mugabe, the law enforcement agencies became an instrument of violence against them rather than an institution that offered them protection. They lived in fear of the very agencies that were supposed to protect them.

Independent judges were forced out of the judiciary and have been replaced by judges who are sympathetic to ZANU (PF) and are likely to rule in its favour. The

remaining more independent members of the judiciary are subjected to pressure and intimidation not to rule against ZANU (PF). There have been instances of gross political interference by high ranking politicians in individual cases. The Supreme Court, since the packing of this court with ZANU (PF) loyalists has made a series of rulings that lean heavily in favour of the executive. Instead of upholding the constitutional safeguards of human rights, many of the rulings of the Supreme Court have failed to protect fundamental rights and have upheld repressive laws passed by the Mugabe regime.

This was frustrating for CSOs involved in litigation aimed at advancing human rights issues such as Zimbabwe Lawyers for Human Rights. It led them to bring cases before external agencies such as the African Commission and the SADC Tribunal. For example, the Zimbabwe Lawyers for Human Rights and two media organizations challenged provisions in AIPP before the African Commission. In July 2009 the Commission ruled in favour of the applicants, deciding that the challenged provisions were in violation of the African Charter. It ruled that that the Zimbabwean government should “decriminalise” offences relating to the accreditation and the practice of journalism.

Starting in May 2005 the urban poor all around the country fell victim to a devastating military style operation that left some 700 000 men, women and children homeless or without a source of livelihood or both. A further 2.4 million people were adversely affected. Large numbers of dwellings and market stalls were destroyed and people were left without shelter in mid-winter. The main opposition party, the MDC, have maintained that the real reason behind the campaign was to punish the urban poor for voting in substantial numbers for the opposition party in the March election. Connected to this, the MDC maintained that the Government was also seeking to depopulate the towns and cities of MDC supporters, by driving them into the rural areas where the ruling ZANU (PF) party dominates and where they can be effectively controlled. Another theory is that the clean-up operation was a type of pre-emptive strike against the urban poor. According to this theory, the Government,

fearful of massive unrest and even a possible uprising, decided to strike first to smash, or irreparably weaken, all possible sources of mass protest. It did so by rendering many urban poor homeless, thereby forcing them to return to their rural homes, which would remove their ability to engage in any dangerous mass protest. Zimbabwe Lawyers for Human Rights brought a series of legal challenges to the legality of these actions.

Because of the systematic and violent repression, many human rights CSOs have had to concentrate on reactive and remedial work in relation to the consequences of violent use of power over. There are organizations that have documented human rights abuses and reporting them to agencies such as the African Commission on Human and People's Rights and the United Nations agencies (e.g. the NGO Human Rights Forum, the Zimbabwe Peace Project and the Crisis Coalition of Zimbabwe). There have been those that have offered legal assistance or medical assistance to the victims of violence or of repression (e.g. the Zimbabwe Lawyers for Human Rights and the Counselling Service Unit.)

The meltdown in the Zimbabwean economy and its huge debt burden has led some CSOs to focus on the need for debt relief and the elimination of odious debt incurred as a result of the politics of patronage of ZANU (PF).

The brutal suppression of opposition and dissent led the United States of America and European countries to impose sanctions upon members of the Mugabe administration. These involved barring travel to these countries by Mugabe and other members of his government and freezing economic assets of these persons. Bilateral financial assistance to the Mugabe government was also terminated and the Americans also ensured that credit lines through the Bretton Woods institutions were no longer extended. On the other hand, considerable sums of money were channelled to human rights and humanitarian organizations operating within Zimbabwe. The political turmoil in the country also led to disinvestment or lack of new investment which further weakened the economy. Tourism completely dwindled.

In the March 2008 elections the main opposition party, the MDC, won a majority of the parliamentary seats and Tsvangirai won more votes than Mugabe in the first round of the Presidential election. However, in the re-run of the Presidential election ZANU PF engaged in a widespread campaign of violence that led to the deaths of some 200 MDC supporters and injuries to many others MDC members. This campaign of violence forced Tsvangirai to withdraw from the re-run of the Presidential election in order to spare his supporters from further violence.

The Inclusive Government deal

The South African led political mediation process led eventually to the inclusive government deal entered into in February 2009. This entailed a power sharing arrangement in which power was to be shared between the two factions of the MDC and ZANU (PF).

This agreement, however, has essentially left Mugabe in control. He continues to control the forces of repression that have been used in the past to suppress dissent. He controls the army, the police and the intelligence services. The commanders of these services show no respect for the incumbent Prime Minister. In January 2010 Police Commissioner Chihuri refused to allow the Prime Minister to tour police stations in Harare. The politically indoctrinated youth militia continues to operate with many of these youths now placed in the civil service and the police force, often without the proper processes being followed for their appointment.

The prosecution service is now headed by Mr Tomana who is a staunch supporter of ZANU (PF) and who has received a number of expropriated farms. Mugabe appointed Mr Tomana as Attorney-General after the Inclusive Government deal was entered into and did so without consulting with Tsvangirai, as required by the so-called Global Political Agreement. Tomana has orchestrated a whole series of dubious prosecutions against sitting MDC MPs, the clear political objective of which has been to try to reverse the MDC's parliamentary majority by disqualifying these persons as members of parliament. The latest case in which Tomana has pursued

an entirely tenuous case is the prosecution of Bennet on charges of plotting to overthrow the government. Mugabe also reappointed Dr Gono as the Governor of the Reserve Bank, again without consulting Mr Tsvangirai. Gono is widely perceived to be a key financier of ZANU (PF) and has helped to fund the patronage system of ZANU (PF).

Engagement or non-engagement

More legitimate CSOs have recently faced with making difficult decisions relating to whether to participate in the invited spaces created by the Inclusive Government, such as those arising out of the constitutional reform programme and the setting up of a number of independent commissions in terms of the Constitution.

The Global Political Agreement (“GPA”) provides for a constitutional reform programme leading to the creation of a new Constitution if the electorate approve the draft document in a referendum.

The process of drawing up this new Constitution has already been mired in considerable controversy. The GPA requires the process to be conducted by a bi-partisan Select Parliamentary Committee. The National Constitutional Assembly and the Zimbabwe Congress of Trade Unions has maintained that the envisaged process is unacceptable and will not produce “a people driven constitution”. These two organizations have refused to participate in the GPA process.

Many CSOs initially decided to participate in this process. However, there has been increasing scepticism about the process in the light of various developments. The First Stakeholders Conference organised by the Parliamentary Committee was badly disrupted by war veterans. Mugabe and ZANU (PF) originally insisted that the new constitution should be based on the Kariba draft constitution, a constitution that leaves Mugabe’s sweeping autocratic powers intact and makes no provision for a Prime Minister system. This went against assurances by various MDC leaders that the Kariba Draft would be considered together with other drafts and the existing

constitution. Already, ZANU (PF) militants are attempting to intimidate rural people into supporting the Kariba Draft during the outreach programme. However, the committee in charge of the outreach programme has now proclaimed that the various constitutional drafts will not be used in order to solicit public opinion. Instead a number of questions will be asked of the people. The nature of the questions and the way in which they are formulated will obviously be of great importance.

There is been much political wrangling surrounding the selection of civil society representatives to serve on the various thematic committees that will be involved in the outreach programme. The most disturbing aspect of the composition of the thematic committees is that many of the representatives selected by ZANU PF have a history of serious human rights abuses. A prominent human rights organization has compiled a list of forty-four such persons who have committed serious human rights abuses in the past. It has provided full details of these abuses.

The political polarisation that will attend this exercise will make it extremely difficult for people freely to express their views about what should be contained in a new Constitution. The organization of the whole exercise has been very confused and its commencement has been delayed on a number of occasions.

There are similar political distortions entering the picture in relation to the appointment of persons to serve on the four independent commissions which has made it problematical for individuals in civil society to decide whether to put their names forward for consideration for appointment as Commissioners. There are doubts as to whether these Commissions will have any real power to perform their functions effectively or whether they will be merely window dressing organizations that will be ineffectual. For instance, the Media Commission, which is supposed to protect media freedom, is being set up when a whole panoply of repressive media laws are still in place, including AIPPA. There is no detailed legislation in place giving powers to the soon to be established Human Rights Commission to perform its functions effectively.

Framework of Legal Rights / Human Rights

1. Rights in constitution and other laws and ratification of human rights treaties

The rule of law

The rule of law is an essential foundation of any democratic system of governance. The rule of law is a complex concept but its core aspects are straightforward. The rule of law requires:

- that power must be exercised in accordance with the law and there must be no arbitrary use of extra-legal power.
- that everyone should be equally subject to the law and that no one should be above the law.
- that the law enforcement agencies and the courts should enforce and apply the law impartially.
- that the law should protect everyone equally against illegal action causing harm.

This survey establishes that the ruling regime in Zimbabwe has flouted all these core components of the rule of law at different points in time.

Constitutional provisions protecting human rights

In 1980 minority rule ended and majority rule commenced. The government was elected on the basis of a new Constitution had been brought into operation prior to these elections. This Constitution was a compromise constitution and contained a number of provisions that the new black government had not wanted such as a block of seats in Parliament reserved for whites and stringent provisions for the acquisition of land for resettlement purposes.

Since the passing of this Constitution it has been amended 19 times. Many of the amendments have been aimed at further extending the powers of the President and reversing progressive rulings of the courts in relation to human rights.

Chapter 3 of the Constitution of Zimbabwe contains the Declaration of Rights provisions. The fundamental rights protected by this Chapter are individual, civil and political rights. There is no protection given to social and economic rights or to third generation rights. The preamble to the substantive provisions (section 11) was inserted in 1996 and reads as follows:

11 Preamble

Whereas persons in Zimbabwe are entitled, subject to the provisions of this Constitution, to the fundamental rights and freedoms of the individual specified in this Chapter, and whereas it is the duty of every person to respect and abide by the Constitution and the laws of Zimbabwe, the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations on that protection as are contained herein, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the public interest or the rights and freedoms of other persons.¹

The rights proclaimed in this Chapter are as follows:

12. Protection of right to life.
13. Protection of right to personal liberty.
14. Protection from slavery and forced labour.
15. Protection from inhuman treatment.
16. Protection from deprivation of property.
- 16A. Agricultural land acquired for resettlement.
- 16B. Agricultural land acquired for resettlement and other purposes.

¹ The Supreme Court interpreted the preamble as a substantive section that conferred rights. See *Rattigan & Ors v Chief Immigration Office & Ors* 1995 (2) SA 182 (ZS). The Mugabe government reversed this by passing constitutional amendment No 14 in 1996. This provided that the preamble was not to be construed as conferring substantive rights.

17. Protection from arbitrary search or entry.
 18. Provisions to secure protection of law.
 19. Protection of freedom of conscience.
 20. Protection of freedom of expression.
 21. Protection of freedom of assembly and association.
 22. Protection of freedom of movement.
 23. Protection from discrimination on the grounds of race, etc.
- 23A. Political rights. This important provision was inserted in 2009 by constitutional amendment number 19. It reads as follows:

23A Political rights

(1) Subject to the provisions of this Constitution, every Zimbabwean citizen shall have the right to—

- (a) free, fair and regular elections for any legislative body, including a local authority, established under this Constitution or any Act of Parliament;
- (b) free, fair and regular elections to the office of President and to any other elective office;
- (c) free and fair referendums whenever they are called in terms of this Constitution or an Act of Parliament.

(2) Subject to this Constitution, every adult Zimbabwean citizen shall have the right □

- (a) to vote in referendums and elections for any legislative body established under this Constitution, and
- (b) to do so in secret; and to stand for public office and, if elected, to hold office.

Section 24 provides a number of options for enforcing rights. Subsection (1) of section 24 provides for direct access to the Supreme Court. A person will only be able to invoke this remedy however if he or she is able to allege ‘... that the Declaration of Rights has been, is being or is likely to be contravened in relation to him’ (section 24 (1)). One cannot bring a constitutional application on behalf of someone else. The only exception to this rule is where the application is brought on behalf of a person who is in detention. It is not enough that one has an interest in the matter when seeking to approach the Supreme Court directly in terms of section 24 (1) of the Constitution. The applicant’s *own rights* must have been affected.

Section 24 (2) of the Constitution provides:

'If in any proceedings in the High Court or in any court subordinate to the High Court any question arises as to the contravention of the Declaration of Rights, the person presiding in that court may, and if so requested by any party to the proceedings shall, refer the question to the Supreme Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.'

In a number of High Court cases, it has been ruled that persons alleging that their fundamental rights have been violated do not necessarily have to take their cases directly to the Supreme Court; the High Court has maintained that section 24(4) of the Constitution allows such applications to be in the first instance to the High Court. This position has been upheld by the Supreme Court in the case of *Banana v Attorney-General* 1998 (1) ZLR 309 (ZS) at 313-314.

Section 25 deals with the derogations from fundamental rights during public emergencies. There was a continuous declared state of emergency between 1980 and 1990.

The struggle for a democratic Constitution continues and a constitutional review has been undertaken under the auspices of the inclusive Government.

Other laws

Some of the most important pieces of legislation in terms of human rights protection are the following:

Administrative Justice Act [*Chapter 10:28*]

Disabled Persons Act [*Chapter 17:01*] (This Act attempts to advance the rights of disabled persons and seeks to prevent discrimination against disabled persons in employment.)

Legal Age of Majority Act [*Chapter 8:07*]

Domestic Violence Act [*Chapter 5:16*]

Maintenance Act [*Chapter 5:09*]

Deceased Estates Succession Act [*Chapter 6:02*]

Deceased Persons Family Maintenance Act [*Chapter 6:03*]

Labour Rights are set out in the Labour Act [*Chapter 28:01*] but many of these rights are so hedged in that they exist only in theory but in practice, for instance, it is almost impossible to organise lawful strike action.

There is detailed legislation seeking to protect the environment. This is the Environmental Management Act [*Chapter 20:07*]

The various laws affecting women's rights will be dealt with in more detail later.

On the other hand, there are many new laws that have negatively impacted on human rights. These include:

Public Order and Security Act [*Chapter 11:17*]

Access to Information and Protection of Privacy Act [*Chapter 10:27*]

Interception of Communications Act [*Chapter 11:20*]

Broadcasting Services Act [*Chapter 12:06*]

Aspects of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*]

Land Acquisition Act [*Chapter 20:10*] read with section 16 of the Constitution as amended.

As pointed out above, the current Constitution protects only individual, civil and political rights; it does not proclaim and protect social and economic rights, even as aspirational rights, to be accorded to the maximum extent that resources allow.

Section 23 of the Constitution provides protection against discrimination on the grounds of race, tribe, place of origin, political opinions, colour, creed, sex, gender, marital status or physical disability. Laws may not discriminate on these grounds and public officers may not discriminate on these grounds in the performance of their functions. Restrictions or disabilities may not be imposed on a discriminatory basis and persons may not be given privileges or advantages on a discriminatory basis.

However, there are some far reaching qualifications to the prohibition against discrimination. One in particular has allowed for the continuation of gender discriminatory practices and that is the exemption from the prohibition against discrimination of the application of African customary law in any case involving Africans.

The constitutional provision also allows for the implementation of affirmative action programmes for the protection or advancement of persons or classes of persons who have been previously disadvantaged by unfair discrimination.

There is also the Prevention of Discrimination Act [*Chapter 8:16*] This legislation criminalises various discriminatory practices such as refusing on the grounds of race etc to supply a service or facility or a loan or to buy or hire immovable property. The aggrieved party is entitled to claim damages where such discriminatory practices occur. This Act also criminalizes the making of racist statements.

Treaty ratification

See separate tables setting out the accession by Zimbabwe to International Human Rights Treaties. The most important treaties that Zimbabwe has failed to ratify are the Convention against Torture and the Rome Treaty on the International Criminal Court.

The advent of Independence in 1980 was preceded by a new Constitution. This Constitution was a compromise Constitution which imposed a series of constraints on the incoming government. Twenty of the 100 seats in the House of Assembly were reserved for whites for the first ten years after 1980. Property rights of whites were greatly protected and the government was obliged to pay prompt and adequate compensation for expropriated land and, if the person concerned so requested, the compensation had to be paid in foreign currency outside the country.

The first human rights instrument to be ratified by the Government of Zimbabwe was the Convention Governing the Specific Aspects of Refugees in Africa on 28

September 1985 followed by the ratification of the African Charter on Human and People's Rights on 21 October 1986). The African Charter on the Rights and Welfare of the Child was ratified on 29 November 1999 and the Protocol to The African Charter on Human and Peoples Rights on the Rights of Women on 25 November 2005.

The Government acceded to the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Prevention and Punishment of the Crime of Genocide on 13 May 1991. It had also acceded to the Convention on the Elimination of All Forms of Discrimination against Women on 12 May 1991. Significantly it has not ratified the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment and neither has it ratified the Rome Statute on the International Criminal Court.

In terms of submission of reports under various human rights treaties, Zimbabwe has submitted the following reports:

- Initial report for CESR (1997);
- Initial report for CCPR (1998);
- Initial report for CERD (1996);
- Combined 2nd, 3rd and 4th report for CERD (2000);
- Initial report for CEDAW (1998);
- Initial report for CRC (1996).

In its Concluding Observations (COs) on Zimbabwe's CESR report, the Committee noted that the report was "excessively general" in content with very few statistics provided. It required Zimbabwe to submit requested statistics within three months of receipt of the COs. It is not clear if Zimbabwe complied. Specific observations by the Committee included the following:

- The Committee welcomed moves to bring all workers under a consolidated labour law but expressed concern over non-unionisation of public servants.
- The Committee expressed concern over de facto discrimination against women attributable to traditional practices such as arranged marriages and forced marriage of widows.
- The Committee was concerned over the non-domestication of the Covenant.
- The Committee was concerned over the “precarious situation of persons living in illegal structures or unauthorized housing”.
- The Committee expressed concern over cutbacks in educational expenditure which it said were contrary to Article 13(2)(a) of the Covenant which requires states parties to ensure that primary education is free and compulsory.

The COs on the CCPR welcomed Zimbabwe’s on-going review of domestic legislation and customary law to make it compatible with the Covenant, particularly women’s rights, including the amendment of the Constitution to include “gender” as a prohibited ground of discrimination. However, the Committee expressed concern over the subordinate status of women in Zimbabwean society and continued existence of behavioural attitudes and cultural and religious practices which impede full enjoyment of human rights. The Committee expressed concern over the Government’s reversal of Supreme Court decisions through constitutional amendments, including that of the *Rattigan* case referred to above. The Committee also expressed concern over the extent and persistence of violence against women. It recommended the passing of legislation to criminalize marital rape and the establishment of institutional mechanisms to address all forms of violence against women and provide assistance to victims of violence. The criminalization of marital rape was done through the Sexual Offences Act of 2001 (see above). The victim friendly system is part of the mechanisms to provide effective assistance to victims of violence.

The Committee welcomed the establishment of the Inter-Ministerial Committee on Human Rights and International Humanitarian Law and the training of police officers on human rights by NGOs. However, the Committee expressed concern over reports of excessive use of force by the police and the army during the food riots of 1998. It recommended full investigation, action against those found guilty and compensation for the victims. Zimbabwe was required to report on these issues but it did not do so. The Committee further recommended intensive human rights training for the army and law enforcement agencies and reduction of situations in which the use of lethal force is permitted.

The Committee was concerned over overcrowding and disease in most prisons which was resulting in high incidence of death. It recommended that prison conditions be remedied in accordance with Article 10 of the Covenant and that the state provides qualitative and quantitative statistical data on the state of prisons in the next report. Zimbabwe has not submitted any subsequent reports to the Committee and prison conditions deteriorated after the Committee made its recommendations, particularly between 2005 and February 2009 when the inclusive Government was formed.

The Committee was also concerned over lack of political pluralism and the immunity extended to individuals who committed acts of violence against government opponents. The Committee also expressed concern over censorship of the media and artistic expression and the fact that the media was “largely controlled by the Government”. It also expressed concern over the use of civil and criminal defamation laws by Government official to limit press freedom. The Committee recommended that restrictions on freedom of expression be brought into strict compliance with Article 19(3) of the Covenant.

The Committee recommended the reduction of offences for which the death penalty may be imposed in accordance with Article 6 of the Covenant and the General Comment thereon. The Committee expressed concern over the amendment of

section 15 of the Constitution to re-instate the legality of juvenile corporal punishment, reversing a Supreme Court ruling in this regard, and reaffirmed its position that corporal punishment is incompatible with Article 7 of the Covenant.

The COs on the initial and combined 2nd, 3rd, and 4th CERD reports are similar to the COs on the CESR and the CCPR except for the commendation of the land reform programme. The COs on the combined report include the following:

The state party is encouraged to continue its study of land reform measures with a view to implementing a comprehensive land reform programme in Zimbabwe, in accordance with due process of law and in a manner that will enhance the economic and social rights of its citizens. (paragraph 13)

In the COs on Zimbabwe's initial report to CEDAW, the Committee commended Zimbabwe for, *inter alia*, establishing gender focal points in Ministries, preparing the report in consultation with NGOs and developing a national gender policy. The Committee expressed concern over continued discrimination against women, low level of women's participation in decision making, criminalization of prostitution (without reducing women's vulnerability), the high rate of HIV infection among young women and the lack of support for teens who fall pregnant to continue their education.

The COs on the CRC report commended the establishment of the Children's Parliament and Junior City Councils and mayors and welcomed the intention to incorporate the Convention into the school curricula. The Committee expressed concern over:

- The lack of specific measures to address the rights of vulnerable children such as refugees, children in remote areas, children living in rural areas, children living on commercial farms and children living in poverty in urban areas;
- The high incidence of orphans and child headed families (partly as a result of the HIV and AIDS pandemic);

- Acceptance of corporal punishment;
- The fact that primary school education is neither free nor compulsory; and
- Persistence of child labour in agriculture and domestic service.

The Committee encouraged the state to adopt all appropriate measures to ensure the birth registration of all children.

2. Non-judicial institutions to deal with human rights abuses

The office of the Public Protector (the Ombudsman) has been drastically under-resourced and has not been able to perform its functions effectively of dealing with instances of maladministration. It is not able to cope with its caseload and there is an increasing backlog of cases. The President appoints the Public Protector and Deputy Public Protector after consultation with the Judicial Service Commission. The present Public Protector is a staunch supporter of ZANU PF and has spoken in favour of the national youth training programme despite the fact that members of the youth militia have committed gross human rights abuses. In 1997 the Public Protector Act was amended by the insertion of a new provision, giving the President the power to make regulations providing that the powers of the Public Protector could be exercised over the Defence Forces, the Police Force and the Prison Service by the Public Protector. In other words, the mandate was to be extended to include dealing with allegations of human rights abuses by these forces. In practice, the Public Protector does not seem to have taken on this function and this function will obviously be left to the new Human Rights Commission.

Until recently there was no provision for a Human Rights Commission in the Constitution. However, Constitutional Amendment No 19 (Act 1 of 2009) provides for the establishment of the Zimbabwe Human Rights Commission. The chairperson must be a legal practitioner. The chairperson is appointed by the President after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders. The remaining 8 members, at least 4 of whom must be women,

are appointed by the President from a list of sixteen nominees submitted by the Committee on Standing Rules and Orders. The Commissioners have now been selected except the chairperson. This Commission, however, will encounter problems as the constitutional provisions only set out the functions of the Commission. There is no enabling Act setting out in detail the powers and methods of operation of Commission and whether the Commission will have jurisdiction to deal with past violations as well as violations that take place after it has been set up. (The ZLHR has drafted a proposed Human Rights Commission Act which sets out in detail the powers and functions of this Commission.)

Constitutional Amendment No 19 also provides for the establishment of three other so-called independent commissions, namely the Zimbabwe Electoral Commission, the Media Commission and the Anti-Corruption Commission.

Public interviews have been held for persons to serve on these other Commissions. ZANU (PF) claimed that the process was set up so as result in the rejection of pro-ZANU (PF) candidates and acceptance of pro-MDC candidates were accepted.

Eventually, however, after discussion between the President and Prime Minister and some compromises, all the commissioners, including the chairperson and deputy chairperson for the Media Commission were selected and publicly announced. The ordinary members of the Human Rights and Electoral Commissions have been selected and publicly announced but the chairpersons of these two Commissions have yet to be finalised. None of the commissioners that have been selected have yet been sworn in.

Another statutory body of crucial significance is the Broadcasting Authority of Zimbabwe. This body controls electronic broadcasting in Zimbabwe. The Minister of Information purported to appoint Dr Mahoso as chairperson of this authority. Dr Mahoso was previously head of the Media and Information Commission, the body that closed down various independent newspapers. Dr Mahoso was an unsuccessful applicant for the new Media Commission. There as an outcry following this

appointment. The MDC claims that it has been agreed that this appointment be rescinded but Dr Mahoso is still holding himself as the head of this authority.

3. Legislation governing operations of NGOs

The Private Voluntary Organizations Act [*Chapter 17:05*] is restrictive and allows for gross political interference in the affairs of non-governmental organizations. The Minister has enormous powers to interfere with the running of a private voluntary organization. He can appoint an inspector to investigate any of the affairs of an organization and he can suspend the entire executive body of a non-governmental organisation. In the mid-1990s this power was used by the Minister to suspend without a hearing the entire executive of the Association of Women's Clubs, although the provision in terms of which the Minister acted was subsequently ruled by the Supreme Court to be unconstitutional in the case of *Holland & Ors v Minister of the Public Service and Social Welfare* 1997 (1) ZLR 186 (S). However, the provision in the Act dealing with this power of suspension has not been amended to reflect the Supreme Court ruling.

The organizations that the Mugabe Government has been especially hostile towards are those that have exposed and disseminated information about human rights abuses and corrupt practices by members of government and their supporters.

From time to time the state controlled media have conducted an intensive hostile propaganda campaign against various organizations. This campaign was threatening. The local organizations singled out at one time were the Amani Trust, Transparency International and the Catholic Commission for Justice and Peace. These organizations were depicted as being closely aligned to the MDC and as promoting efforts to destabilise or oust the present government. The foreign governments and foreign aid organizations that had given funding to these organizations were verbally castigated. The British High Commission has come under particularly fierce attack with its funding of Amani being depicted as part and parcel of an orchestrated campaign by the British government to unseat Mugabe.

German aid organizations were also verbally attacked for funding Transparency International. In its propaganda onslaught, the state controlled media employed the full array of rhetoric about western imperialist manoeuvring.

The Mugabe administration later drafted legislation that would have prohibited non-governmental organizations involved in issues of human rights and governance from receiving foreign funding. Eventually the threatened legislation to prohibit foreign funding was not proceeded with.

In 2006 the Justice Minister, Chinamasa, urged the UN Human Rights Council to prevent direct funding of non-governmental human rights organizations, contending that this funding was being given to destabilise governments and cause disaffection by the people of the country towards the elected government of the country.

Many non-governmental organizations formed themselves as trusts to try to avoid the stifling controls under the PVO Act. Recently, the Minister Chinamasa has been involved in trying to create legislation that would oblige all non-governmental organizations to register under the PVO Act. This draft legislation has met with resistance and has not been passed.

In July 2009 Mugabe once again threatened to clamp down on non-governmental organizations. The State controlled media reported addressing the Global 2009 Forum in Uganda President Mugabe had warned that the government may soon reconsider the advisability of letting non-governmental organizations operate in the country as most of them are exceeding the terms of their registration by posing as shadow governments that threaten the viability of the inclusive Government.

Many non-governmental organizations have been subjected to threats and intimidation and members of their staff have been arrested and some have been tortured.

It was reported in January 2010 that the inclusive government had agreed that funding for non-governmental organizations will in future have to go through central government. There has been no formal announcement from the inclusive government confirming or denying this report. However, if this report is correct, it will have grave implications for non-governmental organizations operating in Zimbabwe. Donor agencies will clearly be reluctant to channel funding to non-governmental organizations through central government as, in the light of past experience, there will be no guarantee that this funding will not be diverted to be used for other purposes.

4. Role of Zimbabwean civic organizations and international organizations

In the 1980s there were relatively few civic organizations working in the area of civil and political rights. However, during the next two decades, the human rights movement became stronger and many more human rights organizations were formed, with young predominately black Zimbabweans being involved in their management and field work. These organizations, however, faced increasingly levels of repression, especially from 2000 onwards. The work of these organizations was more and more hazardous. Not only were there threats of violence, but some activists were detained and tortured, most recently the head of the Zimbabwe Peace Project, Ms Justina Mukoko. The criminal charge against her was then set aside by the Supreme Court on the basis that her fundamental rights has been grievously violated by being kidnapped and then subjected to torture.

After the absorption of ZAPU into the so-called government of national unity towards the end of the 1980s until 2000, political challenges to the hegemony of ZANU (PF) were relatively weak. Over this period, there were some human rights organizations and civil society activists who exposed and condemned human rights abuses. The advent of a new, far stronger political party in 2000 opened up some political space, but this was soon followed by a brutal crackdown on opposition and dissent over the next nine years. Despite this crackdown and a hostile environment for human rights organizations opposing misuse of state power, many human rights organizations

were formed during this period to expose abuses and to assist those who had suffered the abuses.

Local organizations that have been prominently involved in the development of the rights discourse and human rights advocacy include the following:

The Catholic Commission for Justice and Peace and various other church bodies.

The Amani Trust (now split into the Counselling Services Unit, the Research and Advocacy Unit and Solidarity Peace Trust).

Zimrights.

The Legal Resources Foundation of Zimbabwe.

The Human Rights NGO Forum.

Zimbabwe Lawyers for Human Rights.

Zimbabwe Women's Lawyers Association.

Women of Zimbabwe Arise.

Msasa Project

The main focus of these organizations has been on violations of individual rights and civil and political rights. In recent years the issues of accountability for human rights abuses and impunity, as well as restorative justice, have featured prominently in human rights discourses.

The main international organizations that have focused on human rights issues in Zimbabwe include:

African Commission for Human and People's Rights

Amnesty International

Human Rights Watch

International Crisis Group

Lawyers Committee for Human Rights

Article 19

Various UN agencies and special rapporteurs.

Particularly over the last ten years human rights CSOs have been most prominently involved in the struggle for the promotion and protection of human rights in Zimbabwe. To increase their influence, individual organizations have formed various alliances with other organizations. Two examples of this are the Human Rights NGO Forum and the Crisis Coalition of Zimbabwe.

The main strategies employed by rights-promoting organizations include advocacy, lobbying, litigation, public legal education and demonstrations and marches. Demonstrations and marches have been used sparingly because of the oppressive political and legal environment.

As stated above, the first decade after independence saw the involvement of local and international organizations in social development. However, the focus shifted to civil and political rights as a result of the widespread abuses of these rights during Gukuruhundi. As repression intensified in the late 1990s, existing and new organizations focused on civil and political rights.

The development of the rights discourse has been primarily an internal process but foreign funding of these organizations has allowed them to continue to operate in an increasingly harsh economic environment. However, the Reserve Bank has, on occasion, diverted funds intended for local human rights organizations and used them to fund ZANU (PF)'s patronage system. Some of this money has still not been repaid to the NGOs in question.

Civil society organizations have increasingly referred to human rights and incorporated human rights concerns into their objectives and operations. They have used both moral and ethical arguments and legal arguments based on international human rights instruments.

The local organizations have developed very strong linkages with regional and international human rights organizations on the African continent and elsewhere. The

local organizations have transmitted information on human rights abuses to international human rights such as Amnesty International, which information has been used in the campaigns and reports of these external organizations. Various western governments have financially supported local organizations. The linkages with and the various condemnatory statements made by outside agencies, have had some restraining influence but have also helped to create increased domestic awareness of the need for reforms in the entire area of human rights.

Various local organizations have extensively documented cases of human rights abuses. They have used information about human rights abuses in its reports to regional and international organizations and its criticisms of human rights reports by the Zimbabwean Government to treaty bodies when these reports have attempted to deny, play down or cover up human rights violations by the state and its agents. Some of the organizations have brought civil claims for damages in the local courts to try to obtain redress for victims of human rights abuses. Organizations such as ZLHR have provided legal assistance when criminal charges, often baseless, have been brought against human rights defenders.

As a result of ongoing and numerous human rights awareness programmes by human rights, the labour movement and community based organizations, the human rights discourse has widely permeated into all sectors of the Zimbabwean society.

ZANU (PF) has been behind the formation of a number of bogus CSO organizations that are intended to undermine existing CSOs by pretending that they have extensive following. One such organization is the Zimbabwe Federation of Trade Unions which is headed by Joseph Chinotimba, a war veteran who led farm invasions. This organization was set up to try to wrest control from the Zimbabwe Congress of Trade Unions that has mass worker support. Various other such CSOs have been set up by ZANU (PF).

The type of human rights that have gained acceptance varies from sector to sector. Thus economic rights in the form of redistribution of racially unbalanced land

holdings is fiercely advocated by those who have been or may be the beneficiaries of this programme. Civil and political rights have been seen as vitally important by those fighting to restore these rights in the face of repression, whereas the propagandists of ZANU (PF) has depicted the entire civil and political liberties debate as an attempt by Western Government to undermine ZANU (PF) and to install a puppet government in its place.

The position remains split primarily between persons and organizations connected with ZANU (PF) on the one hand, and those connected with human rights organizations and the MDC on the other hand. The validity of human rights norms has spread within Zimbabwe, but many of those connected with ZANU (PF) continue to use liberation war rhetoric and tactics which result in serious violations of human rights.

The emergence of the HIV and AIDS pandemic in the late 1980s gave rise to demand for new rights in relation the pandemic. These include the right not to be discriminated against on the basis of one's HIV status and rights to access prevention, treatment and care services. NGOs involved in the fight for the rights include ZAN, ZNNP+ and, as mentioned earlier, WASN for women's rights. In addition, women's NGOs that are fighting against gender-based violence and promoting women's sexual and reproductive health right (e.g. Musasa Project and WAG) have incorporated HIV and AIDS issues into their programmes.

Other rights that have been demanded since independence (and some of the organizations that have been making the demands) include:

- Rights of people living with disabilities (NASCOH);
- Workers' rights (ZCTU);
- Right to peace (in the context of the politically motivated violence that occurred in Zimbabwe and the failure to prosecute the perpetrators). The CCJP produced a report on the *gukurahundi* atrocities. The ZPP and the ZHRNGO have documented the more recent ones.
- Children's rights (Girl Child Network and Justice for Children Trust).

5. Civil and political rights

This category of rights that has been demanded since 1980 is political rights. These include the right to vote, the right to stand for election to public office, freedom of association (to form political parties) and other rights that are part of the democratization process. The rights to vote and to stand for election were part of Zimbabwe's electoral law but not constitutionally protected until the passing of the 19th Amendment to the Constitution in January 2009 (section 23A of the Constitution). The amendment was instigated by the inter-party political agreement between ZANU PF and the two MDC parties of September 2009 and was a preparatory step for the current inclusive government which was constituted in February 2009. It includes the right to free, fair and regular elections and the right to free and fair referenda among the protected political rights. The freedom of association to form political parties has been constitutionally protected since 1980 (section 21(1) of the Constitution). However, in practice, ZANU PF was intolerant of political opposition parties and sought to destroy them using the law and other means, including violence.

The pressure for democratization and opening up of the political space has been accompanied by demand for media rights. The demand for media rights is mainly a response to state monopoly of both print and electronic media and the state's intolerance of media that expresses views that are contrary to the prevailing state propaganda. This intolerance has resulted in the arrest, prosecution and detention of local and foreign journalists on spurious charges and closure of newspapers and radio stations. Some foreign journalists have been deported. NGOs that have been fighting for media rights include MISA (Zimbabwe) and the MMPZ.

There are a number of areas of individual human rights that remain contentious. For instance, consensual sexual relations between men remains a criminal offence in Zimbabwe. It constitutes the offence of sodomy. In *S v Banana* 2000 (1) ZLR 607 (S) the Supreme Court held, by a majority, that the common law crime of sodomy was

not unconstitutional on the grounds of discrimination. Consensual lesbianism is not a crime, although non-consensual sexual relations between females constitutes the offence of aggravated indecent assault.

6. Socio-economic rights

As previously mentioned, there was rapid social development in favour of the black majority during the first decade after independence. However, the Constitution did not provide for the protection of social, economic rights and cultural rights. The first draft Constitution to include these rights as non-justiciable aspirational rights was the 1999 Constitutional Commission draft, the provisions of which were also incorporated into the later Kariba Draft constitution. Various other draft constitutions that have been produced seek to make socio-economic rights justiciable.

The linkage between civil and political rights and socio-economic rights has become more pronounced as the environment has deteriorated e.g. food security was compromised and the health and education systems virtually collapsed.

It is only really over the last decade that there has been more explicit discussion about legal entrenchment of social and economic rights. In the face of continuing repression, there has tended, however, to be much concentration on civil and political rights.

With the commencement of the Fast Track Land Reform Programme (FTLRP) in 2000, there has been an increasing demand for land rights. The demand precedes independence but has escalated in recent years partly due to ZANU PF's exploitation of the situation through the FTLRP. The FTLRP has caused violation of the human rights of others including the displaced farmers and farm workers, most of whom have not received any compensation for compulsory acquisition of the land, loss of fixed and movable equipment and loss of income as a result of the programme. The farmers' demands are being supported mainly by the Commercial Farmers Union (CFU) and Justice for Agriculture (JAG). The workers are represented by General

and Agricultural Plantation Workers Union (GAPWUZ). There are few NGOs that are spearheading the demand for land rights in terms of access to land partly due to the politicization of the land issue.

The amendments to section 16 and to the Land Acquisition Act were ostensibly measures to enable extensive redistribution of land to the landless. Although poor landless people did benefit from land acquisition, all the best quality land went to high ranking ZANU (PF) officials and army officers, and others that were encompassed as part of the patronage system.

The dispossessed white farmers brought numerous court cases. The Supreme Court first ruled that the violent land reform programme was being carried out in an illegal and unconstitutional manner. [*CFU v Ministry of Lands & Ors* 2000 (2) ZLR 469 (S)] However, the Chidyausiku led Supreme Court subsequently gave the programme a clean bill of health despite clear evidence of continuing violence. [*Minister of Lands, Agriculture and Resettlement & Ors v CFU* 2001 (2) ZLR 457 (S)]

Eventually after numerous unsuccessful challenges to various aspects of the programme and a constitutional amendment ousting the jurisdiction of local courts to challenge the legality of land expropriation, some farmers brought their case before the SADC Tribunal. In November 2008 the SADC Tribunal unanimously found that the applicants had been denied access to courts in their own country and that fair compensation was payable for the expropriated land. And, by a majority of four to one, the tribunal also ruled that the farmers had been discriminated against on the grounds of race. All of which added up to a clear violation of the SADC treaty.

Despite the fact that counsel representing the Zimbabwean Government at the Tribunal had accepted its jurisdiction, the Justice Minister, Mr Chinamasa, turned around and claimed that the Tribunal had not been properly constituted and its ruling was not legally binding. In September 2009 the Zimbabwean government and Chinamasa were criticised by the African Bar Associations and Rule-of-law Institutions, which include the Southern African Development Community Lawyers'

Association and the African Regional Forum of the International Bar, when they met in Arusha, Tanzania. In a communiqué they “observed with alarm the current efforts of the government of Zimbabwe ... to cause SADC to dismantle a sub-regional judicial organ - the SADC tribunal.”

The previous Mugabe administration had ordered foreign-owned mines to surrender 51 percent of their shareholding to locals. However, recently Prime Minister Tsvangirai announced that the plans to nationalise foreign-owned mines had been shelved. Mugabe also previously had also tried to force other foreign-owned businesses to sell off fifty-one per cent of its shareholding to Zimbabweans. These threats had profound adverse effects on foreign investment and expansion plans by foreign companies based in Zimbabwe.

In 2007 the government originally illegally seized the Chiadzva diamond claim in 2007, and set off a diamond rush when it encouraged locals to help themselves. But in 2008 the army took over and sealed off the Chiadzva diamond area. in violence. Accounts from survivors of the military onslaught detailed the killings, speaking of helicopter machine-gun attacks and armed attacks by troops on the ground. Civilians in the region also reported that anyone attempting to enter Chiadzwa was arrested and often tortured and killed. Zimbabwe Lawyers for Human Rights have said that about 5,000 people were arrested during the army operation, with three quarters of them showing signs of having been severely tortured. There were also claims that hundreds of people have been buried in mass graves to hide the military’s murderous activities, and that the soldiers sent to ‘guard’ the fields had become illegal diamond dealers themselves. The proceeds from the sale of Chiadzva diamonds are allegedly being used to continue to fund the ZANU (PF) patronage system.

7. The struggle for women’s rights

Women’s rights, particularly the right to equality and non-discrimination, have also featured prominently in human rights discourse since 1980. Historically, Zimbabwean

women have experienced inequality and discrimination on the grounds of sex and gender. This discrimination is a result of a combination of factors including cultural practices, customs and laws. The colonization process resulted in the subjugation of indigenous (black) Zimbabweans and creation of hierarchical political, legal, and socio-economic relationships where indigenous (black) women suffered the most discrimination. Their status was worsened by the colonial interpretation of customary law which regarded indigenous women as perpetual minors with no capacity to represent themselves in legal transactions, acquire and own property in their own names or exercise rights of guardianship and custody over their children among other things.

In post-colonial Zimbabwe, there has been change to the status of women through enactment of laws aimed at protecting women's rights and eliminating sex and gender inequality, particularly under customary law. These laws include amendments to the Constitution. Section 23 of the Constitution prohibits discrimination on the grounds of "race, tribe, place of origin, political opinion, colour, creed, sex, gender, marital status or physical disability". Gender, sex, marital status and physical disability were not part of the prohibited grounds of discrimination in the original Constitution of 1980. Gender was added through amendment number 14 of 1996. The rest were added through amendment number 17 of 2005. Exceptions to section 23 make it lawful to discriminate on any of the prohibited grounds, including sex and gender, in matters of personal law (section 23(3)(a)). Prior to amendment number 17 "personal law" was defined to include marriage, divorce and inheritance. The amendment removed the specified areas and left the matter for interpretation by the courts. Amendment number 17 added a new sub-section (section 23(3a)) which compels the Government to treat men and women equally in implementing the land reform programme with respect to "the distribution of land or any right or interest therein".

Another indication that the state is not always supportive of the constitutional protection of women's rights is what followed the decision of the Supreme Court in one immigration case. The right to freedom of movement was applied to protect

women's rights by the Supreme Court in the case of *Rattigan and others v Chief Immigration Officer, Zimbabwe and others* where it decided that denying permanent residence permits to foreign husbands of Zimbabwean women violated the wives' right to freedom of movement since they would be compelled to leave Zimbabwe in order to maintain marital relations with their husbands. At the time the decision was made, foreign wives of Zimbabwean men were automatically entitled to permanent residence and citizenship whilst foreign husbands of Zimbabwean women were treated like any other applicants. The state's response to the decision in *Rattigan* was to amend the Constitution (through amendment number 14) in order to remove the automatic entitlement to citizenship of foreign wives of Zimbabwean men and make it clear that a non-citizen can be excluded from Zimbabwe:

“.....whether or not he (or she) is married or related to another person who is a citizen of Zimbabwe or permanently resident in Zimbabwe.”

The other laws that protect women's rights include:

- The Legal Age of Majority Act (LAMA) of 1982 (now section 15 of the General Law Amendment Act) which conferred majority status on indigenous women upon attainment of the age of 18 years.
- The Matrimonial Causes Act of 1985 which provides for equitable distribution of property upon divorce.
- The Administration of Estates Amendment Act of 1997 which allows (and widowers) to inherit from their spouses. It also allows daughters to inherit from their fathers, and both daughters and sons to inherit from their mothers.
- Sexual Offences Act of 2001 (now Part III of the Criminal Law (Codification and Reform) Act) which criminalizes marital rape and deliberate transmission of HIV and other sexual offences some of which were already crimes under the common law (e.g. rape of a woman by a man through penetration of the vagina by his penis) and other legislation (e.g. sexual intercourse with a girl under the age of 16 years).
- Domestic Violence Act of 2006 (it became operational in 2007) which criminalizes domestic violence and provides special procedures for dealing

with domestic violence. This criminalises various forms of physical and sexual abuse and stalking. It also abuse derived from the following cultural or customary rites or practices that discriminate against or degrade women—

- forced virginity testing; female genital mutilation; pledging of women or girls for purposes of appeasing spirits; forced marriage; child marriage; forced wife inheritance; sexual intercourse between fathers-in-law and newly married daughters-in-law.

Women's rights promoting NGOs have played an active role in lobbying for the enactment of this legislation particularly the last three Acts cited above. Women's Action Group (WAG) was one of the organizations that pioneered activism, advocacy and lobbying on women's rights. It was formed by a group of women from diverse racial and socio-economic backgrounds as a response to the arrest and incarceration of over 6000 women in October of 1983, under the government initiated 'Clean up operation' which sought to rid the streets of "prostitutes". Any woman found walking alone or seated alone in a public place risked being labelled a "prostitute" by the police. Those so labelled were arrested and detained with most of them being taken to a remote area in the Zambezi Valley for further detention allegedly for the purpose of rehabilitation. WAG became synonymous with the advancement of women rights in Zimbabwe. It became one of the first women's organizations in post independent Zimbabwe to challenge the status quo, and call for the respect, protection and promotion of women's rights. The founding members of WAG oversaw its transformation to a vibrant membership organization with the membership coming from diverse socio-economic backgrounds, including rural areas. WAG held various workshops and conferences at which members (and other women) expressed their rights demands in areas such as marriage, divorce, child and spousal support, custody and guardianship of children, inheritance and sexual and reproductive health. These demands were used to lobby for the necessary law reform. Unfortunately, funding limitations have reduced WAG to a Secretariat based organization although its programmes still involve outreach to rural areas and other parts of Zimbabwe. WAG's current programme focus is on sexual and reproductive health rights, prevention of HIV and AIDS and combating gender-based violence.

Other key women's NGOs that have been involved in the promotion of women's rights (mainly since 1990s) are:

- Musasa Project whose main focus is on fighting domestic violence and sexual violence;
- ZWLA whose main focus is on marriage and family related rights;
- WASN whose focus is on access to prevention, care, treatment and mitigation services for HIV and AIDS;
- Women's Trust (formerly Women in Leadership and Governance Institute) whose focus is on building the capacity of women to hold public offices;
- WiPSU whose focus is on strengthening the capacity of women to stand for election to public office and supporting female legislators;
- WOZA an activist membership organization focusing on democracy and good governance issues.

These organizations and other women's organizations are part of an umbrella organization known as the Women's Coalition which is responsible for coordinating the fight for women's rights. It was formed during the 1999-2000 constitutional reform process and spearheaded the consolidation of women's demands with regards to rights that were to be incorporated into the proposed Constitution into a Women's Charter. It has recently coordinated the revision of the Charter for the current constitutional law reform process. Women and Land (Zimbabwe) is leading the fight for women's rights to land.

8. ZANU PF's response of to human rights discourse

There has been increase in the demand for strengthening the codification of civil and political rights of rights as the political and socio-economic environment in Zimbabwe deteriorated. Apart from the inclusion of some political rights in the 19th Amendment to the Constitution, most of these demands have been ignored. Demands for more

respect and promotion of those rights that have been codified have also been largely ignored by the state.

Although it has been instrumental in passing some measures that have advanced the rights of women, by and large the main opponent of reformist legislation to advance and protect human rights has been ZANU (PF). Instead it has passed various pieces of legislation that have undermined human rights such as AIPPA.

The ZANU PF administration also amended the constitution to reverse earlier progressive decisions by the Supreme Court such as constitutional amendments numbers 11 and 13 that various practices did not constitute torture or inhuman treatment–

- a) whipping of juveniles as punishment for crimes (this reversed a Supreme Court ruling that this form of punishment was unconstitutional because it was inhuman treatment);
- b) hanging of persons sentenced to death;
- c) protracted delay in carrying out death sentences upon convicted criminals.

See list at end of this document giving details of all the constitutional amendments since 1980.

After the 2000 elections and the violent land invasions, Western bilateral assistance to the Zimbabwean Government largely stopped. The Bretton Woods institutions, influenced by Western governments, also dried up, although another major reason for this was that the Zimbabwean Government had badly fallen into arrears in respect of repayment of earlier loans. The economic decline of the country continued at an increasing pace precipitated by disastrous economic policies and contributed to by lack of foreign investment and lack of bilateral aid and lines of credit.

These economic pressures, together with travel sanctions imposed upon members of ZANU (PF) administration and the freezing of their bank accounts in Western countries, finally forced ZANU (PF) to reluctantly agree to participate in the South

African led mediation programme, which led ultimately to the formation of the inclusive government in 2009.

ZANU (PF) has constantly used the propaganda line that Western countries are intent on “recolonising” Zimbabwe and are intent upon punishing the country for taking farms away from its white inhabitants.

To avoid falling into this propaganda trap, many human rights organizations have tended to concentrate some of its major efforts to bring outside influence upon the Zimbabwean Government to stop its repression upon African governments and agencies. However, they have also sought to persuade United Nations agencies to play a prominent role in putting an end to human rights abuses in Zimbabwe.

9. Effect of the 2008 Inclusive Government Deal

Before the advent of the Inclusive Government in 2009, the ZANU (PF) led government could not escape paying some attention to the increasingly strong regional and international movement to promote and protect human rights. However, ZANU (PF) continued to deny that it was systemically and seriously violating basic human rights and its pronounced commitment to the protection of human rights was mostly tokenism and was adopted for the benefit of the international community. Despite ratifying various human rights instruments, ZANU PF has continued to engage in widespread and serious human rights abuses. The ZANU (PF) administration sometimes went through the motions of pretending to listen to its critics, but mostly resorted to repression of “dissidents and critics.

After the Inclusive Government, the MDC has had relatively little success so far in improving the human rights environment. ZANU (PF) has continued to use the police and the military for repressive purposes. Violent farm invasions of farms still occupied by white have intensified, including invasions of farms owned by foreign nationals whose property should be protected by binding bilateral investment agreements.

Conclusion

Zimbabwean civil society organisations have played a key role in the human rights discourse in Zimbabwe. As a result of their efforts the human rights discourse has widely permeated the national conscientiousness and created pressures for observance of fundamental human rights. The human rights organisations have continued to operate despite all sorts of pressures and hostile conditions. The Mugabe administration, however, has resisted any human rights reforms that would endanger their continued hold on power. This has continued despite the advent of the so-called Inclusive Government. The belief that this power sharing agreement would open up more spaces for advancement of human rights has proved largely not to be true. Almost none of the reformist measures that were supposed to follow in terms of the political agreement have occurred. The attempts by the MDC to persuade ZANU (PF) to implement legislative reforms such as the opening up of the media space have mostly been frustrated.

The rights discourse is likely to figure prominently in the constitutional reform exercise, although political distortions may prevent the bringing into operation a truly democratic constitution that will strongly safeguard fundamental human rights and the rule of law and have effective checks and balances against abuse of power. The issue of accountability for past human rights abuses will continue to be a major issue.

The rulers of the future must be legitimately elected in free and fair election and this can only happen if civil and political rights are respected and the electorate is free to make electoral choices.

Appendices

Decisions of Supreme Court bearing on human rights

Progressive constitutional cases rulings by the Supreme Court prior to packing of bench with ruling party supporters:

Freedom of expression:

Capital Radio (Pvt) Ltd v Ministry of Information 2000 (2) ZLR 243 (S) striking down the ZBC monopoly as being contrary to the freedom of expression.

Retrofit (Pvt) Ltd v Posts and Telecommunications Corporation 1995 (2) ZLR 199 (S) striking down the PTC monopoly to operate mobile phone services as being contrary to the freedom of expression guarantee.

Property rights and rule of law:

CFU v Ministry of Lands & Ors 2000 (2) ZLR 469 (S) ruling that there was a need for a proper programme of land reform instead of violent and unlawful deprivation of property. The court also ruled that forcing people to attend party political meetings violated right to freedom of assembly.

Freedom of assembly:

Chavhunduka & Anor v Minister of Home Affairs 2000 (1) ZLR 552 (S) upholding the constitutional right to freedom of assembly.

Protection of law:

Chavhunduka & Anor v Commissioner of Police & Anor 2000 (1) ZLR 418 (S) and *Commissioner of Police v CFU* 2000 (1) ZLR 418 (S) dealing with the right of protection of the law.

Torture, inhuman or degrading treatment:

Various rulings in which the Supreme Court found that inhuman or degrading treatment solitary confinement *Blanchard & Ors v Minister of Justice* 2000 (1) ZLR 24 (S); *S v Harington* 1988 (2) ZLR 344 (S) and finding that both adult and juvenile whipping violate the protection against inhuman or degrading treatment: *S v Ncube & Ors* 1987 (2) ZLR 246 (S); *S v A Juvenile* 1989 (2) ZLR 61 (S) *CCJP v AG* 1993 (1) ZLR 242 (S); *Nkomo & Anor v Attorney-General & Anor* 1993 (2) ZLR 258 (S). Death penalty can be vacated on grounds that have been protracted delays in carrying it out but this was reversed by a constitutional amendment.

Retrogressive constitutional cases rulings by the Supreme Court subsequent to packing of bench with ruling party supporters:

Cases challenging the Access to Information and Protection of Privacy Act:

Association of Independent Journalists & Ors v Minister of State for Information and Publicity in the President's Office & Ors S-136-02 (largely upholding the legislation)

Associated Newspapers of Zimbabwe Pvt Ltd v Minister of State in the President's Office and Ors S-20-03 (inventing the dirty hands doctrine to prevent the Daily News arguing constitutionality of legislation.)

Regulation of broadcasting:

Capital Radio (Pvt) Ltd v Broadcasting Authority of Zimbabwe & Ors S-128-02 On legislation relating to radio broadcasting. Does strike down provisions allowing Ministry to control broadcasting authority but upholds many of the other provisions of the legislation.

Land acquisition:

Minister of Lands, Agriculture and Resettlement & Ors v CFU 2001 (2) ZLR 457 (S) Court upholding constitutionality of Land Reform programme despite clear evidence that violence continuing.

Cases challenging aspects of the Electoral Laws:

Tsvangirai v Registrar-General & Ors S-20-02 Using narrow *locus standi* test to screen out challenges to various aspects on the elections.

Tsvangirai & Ors v Registrar-General S-93-02 Constitutional right to receive information without interference does not include the right to demand a copy of the voters' roll from the Registrar-General.

MDC v Minister of Justice & Ors S-48-07 Ducking issue of power of President to amend electoral laws before an election.

Right to disclosure of information held by President:

Zimbabwe Lawyers for Human Rights & Anor v President of Zimbabwe & Anor S-12-03 A human rights organization had no right to receive information contained in a commission of inquiry report to the President on human rights abuses.

More progressive decisions by Chidyausiku led Supreme Court:

Interception of communications:

Law Society of Zimbabwe v Minister of Transport & Anor S-59-03 The court found that the powers conferred on the President to intercept communications were too broad and overreaching to be reasonably justified in a democratic society.

Inhuman or degrading treatment:

Kachingwe & Ors v Min of Home Affairs & Ors S-145-04 Here the court did find that the conditions for incarceration in two police lock-ups violated the right to protection against inhuman or degrading treatment.

Bennett v Mnangagwa NO & Ors S-75-05 upholding right of Parliament to impose a savage prison sentence on Member of Parliament for disciplinary reasons.

Since the Constitution of Zimbabwe came into effect on 18 April 1980, there have been 15 Acts of Parliament amending the Constitution. This summary deals only with the more important amendments.

Those amendments which have the effect of modifying, reducing or removing pre-existing rights are italicised.

Amendment No 1 (Act 27 of 1981)

Promulgated and into operation 10 June 1981.

- (a) amended qualification for membership of Senate Legal Committee.
- (b) reduced period of qualifying experience for membership of the Public Service Commission (PSC) from 5 to 3 years.
- (c) reduced period of qualifying experience for membership of the Judicial Service Commission (JSC) from 7 to 5 years and widened the experience base to include "suitable and adequate" legal experience.

Amendment No 2 (Act 25 of 1981)

Promulgated 10 June 1981, into effect 31 July 1981

- (a) changes to membership of Senate Legal Committee consequent on fusion of legal profession.
- (b) establishment of Supreme Court (SC) and High Court (HC) in place of Appellate Division and General Division of the High Court, and consequential amendments.
- (c) changes to qualifications for appointment as a judge consequent on fusion of legal profession
- (d) changes to membership of tribunal to consider removal of a judge consequent on fusion of legal profession.
- (e) changes to membership of JSC consequent on establishment of SC and HC and fusion of legal profession.
- (f) minor changes to membership of Presidential Commissions.
- (g) reduction in minimum age of senator from 40 to 30 years.

Amendment No 3 (Act 1 of 1983)

Promulgated 22 April 1983; ss 14 and 15 into operation 22 April 1983, the rest 1 September 1983

- (a) *right to dual citizenship abolished.*
- (b) power given to Parliament to make citizenship laws, with proviso that citizen by birth cannot be deprived of citizenship *unless he is or becomes a citizen of another country* (previously a person born in the country could never be deprived of citizenship).
- (c) revision of provisions regarding publication etc of Acts.
- (d) revision of qualifications for membership of JSC and Electoral Supervisory Commission (ESC): senators, MPs and local councillors ineligible (previously a person who had been a senator, MP or local councillor within the last 3 years was ineligible).

- (e) removal of requirement for Ministers to be Senators or MPs when appointed, but requirement introduced that a Minister who is not a Senator or MP on appointment must become one within 3 months.
- (f) provision allowing Act of Parliament to give power to Registrar of SC or HC to decide preliminary or uncontested matters.
- (g) Senators, MPs and local councillors ineligible for appointment to commissions.
- (h) Tribal Trust Land re-designated as Communal Land.
- (i) amendments consequential on reduction of minimum age for election as senator and other amendments consequential to above amendments.

Amendment No 4 (Act 4 of 1984)

Promulgated and into operation 27 April 1984.

- (a) appointment of judges for fixed periods allowed. Retirement age for judges fixed at 65.
- (b) amendment to composition of JSC, to include Attorney-General (A-G) and 3 other appointees (previously there were 2 appointees in addition to ex officio members).
- (c) post of Deputy Ombudsman created. Appointment of Ombudsman and Deputy Ombudsman to be by President on advice of Prime Minister (PM), after consultation with JSC (previously by President on advice of JSC).
- (d) appointment of Chairman and certain members of ESC, judges (other than the Chief Justice) and presidents of special courts to be by President on advice of PM, after consultation with JSC (previously by President on advice of JSC).
- (e) appointment of other members of ESC to be by President on advice of PM, after consultation with Speaker (previously by President on advice of Speaker).
- (f) appointment of Director of Prisons and Comptroller & Auditor-General to be by President on advice of PM, after consultation with PSC (previously by President on advice of PSC, after consultation with responsible Minister).
- (g) appointment of Police officers to be by President on advice of PM, after consultation with Commissioner of Police (previously by President on advice of Commissioner of Police).
- (h) appointment of Defence Force officers to be by President on advice of PM, after consultation with relevant Commander (previously by President on advice of relevant Commander).

Comment: These provisions made possible more direct political control of appointments.

Amendment No 5 (Act 4 of 1985)

Promulgated and into operation 5 April 1985

- (a) establishment of office of governor. Appointment as governor to disqualify person from appointment as President or Deputy President of Senate or as Speaker or Deputy Speaker of House of Assembly or as Minister or Deputy Minister.
- (b) independence of ESC re-emphasised. Salaries of members of ESC protected.
- (c) provisions for removal of judges modified. PM as well as CJ can advise President that an investigation should be made. Previously only CJ could give this advice.

Amendment No 6 (Act 15 of 1987)

Into operation 21 September 1987.

Note: this amendment was not permissible until 7 years after Constitution came into effect.

- (a) *removal of white roll seats, MPs and senators elected by white roll MPs and consequential changes.*
- b) President authorised to appoint Delimitation Commission at intervals of less than 5 years (previously it had to be at 5-yearly intervals)

Amendment No 7 (Act 23 of 1987)

Into operation 31 December 1987

- (a) establishment of executive presidency; powers of President vis-à-vis Parliament set out.
- (b) method of appointment of various officials modified in consequence of creation of executive presidency:
 - (i) Secretary or Deputy Secretary of a Ministry, Director of Prisons and Comptroller & Auditor-General to be appointed by President after consultation with PSC. If appointment not consistent with PSC recommendation, House of Assembly to be notified.
 - (ii) A-G to be appointed by President after consultation with PSC, which must consult JSC. If appointment not consistent with PSC recommendation, House of Assembly to be notified.
 - (iii) CJ and other judges, Ombudsman and Deputy Ombudsman to be appointed by President after consultation with JSC. If appointment not consistent with JSC recommendation, House of Assembly to be notified.
 - (iv) Commissioner of Police to be appointed by President after consultation with board established under s 93(6). If appointment not consistent with board recommendation, House of Assembly to be notified. Can be removed by President after consultation with Cabinet.
 - (v) Defence Force Commanders to be appointed by President after consultation with board established under s 97(7). If appointment not consistent with board recommendation,

House of Assembly to be notified. Can be removed by President after consultation with Cabinet.

- (c) Conventions, treaties etc entered into by President to be ratified by Parliament.
- (d) Exercise of Presidential prerogatives not to be enquired into in any court.

Note: this was in consequence of the Supreme Court's decisions in *PF-ZAPU v Minister of Justice (2)* 1985 (1) ZLR 305 and *Rushwaya v Minister of Local Government* 1987 (1) ZLR 15.

Amendment No 8 (Act 4 of 1989)

Into operation 31 March 1989; s 3(1) retrospective to 31 December 1987.

- (a) Vice-President (VP) to act for President.
- (b) VP can be given administration of an Act or Ministry or Department.
- (c) Appointment of A-G to Cabinet, with right to speak in House of Assembly.
- (d) VP not to be President or Deputy President of Senate or Speaker or Deputy Speaker of House of Assembly .
- (e) Power of A-G to direct police investigation specified.
- (f) Appointment of Deputy A-G(s).

Amendment No 9 (Act 31 of 1989)

Promulgated 9 February 1990. Section 22(b), (d) and (e) into operation 11 May 1990, the rest when Parliament was dissolved in 1990.

- (a) abolition of Senate and consequential amendments.
- (b) creation of unicameral Parliament of 150 seats.
- (c) creation of Parliamentary Legal Committee in place of Senate Legal Committee.
- (d) Secretary to Parliament appointed by Committee on Standing Rules and Orders instead of by Speaker.
- (e) amendment of any part of Constitution (including Declaration of Rights) by two-thirds of total membership.

Note: Declaration of Rights and other provisions were specially entrenched for first ten years following Independence.

Amendment No 10 (Act 15 of 1990)

Promulgated and into operation 3 August 1990.

Appointment of not more than 2 V-Ps allowed.

Amendment No 11 (Act 30 of 1990)

Into operation 17 April 1991.

- (a) Formal name "Republic of Zimbabwe" established.
- (b) amendments consequent on change of definition of law to include customary law.
- (c) *provisions authorising acquisition of rural land for resettlement.*
- (d) *exclusion of courts from enquiry into compensation.*
- (e) *"fair" compensation to be paid "within a reasonable time" instead of "adequate" compensation promptly.*
- (f) *removal of right to remit abroad compensation for land compulsory acquired.*
- (g) *Corporal punishment of juveniles allowed for.*

Note: this was in consequence of the Supreme Court's decision in *S v A Juvenile* 1989 (2) ZLR 61.

- (h) *Hanging as a method of carrying out death sentence not per se inhuman or degrading.*

Note: this was in anticipation of a case pending before the Supreme Court, at which the constitutionality of hanging as a method of execution was to be argued.

- (i) amendment of Constitution to be specific, unless amendment is essentially a renumbered version.
- (j) other amendments relating to revised editions of statutes.
- (k) minor amendments relating to ESC.
- (l) court system revised: judicial authority in SC, HC and subordinate courts. Independence of judiciary restated and to specifically include persons presiding over lower courts.
- (m) ineligibility of MPs for membership of JSC removed.

Amendment No 12 (Act 4 of 1993)

Promulgated 6 August 1993.

- (a) *Further provisions regarding the exclusion of the courts from considering the question of compensation for acquisition of rural land.*
- (b) minor amendments to s 18 (which deals with "due process").
- (c) legislature allowed to delegate legislative functions.
- (d) treaties etc not to form part of law of Zimbabwe unless included by Act of Parliament.
- (e) re-organization of Defence Forces under unified command.
- (f) restatement of functions of Police Force and Prison Service and removal of detail of structure etc from Constitution.

Amendment No 13 (Act 9 of 1993)

Into operation 5 November 1993

- (a) *Delay in carrying out execution not per se inhuman or degrading. This provision to be retrospective in effect.*

Note: this amendment was in consequence of the Supreme Court's decision in *Catholic Commission for Justice and Peace v Attorney-General & Others* 1993 (1) ZLR 242; 1993 (4) SA 239.

- (b) *further provisions to restrict right to appeal to courts on question of compensation for land compulsorily acquired.*

(c) *remittability of pensions can be restricted.*

Amendment No 14 (Act 14 of 1996)

Into operation 6 December 1996.

- (a) Amended provisions relating to citizenship by birth, so that *a person born in Zimbabwe (and persons born outside Zimbabwe to parents who are abroad on Government service) will not be a citizen unless one of his parents is also a citizen.*
- (b) Several provisions were amended to remove references to “illegitimate child”.
- (c) *The right of a foreign woman married to a Zimbabwe citizen to be registered as a citizen has been removed.*
- (d) *Section 11 of the Constitution*, which is the first section of the Declaration of Rights, has been amended so that it is only a preamble and *does not confer any rights at all.*
Note: this amendment overturns several rulings of the Supreme Court, which stated that s 11 was the key or umbrella provision which encapsulated the rights and freedoms of the individual in general terms. See, for example, *In re Munhumeso & Others* 1994 (1) ZLR 49 (S).
- (e) Section 16, which deals with the compulsory acquisition of property, was further amended; the effect of the amendment was to confirm that the courts will have no power to enquire into the compensation paid for the acquisition of rural land for resettlement.
- (f) Section 22 was amended to provide that the *right of any non-citizen to enter or reside in Zimbabwe would not depend on his marriage to or relationship with a citizen of Zimbabwe.*
Note: the intention of this amendment was to overturn the rulings of the Supreme Court in *Rattigan & Others v Chief Immigration Officer & Others* 1994 (2) ZLR 54 (S) and *Salem v Chief Immigration Officer & Others* 1994 (2) ZLR 287 (S). However in *Kohlhaas v Chief Immigration Officer & Ors* 1997 (2) ZLR 441 (S) the Supreme Court has held that the amendment does not affect the rights of a citizen to have her spouse reside with her in Zimbabwe and granted an order compelling the Chief Immigration Officer to issue a permanent residence permit to the husband of a citizen.
- (g) Section 23 was amended to include “gender” as a ground on which discrimination is prohibited (previously it was lawful to discriminate on the grounds of gender). However, there are some limitations on this. Discrimination is still permitted on the grounds of the physiological differences between the sexes and on the grounds of defence, public safety or public morality.
- (h) The functions of the Electoral Supervisory Commission were widened to include supervision of Presidential and local government elections.
- (i) The pay of the Attorney-General and any Deputy Attorney-General is now fixed by the President, not by Act of Parliament.
- (j) The powers of the Ombudsman are extended to include investigation into allegations that the Declaration of Rights has been contravened.

Amendment No 15 (Act 10 of 1998)

Into operation 30 June 1998

This introduced two minor amendments:

- (a) The definition of “special court” is amended to update references to the Administrative Court and other tribunals;
- (b) The definition of “financial year” is amended, to reflect the change in the Government's financial year (which now coincides with the calendar year).

Amendment No 16 (Act 5 of 2000)

Into operation 19 April 2000

This introduced 2 amendments:

- (a) a new section (s 16A) was inserted, which stated that the former colonial power had an obligation to pay compensation for land compulsorily acquired for resettlement and that the government of Zimbabwe had no obligation to do so. The section also set out the factors that had to be taken into account when assessing compensation for such land.
- (b) An Anti-Corruption Commission was established (the details of the Commission's powers etc are set out in the Anti-Corruption Commission Act [*Chapter 9:22*], which came into effect on 14 January 2005).

13 February 2001 (amended 12 September 2009)

Amendment No 17 (Act 5 of 2005)

(a) Inserts a new provision confirming the acquisition of land for resettlement purposes which took place pursuant to the Land Reform Programme beginning in 2000, and providing for the acquisition in the future of agricultural land for resettlement and other purposes.

(b) Reconstitutes Parliament as a bicameral legislature consisting of a House of Assembly of 150 members (120 elected on a constituency basis, the 10 Provincial Governors, 8 Chiefs elected in accordance with the Electoral Law to represent the eight non-metropolitan provinces and 10 persons appointed by the President) and a Senate of 66 members (made up of five Senators elected in each of the 10 provinces, plus the President and the Deputy President of the Council of Chiefs, eight Chiefs elected by the Council of Chiefs to represent the eight non-metropolitan provinces, and six Senators appointed by the President).

(c) Inserts provisions establishing Zimbabwe Electoral Commission (with a slightly enlarged membership) as a constitutional body and provides for its functions. (Previously this body was only established in terms of ordinary legislation.) It also abolishes the Electoral Supervisory Commission.

Amendment No 18 (Act 11 of 2007)

(a) Shortens the term of office of the President from six to five years and makes his term run concurrently with that of Parliament.

(b) Changes the composition of the Senate and House of Assembly.

- (c) Provides for the appointment of a Deputy Chief Justice
- (d) Alters the title of the Commissioner of Police and Ombudsman to those of the “Commissioner-General of Police” and the “Public Protector” respectively.
- (e) Makes provision for the establishment and functions of an independent Human Rights Commission.

Amendment No 19 (Act 1 of 2009)

- (a) includes more comprehensive provisions on citizenship but does not permit dual citizenship.
- (b) provides for the appointment and functions of the committee of Parliament known as the Committee on Standing Rules and Orders (the composition is different from that provided for in the Standing Rules and Orders of Parliament)
- (c) to provide for in the Constitution for the appointment and functions of a Zimbabwe Media Commission. (This has a somewhat different composition from the Zimbabwe Media Commission contained in the Access to Information and Protection of Privacy Act.)
- (d) to amend the previous provisions relating to the Zimbabwe Electoral Commission. The process of appointment and composition has been changed as follows:
 - The chairperson is now to be appointed by the President after consultation with both the Judicial Service Commission and the Committee on Standing Rules and Orders; under section 61, the President had to consult only the Judicial Service Commission.
 - The Commission now has eight members besides the chairperson; previously it had six members.
 - The commissioners must be chosen for their integrity, competence and experience in the conduct of affairs; previously the President was free to appoint any persons at all, so long as they were nominated by the Committee on Standing Rules and Orders.
- (e) The President appoints the Anti-Corruption Commission in consultation with the Committee on Standing Rules and Orders
- (f) There are transitional provisions arising out of the Inclusive Government agreement. But only the aspects of the agreement relating to the executive are included in the Constitution as Schedule 8.

Status of Ratification, Accession or Succession of Zimbabwe to Human Rights Instruments

Treaty, Human Rights Instrument	Entry into Force	Date of Ratification / accession / succession	Reservations	Declarations
Convention on the Rights of the Child	20 November 1989	11 September 1990	–	–
Optional Protocol to the Convention on	12	–	–	–

the Rights of the Child on the involvement of Children in armed conflict	February 2002			
Optional Protocol to the Convention on the Rights of the Child on the sale of children Child Prostitution and Pornography	18 January 2002	–	–	–
Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor	19 November 2000	11 December 2000	–	–
Convention on the Prevention and Punishment of Genocide	12 January 1951	13 May 1991 (accession)	–	–
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages	9 December 1964	23 November 1994 (accession)	–	–
International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)	4 January 1969	12 June 1991 (accession)	–	Declaration required in terms of section 14 not made.
Convention Relating to the Status of Stateless People	2 June 1960	1 December 1998	–	–
Convention on the Political Rights of Women	7 July 1954	5 June 1995	–	–
Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment	26 June 1987	–	–	–
Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment	26 June 2006	–	–	–
Convention on Elimination of forms of Discrimination Against Women	3 September 1981	13 May 1991 (accession)	–	–
Optional Protocol to the Convention Against all Forms of Discrimination Against Women	6 October 1999	Not ratified	–	–
International Covenant on Civil and Political Rights	10 December 1966	13 May 1991	–	Article 41 20 August

				1991 ²
Optional Protocol to the International Covenant on Civil and Political Rights	23 March 1976	–	–	–
Second Optional Protocol to the International Covenant on Civil and Political Rights	–	–	–	–
International Convention on the Suppression and Punishment of Apartheid	30 November 1973	13 May 1991	–	–
Convention on the Reduction of Statelessness	13 December 1975	–	–	–
Convention relating to the Status of Stateless People	2 June 1960	1 December 1998	–	–
Convention relating to the Status of Refugees	22 April 1954	25 August 1981 (Accession)	–	See Declaration ³
Protocol relating to the Status of Refugees	October 1967	25 August 1981	–	–
Convention on the Nationality of Married	11 August	1 December	–	–

² "The Government of the Republic of Zimbabwe recognizes with effect from today's date, the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party claims that another state party is not fulfilling its obligations under the Covenant [provided that such State Party has, not less than twelve months prior to the submission by it of a communication relating to Zimbabwe, made a declaration under article 41 recognizing the competence of the Committee to receive and consider communications relating to itself]." (**The text between brackets was received at the Secretariat on 27 January 1993.**)"

³ "1. The Government of the Republic of Zimbabwe declares that it is not bound by any of the reservations to the Convention relating to the Status of Refugees, the application of which had been extended by the Government of the United Kingdom to its territory before the attainment of independence.

2. The Government of the Republic of Zimbabwe wishes to state with regard to article 17, paragraph 2, that it does not consider itself bound to grant a refugee who fulfills any of the conditions set out in subparagraphs (a) to (c) automatic exemption from the obligation to obtain a work permit. In addition, with regard to article 17 as a whole, the Republic of Zimbabwe does not undertake to grant to refugees rights of wage-earning employment more favourable than those granted to aliens generally.

3. The Government of the Republic of Zimbabwe wishes to state that it considers article 22 (1) as being a recommendation only and not an obligation to accord to refugees the same treatment as it accords to nationals with respect to elementary education.

4. The Government of the Republic of Zimbabwe considers articles 23 and 24 as being recommendations only.

5. The Government of the Republic of Zimbabwe wishes to state with regard to article 26 that it reserves the right to designate a place or places of residence for refugees."

women	1958	1998		
International Covenant on Economic Social and Cultural Rights	3 January 1976	13 August 1991	–	–
International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families	1 July 2003	–	–	–
Convention on the Rights of Persons with Disabilities	3 May 2008	–	–	–
Optional Protocol to the Convention on the Rights of Persons with Disabilities	3 May 2008	–	–	–
International Convention on the Protection of All persons from Enforced Disappearances	Not yet in force	–	–	–
United Nations Convention against Transnational Organized Crime	Not yet in force	12 Dec 2007	–	–
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime.	9 September 2003	–	–	–
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others	25 July 1951	15 November 1995	–	–
Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Crime	28 January 2004	–	–	–
Vienna Convention	27 January 1980	3 November 1992	–	–
United Nations Convention Against Transnational Crimes	Not yet in force	12 December 2007	–	–
ILO 029 Convention: Forced or Compulsory Labour	1 May 1932	27 Aug 1998	–	–
ILO 087 Convention: Freedom of association and Protection of the Right to organize	4 July 1950	9 April 2003	–	–
ILO 098 Convention: Application of the Principles of the Right to Organize and to Bargain Collectively	18 July 1951	27 August 1998	–	–

ILO 100 Convention: Equal remuneration for men and women workers of equal value	23 May 1953	14 December 1989	-	-
ILO 105 Convention: Abolition of Forced Labour	17 January 1959	27 August 1998	-	-
ILO 111 Convention: Discrimination in Respect of Employment and Occupation	15 June 1960	23 June 1999	-	-
ILO 122 Convention: Employment Policy Convention	9 July 1965	-	-	-
Rome Statute of the International Criminal Court	1 July 2002	Not Ratified Signed on 17 July 1998	-	-
African Charter on Human and Peoples' Rights	21 October 1986	30 May 1986	-	-
African Charter on the Rights and Welfare of the Child	29 November 1999	19 January 1995	-	-
Protocol to The African Charter on Human and Peoples Rights on the Rights of Women	25 November 2005	5 September 2008	-	-
Convention Governing the Specific Aspects of Refugees in Africa	20 June 1974	28 September 1985	-	-

Ratification of International Human Rights Treaties - Zimbabwe

International Bill of Human Rights	Signature	Ratification	Accession	Succession	Entry into Force
International Covenant on Economic, Social and Cultural Rights			13 May 1991		
International Covenant on Civil and Political Rights			13 May 1991		
Optional Protocol to the International Covenant on Civil and Political Rights	Not signed				
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty	Not signed				
Prevention of Discrimination on the Basis of Race, Religion, or Belief; and Protection of Minorities	Signature	Ratification	Accession	Succession	Entry into Force
International Convention on the Elimination of All Forms of			13 May 1991		

Racial Discrimination					
Women's Human Rights	Signature	Ratification	Accession	Succession	Entry into Force
Convention on the Elimination of All Forms of Discrimination against Women			12 May 1991		
Optional Protocol to the Convention on the Elimination of Discrimination against Women	Not signed				
United Nations Convention against Transnational Organized Crime	12 Dec 2000	12 Dec 2007			
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Preamble, supplementing	Not signed				

the United Nations Convention against Transnational Organized Crime					
Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime	Not signed				
Slavery and Slavery-Like Practices	Signature	Ratification	Accession	Succession	Entry into Force
Slavery Convention	Not signed				
Protocol amending the Slavery Convention	Not signed				
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery				1 Dec 1998	
Convention for the Suppression of			15 Nov 1995		

the Traffic in Persons and of the Exploitation of the Prostitution of Others					
Protection from Torture, Ill-Treatment and Disappearance	Signature	Ratification	Accession	Succession	Entry into Force
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	Not signed				
Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	Not signed				
Protocol No. 2 to the European Convention for the Prevention of Torture and inhuman or Degrading Treatment of Punishment	Not signed				
Convention against Torture	Not signed				

and Other Cruel, Inhuman or Degrading Treatment or Punishment					
Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Not signed				
International Convention for the Protection of All Persons from Enforced Disappearance	Not signed				

Rights of the Child	Signature	Ratification	Accession	Succession	Entry into Force
Convention on the Rights of the Child	8 Mar 1990	11 Sep 1990			
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts	Not signed				
Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child		11 Dec 2000			

Labour					
Freedom of Association	Signature	Ratification	Accession	Succession	Entry into Force
Freedom of Association and Protection of the Right to Organise Convention		9 Apr 2003			
Right to Organise and Collective Bargaining Convention		27 Aug 1998			
Employment and Forced Labour	Signature	Ratification	Accession	Succession	Entry into Force
Convention concerning Forced or Compulsory Labour		27 Aug 1998			
Equal Remuneration Convention		14 Dec 1989			
Abolition of Forced Labour Convention		27 Aug 1998			
Discrimination (Employment and Occupation) Convention		23 Jun 1999			
Employment Policy Convention	Not signed				
Convention		9 Apr 2003			

concerning Occupational Safety and Health and the Working Environment					
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Not signed				
Education	Signature	Ratification	Accession	Succession	Entry into Force
Convention against Discrimination in Education		30 May 2006 (acceptance)			
Persons with Disabilities	Signature	Ratification	Accession	Succession	Entry into Force
Convention on the Rights of Persons with Disabilities	Not signed				
Optional Protocol to the Convention on the Rights of Persons with Disabilities	Not signed				
Refugees and Asylum	Signature	Ratification	Accession	Succession	Entry into Force
Convention relating to the Status of Refugees			25 Aug 1981		
Protocol Relating to the			25 Aug 1981		

Status of Refugees					
Nationality, Statelessness, and the Rights of Aliens	Signature	Ratification	Accession	Succession	Entry into Force
Convention on the Reduction of Statelessness	Not signed				
Convention relating to the Status of Stateless Persons				1 Dec 1998	
War Crimes and Crimes Against Humanity, Genocide, and Terrorism	Signature	Ratification	Accession	Succession	Entry into Force
Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity	Not signed				
Convention on the Prevention and Punishment of the Crime of Genocide			13 May 1991		
Rome Statute of the International Criminal Court	17 Jul 1998				

Law of Armed Conflict	Signature	Ratification	Accession	Succession	Entry into Force
Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field		7 Mar 1983 (rat/acced)			
Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea		7 Mar 1983 (rat/acced)			
Geneva Convention relative to the Treatment of Prisoners of War		7 Mar 1983 (rat/acced)			
Geneva Convention relative to the Protection of Civilian Persons in Time of War		7 Mar 1983 (rat/acced)			
Protocol Additional to the Geneva Conventions of 12 August 1949, and		19 Oct 1992 (rat/acced)			

Relating to the Protection of Victims of International Armed Conflicts (Protocol I)					
Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims on Non-International Armed Conflicts (Protocol II)		19 Oct 1992 (rat/acced)			
Terrorism and Human Rights	Signature	Ratification	Accession	Succession	Entry into Force
International Convention Against the Taking of Hostages	Not signed				
International Convention for the Suppression of Terrorist Bombing	Not signed				
International Convention for the Suppression of the Financing of Terrorism	Not signed				

International Convention for the Suppression of Unlawful Seizure of Aircraft	6 Feb 1989				
International Convention on the Prevention and Punishment of Crimes Against International Protected Persons	Not signed				
U.N. Activities and Employees	Signature	Ratification	Accession	Succession	Entry into Force
Convention on the Privileges and Immunities of the United Nations			13 May 1991		
Convention on the Safety of United Nations and Associated Personnel	Not signed				
Regional Conventions	Signature	Ratification	Accession	Succession	Entry into Force
[European] Convention for the Protection of Human Rights and Fundamental Freedoms	Not signed				
Protocol to the Convention for	Not signed				

the Protection of Human Rights and Fundamental Freedoms					
Protocol No.2 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms	Not signed				
Protocol No.3 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms	Not signed				
Protocol No.4 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms	Not signed				
Protocol No.5 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms	Not signed				

Protocol No.6 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms	Not signed				
Protocol No.7 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms	Not signed				
Protocol No. 8 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms	Not signed				
Protocol No. 9 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms	Not signed				
Protocol No. 10 to the 1950 European Convention for the Protection of Human	Not signed				

Rights and Fundamental Freedoms					
Protocol No. 11 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms	Not signed				
Protocol No. 12 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms	Not signed				
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	Not signed				
Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	Not signed				
Protocol No. 2 to the	Not signed				

European Convention for the Prevention of Torture and inhuman or Degrading Treatment of Punishment					
African Regional Conventions	Signature	Ratification	Accession	Succession	Entry into Force
African [Banjul] Charter on Human and Peoples' Rights *	20 Feb 1986	30 May 1986			
Convention Governing the Specific Aspects of Refugee Problems in Africa *			28 Sep 1985		
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa *	18 Nov 2003				
Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights *	9 Jun 1998				
African Charter on the Rights			19 Jan 1995		

and Welfare of the Child *					
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* No ratification information available.