

Zimbabwe United Nations Universal Periodic Review, 2011

**Stakeholders report
submitted by**

**Zimbabwe Human Rights Organisations
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Participating organisations

National Association of None Governmental Organisations
Zimbabwe Lawyers for Human Rights
Zimbabwe Human Rights NGO Forum
Zimbabwe Association of Doctors for Human Rights
Zimbabwe Peace Project
Zimbabwe Election Support Network
Zimbabwe Human Rights Association
Media Monitoring Project of Zimbabwe
Media Information of Southern Africa (Zimbabwe)
Zimbabwe Women Lawyers Association
Musasa Project
Catholic Commission for Justice and Peace
Women in Politics Support Unit,
Zimbabwe Congress of Trade Unions,
Women's Action Group
Save the Children
Zimbabwe National Council for the Welfare of Children,
Plan Zimbabwe
Counselling Services Unit
Bulawayo Agenda
Institute for a Democratic Alternative of Zimbabwe
Zimbabwe Environmental Lawyers Association
Non Violent Action and Strategies for Social Change
Radio Dialogue
Christian Legal Aid Society
Matebeleland Constitutional Reform Agenda
Organisation for Youth Advancement

1. Introduction

This stakeholders report is submitted by human rights Non- Governmental Organisations (NGOs) that are working in Zimbabwe. In addition to being a member of the United Nations General Assembly (making the Universal Declaration on Human Rights (UDHR) binding), Zimbabwe ratified the Convention on the Rights of the Child (CRC), Convention on the Elimination of Discrimination Against Women (CEDAW), International Covenants on Civil and Political Right and Economic Social and Cultural Rights (ICCPR, ICESCR). Zimbabwe has also ratified the International Convention on the Elimination of all forms of Racial Discrimination. Zimbabwe did not enter any reservations in respect of these treaties; however it has not ratified the optional protocols creating additional mechanisms to address violations such as the individual complaints procedures. Since 2007 there has been very little progress if at all made by the Government of Zimbabwe (GoZ) to ensure progressive realisation of human rights. Domestication of treaty obligations has been eroded by non-implementation, poor administrative practices by the state and other non-state actors. The country is currently undertaking a Constitution making process and it is hoped that there will be efforts to fully incorporate human rights norms and standards articulated in United Nations treaties voluntarily ratified.

2. Equality and non-discrimination (ICCPR/ CEDAW/ CERD/ UDHR)

Section 100R(1)(b) (B)(3) and 100(B)(3) of Constitution provides for equal opportunity for women to appointments in key positions in the Zimbabwe Human Rights Commission (ZHRC), and the Zimbabwe Electoral Commission (ZEC). Sections 3 – 5 of the Prevention of Discrimination Act also penalises discrimination on the basis of gender when accessing bank loans, public premises, services, facilities, loans from banks, and when it comes to disposal of immovable properties. However gender equity is not fully guaranteed in the bill of rights. Section 23(1) of the Constitution condones discrimination in areas of personal law or African customary law. Section 68 of the Administration of Estates Act as amended prevents discriminatory practices against women married under customary law to access property when their spouses die. This law has not been fully implemented and women are not benefiting. Law enforcement agents are not fully embracing their responsibilities to respond correctly to cases of property grabbing (399 cases occurred between 2009 and 2010), treating them as civil matters and not criminal matters. Civil Society Organisations (CSOs) are working with the community leaders such as chiefs to address this injustice. The right of women to be guardians of their children is not recognised. This has negatively affected the capacity of women to fully protect the best interests of the children when parents separate. Women are not guaranteed of getting a fair share of property upon divorce when they are part of unregistered customary marriages. Another area of concern is the continued discrimination of minorities which persists (sexual minorities) who are being arrested or targeted due to their orientation. No effective steps have also been taken to ratify the United Nations Convention on Persons with Disabilities to put in place a framework to deal with discrimination issues that arise.

Recommendations

- Non-discrimination provisions in the Constitution must be absolute, fully implemented as they relate to sex, race, origin and other grounds with no limitations.
- Marriage laws must be harmonised to prevent discrimination of women married under customary law
- The Constitution should have provision requiring all state institutions to have equally employment opportunities for women.

- Zimbabwe must ratify, domesticate and implement the Convention on the Rights of Persons with Disabilities.
- The parental rights of women to guardianship of children must be recognised in the constitution
- GoZ must implement compulsory human rights training programs focusing on rights of women and non-discrimination for key state actors such as the police and judicial officers.
- Traditional leaders (Chiefs and Headmen) must receive regular trainings on human rights and particularly rights of women in areas of personal law.
- Trainings must also be extended to judicial officers on property rights of women.
- A Social Development Fund providing food to disabled and old people must be introduced by the state.

3. *Right to participate in the government of the country in genuine free and fair elections (ICCPR/ CEDAW/ UDHR)*

In 2008 Zimbabwe conducted an election whose results were disputed and this resulted in the creation of an Inclusive Government (IG). The Constitution has a provision for political rights. An election management body, Zimbabwe Electoral Commission (ZEC) is also created. Its independence is compromised due to the flawed appointment process. All key staff members are appointed by the President from a list of names provided by the Parliamentary Committee on Standing Rules and Orders. This does not ensure that ZEC Commissioners are independent as they can be appointed on political grounds by parliamentarians who sit in the portfolio committee. There is no guarantee in the Constitution that ZEC will receive adequate funding from the Consolidated Revenue Fund for elections. Other issues of concern include the lack of a system that facilitates the demarcation of boundaries fairly as political players participating in the elections such as the President can alter the boundaries presented by ZEC. Registration of voters is still entrusted in the Registrar-General's office which is viewed as partisan and not competent with independent audits of the voter's roll showing the existence of ghost voters (27%). Dispute resolution mechanisms put in place by government to deal with election related violence (which affected many people - at least 16 817 of these cases were documented by CSOs) and other issues are non functional or non effective. These include the Multi Party Liaison Committees, the courts (as there is a general culture of impunity with law enforcement agents selectively applying the law in cases of political violence). No independent Electoral Court exists to deal with election petitions as the composition of High Court which sits as the electoral court is highly compromised as all the judges are appointed by a Judicial Service Commission whose members are directly or indirectly appointed by the President in the Constitution with none observance of the doctrine of separation of powers. No legislative provisions exist to encourage the equal participation of women in political activities and increase their participation in governance. Only 17% of the Cabinet Ministers are female with 16% being deputy Ministers. A total of 55 women out of 303 sit in parliament (Senatorial and House of Assembly) representing 18%. General participation of women is compromised. Although women constitute 52% of the population only 48% are registered to vote. In 2008 at least 4 485 women were affected by political violence.

Recommendations

- The Constitution must unequivocally provide that everyone must respect legitimate results and allow for transfer of power.
- ZEC must be reconstituted by an independent and non- partisan body.
- Legislative provisions to encourage the introduction of quotas in political parties must be introduced.

- There must be a mixture of proportional representation and first past the post electoral system.
- Diaspora vote must be introduced before the next elections to ensure that the estimated 3 million Zimbabweans living out of the country can cast their vote
- Prisoners must be allowed to vote.
- An independent Electoral Court must be established to speedily determine electoral disputes.

4. *Freedom of expression (ICCPR/ UDHR)*

There continues to be overregulation of this right through continued existence of draconian pieces of criminal laws and selective application of provisions of these criminal and other media laws against journalists, citizens and Human Rights Defenders (HRDs). Laws promulgated such as Access to Information and Protection of Privacy Act (AIPPA) and Broadcasting Services Act make it mandatory for media practitioners (journalists and media houses) to be registered, pay licence fees and also limit the content of information they can circulate. The Criminal Law Codification and Reform Act (Criminal Code) creates the crime of criminal defamation, and other vague offences in the form of insult laws, section 31 and 33, (insulting the office of the President) and communicating falsehoods. The Interception of Communication Act gives government the power to monitor communications and not be subject to limitations. At least 45 journalists have been targeted over the last four years and this has undermined freedom of expression. More than ten CSOs have been targeted through detention, harassment or intimidation due to their work that involves gathering of information on human rights. The perpetrators have been drawn from law enforcement agents, other state actors and political party representatives. A group of ten artists (theatre, art) have been arrested twice after performing dramas on national healing in 2010 and 2011. The right of women candidates to exercise their right to freedom of expression equally with men during elections to encourage their participation is not protected by any law. Academic freedom is not recognised in the Constitution and other laws.

Recommendations

- Freedom of the press must be recognised in the Constitution and fully implemented.
- A provision on academic freedom must be enshrined in the Constitution.
- AIPPA must be completely repealed and replaced law that promotes access to information must be promulgated.
- The public broadcaster must be non partisan and there must be establishment of an independent broadcasting authority.
- GoZ must take urgent steps to facilitate the creation of an environment where there is self regulation of the media.
- Vague insult provisions in the Criminal Code must be repealed.
- GoZ must be encouraged to liberalise broadcasting services and register more broadcasters.
- The constitution must prohibit hate propaganda. Additionally criminal laws must penalise hate propaganda

5. *Right to assemble and associate (ICCPR/ UDHR)*

Constitutional provision on free assembly (section 21) and association exist but are meaningless due to existence of derogations that severely limit this right in subordinate laws such as Public Order and Security Act (POSA), Criminal Code and Public Service Act. In 2010, efforts were made by parliament to amend some provisions of POSA through a private members Bill. The selective application of POSA and Criminal Code provisions that restrict

freedom of assembly against political party activists from opposition parties and some CSOs resulted in 183 arrests, from a total of 363 arrests in March 2010. In the majority of cases where the matters have proceeded and full trials have been conducted there has been a few convictions by the lower courts and where there has been convictions these decisions have been overturned. There continues to be close regulation of Non Governmental organisations by the introduction of the Private Voluntary Organisation Act (PVO).

Recommendations

- Training of law enforcement agents on human rights especially the right to freedom of assembly.
- State security agents such as the police and army must be depoliticised.
- Repealing of POSA, criminal code provisions affecting freedom of assembly.

6. Prohibition of torture, cruel, inhuman and degrading treatment (ICCPR/ UDHR)

There is a limited prohibition of cruel, inhuman and degrading treatment and torture in section 15 of the Constitution. There is no criminalisation of torture in the Criminal Code or other laws that regulate the conduct of state security actors (police, army, prison officials and state security agents). State security agents remain unregulated. At least 231 civil claims for damages have been filed against the police, members of defence forces since 2007. In addition 7 333 victims have received medical and psychosocial support as a result of torture by state and non state actors since 2007. In 2008 at least 20 members of the MDC T and CSOs were abducted and subjected to torture while in enforced disappearance. Claims for damages have also been filed in respect of these cases.

Recommendations

- GoZ is encouraged to ratify and domesticate the provisions of the Convention Against Torture, Cruel, inhuman and Degrading Treatment
- GoZ is also encouraged to ratify and domesticate the Convention on Protection of all Persons from Enforced Disappearances.
- Torture and enforced disappearances must be criminalised in the Criminal Code and all other laws regulating the state security agents such as the police, army and state security agents.
- The Constitution must provide for regulation of state security agents and also recognise the role of civilian oversight over all security sector players.
- Court orders of damages granted by the courts in cases of civil claims must be honoured.
- Disciplinary procedures must be adopted against state security agents involved in torture.

7. Arbitrary arrests, right to liberty and security of the person(ICCPR/ UDHR)

Part V of the Criminal Procedure and Evidence Act (CPEA), and the Police Standing Orders (internal) regulate instances of arrests with or without a warrant, rights and minimum treatment of detainees by the police. CPEA provides for the release of a person subject to paying bail before trial. The Constitution is silent on the right to security of the person. Section 121 of CPEA sanctions the detention for seven more days of a person granted bail by the court once the Attorney – General (A-G) notes an appeal. 3321HRDs (who include MDC T activists, CSO representatives and other citizens) have been arbitrarily arrested and detained over the last four years as follows; (1127) in 2007, (1 446) in 2008, (385) in 2009, (363) in 2010, and (336) between January and February 2011. Security of persons is also compromised due to the existence of other informal security actors (militias, war veterans) who harass and intimidate citizens during electoral periods. Selective application of the criminal laws has resulted in some known perpetrators not being arrested.

Recommendations

- A guarantee on security of the person must be enshrined in the Constitution.
- Section 121 of the CPEA must be repealed. Any appeals against bail must be determined on an urgent basis.
- Police must be encouraged to arrest after following the procedures on investigating properly to minimise occurrence of arbitrary arrests.
- The police training curriculum must have a component on human rights that is compulsory.

8. *Right to a fair trial (ICCPR/ UDHR)*

The right to a fair trial and pre trial rights of people accused of committing criminal offences are recognised in section 13 of the Constitution of Zimbabwe and other laws such as the CPEA. Problematic areas that have arisen since March 2007 have been arrests of lawyers in course of their duties of representing HRDs who have been arrested. At least 6 lawyers have been arrested and all of them have been acquitted in cases where full trials have been conducted. Human rights lawyers have also been denied access to their clients. The independence of judicial officers presiding over the courts has also been questionable due to their appointment process which is compromised and incidents of external interference. The constitution of the office of the A-G is compromised by the appointment process which is dominated by the President. They have been cases of selective prosecution and non prosecution of ZANU PF supporters in cases of politically motivated violence.

Recommendations

- GoZ must ratify and fully implement the provisions of the First Optional Protocol to the ICCPR.
- Judicial independence must be guaranteed through an appointment process by an independent Judicial Service Commission that is constituted of members who have been appointed after a consultative process with critical stakeholders in the justice delivery.
- An independent National Prosecuting Authority must be constituted and there must be clear separation of the A-G's office (which must be a political office) and the National Prosecuting Authority that is responsible for prosecutions in Zimbabwe.
- The role of lawyers must be recognised in the laws and their security must be guaranteed.

9. *Violence against women (CEDAW)*

There is a Domestic Violence Act that regulates issues of domestic violence within the home (between private individuals). This law puts in place measures that include urgent measures to be used by women to prevent and minimise violence including the power of courts to give protection orders. Notwithstanding, cases of domestic violence continued to be reported. Between 2009 and 2010, 10115 cases of domestic violence were recorded. Violence against women perpetrated by other non state actors in the form of political violence also persists. Since 2007, at least 15 105 women have been affected by political violence. A total of 189 cases of politically motivated rape and 26 cases of attempted rape were recorded during the period January 2007 – January 2011. Women have also been subjected to enforced disappearances and torture. Ministry of Women Affairs has rolled out information on the Domestic Violence Act, while CSOs have supported these initiatives by conducting capacity building and outreach meetings in rural areas. Protection mechanisms provided under Domestic Violence Act have a warrant of arrest process but there is a general lack of awareness about this by the police officers who do not assist women in cases of breach.

Recommendations –

- Administrative structures to deal with cases of violence must be set up at all police stations.
- GoZ must introduce training of police and judicial officers on provision of the Domestic Violence Act so that they are aware.
- The role of chiefs in implementing laws to do with violence against women must be well defined in rural areas where no courts are present.
- GoZ must embark on a nationwide campaign to create awareness raising on the negative impact of political violence against women.

10. Freedom of Movement /Trafficking (ICCPR/ UDHR)

There are no or laws that criminalise trafficking in persons in Zimbabwe. The existing Immigration Act has provisions that can be potentially used to punish the victim once they are intercepted by the immigration officials and charged with travelling without documentation.

Recommendations

- GoZ must penalise trafficking in the criminal laws and this must relate to internal incidents as well as external cases of trafficking.
- Policies on how to repatriate victims of trafficking must be put in place together with administrative structures.

11. Right to nationality/ birth registration (CRC/ CEDAW/ UDHR)

Birth registration is protected in the Births and Deaths Registration Act. Women married to foreigners lose their Zimbabwean citizenship once they acquire their husband's nationality as dual citizenship is prohibited. Misinterpretation of citizenship laws by the State continues to result in people born in Zimbabwe with parents of foreign descent being required to renounce their potential claim or entitlement to citizenship.

Recommendations

- The law must recognise equality of women's right to register their children births without the assistance of males and this should be supported by widespread education programs with the RG offices across the country.
- Dual citizenship should be introduced to ensure that Zimbabweans in the diaspora maintain their citizenship.
- Zimbabwean men or women who marry foreigners must be allowed to maintain their Zimbabwean citizenship to prevent occurrence of incidents of statelessness.
- Administrative measures must be put in place to ensure that every child in Zimbabwe has a birth certificate even if the child does not have parents.
- Administrative reforms, training and penal measures must be taken by the GoZ to transform the office of the R-G to prevent the perpetuation of human rights violations resulting from misinterpretation of the law.

12. Social security (ICESCR/ CEDAW/CRC)

The needs of disadvantaged women and children are not fully provided for by the social security schemes in the country to enable Zimbabwe to ensure that they have an adequate standard of living. Women who provide home based care continue to face challenges as they are not provided with any social security net. The Performance of National Social Security Authority (NSSA) has been dismal as the intended beneficiaries have not been provided with sustainable payouts.

Recommendations

- There must be a constitutional guarantee for social security in Zimbabwe.

- GoZ must take measures to ensure that there is greater accountability and of the operations of NSSA.

13. Right to adequate standard of living (health, food) (ICESCR/ CEDAW/ CRC/ UDHR)

The right to health care is not protected in the Constitution of Zimbabwe. There are no specific laws or policies dealing with issues relating to maternal health care. The cost of Caesarean operation in private hospitals is prohibitive costing US\$1500. This situation contributes to the high maternal mortality rate of 725 deaths per 100000 in 2007. An estimated 50% of women in rural areas deliver babies at home, more than a third of them do so without a skilled midwife. Child health status indicators worsened with infant mortality and under-five mortality rising from 53 % to 77 per 1 000 live births in 1994 to 67 and 94 per 1 000 live births respectively in 2009. In December 2010, HIV prevalence in Zimbabwe remains high with 13,7% for those between 15 to 49 years. HIV prevalence among pregnant women (aged 15-49) is 16% and mother to child transmission accounts for the highest number of HIV infections, after heterosexual sex (the primary route of transmission). In Zimbabwe, more than 17,000 children are infected with HIV every year. Approximately 30% of infants born to HIV infected mothers are also infected. An estimated 152,000 children under age 15 are HIV positive. Women and children who live in rural areas reportedly find it very difficult to obtain ARVs. As the income for rural households tends to be low, and rural women often rely upon husbands working in urban areas for financial support, the women cannot afford the cost of the drugs. The right to adequate standard of living has also been affected by the poor state of the determinants of health (among them access to safe and portable water, basic sanitation, housing, food and nutrition and timely and appropriate health care). This resulted in the cholera outbreak between 2008-2009. All ten of the country's provinces were affected. By July 2009, when the Minister of Health and Child Welfare declared that the outbreak was officially declared over, 98 592 cases had been recorded and 4288 people had been killed by the disease. To date, Zimbabwe continues to suffer from acute water shortages and burst sewer pipes with little being done by the government to rehabilitate the water infrastructure. A serious health crisis currently looms over Zimbabwe's urban areas due to a severe shortage of running water in most areas. The Zimbabwe National Water Authority's (ZINWA) failure to treat and pump adequate supplies of water left most urban homes dry and forced residents to rely on unsafe supplies of water. This coupled with a breakdown in the sanitation system (burst sewage pipes and inadequate refuse collection and proper disposal) is threatening the health of millions of Zimbabweans.

Recommendations

- Right to health and right to clean water must be enshrined in the Constitution.
- GoZ must ratify Ratification of the Optional Protocol to the ICESCR.
- State must guard against collapse of public health sector such as closure of state hospitals. In addition the working conditions of medical personnel should be improved to prevent brain drain.
- GoZ must create a Health Services Commission.
- State hospitals must provide free Casarian operations conducted by qualified medical personnel to minimise maternal deaths.
- GoZ must introduce programs to train midwives in rural areas to provide services for rural women.
- GoZ must improve on ensuring availability, accessibility of free ARVs to rural women and introduce programs to provide medication for orphans and other vulnerable children living with HIV/ AIDs.

- GoZ must ensure that 15% of the national budget is allocated to health as agreed in the Abuja Declaration.
- State should provide safe and adequate drinking water in both urban and rural areas.

13.1 Right to adequate standard of living (housing) (ICESCR)

The Constitution of Zimbabwe does not provide for the right to housing. Administrative practices by state actors in past four years have not improved the provision for shelter for citizens and also those who were affected by the 2005 GoZ that resulted in destruction of houses with at least 200 000 people being affected. Many victims of the 2005 demolitions have not benefitted from the construction of houses under operation *Garikai/Hlalani Kuhle* which started on 29 June 2005. The initial target for operation Garikai was to construct 1183 houses at Hopely Farm for example but only 600 were constructed. Activities by some state actors such as the police in 2010 resulted in the destruction of informal dwellings of more than a 100 families in the Borrowdale suburb in Harare. Farm invasions resurfaced in 2009 and as of March, 700 families had been displaced. By August 2009 about 80 farms were invaded and over 60 000 farm workers were made homeless. As a result there are at least 570,000–1,000,000 internally displaced persons (IDPs) in Zimbabwe by the end of 2008. The two largest groups of IDPs are farm workers and their families who have been displaced as a result of the fast-track land reform programme, which began in 2000 and continues to this day; and people displaced as a result of arbitrary evictions in Zimbabwe's towns and cities. Others have been displaced by government campaigns against informal mine workers and politically motivated violence.

Recommendations

- Construction of houses must be decentralised to local authorities and supported by government funding.
- GoZ must implement recommendations made by the UN Special Envoys' Report by Tibaijuka and strive to settle people in habitable environment

13. Right to education (CRC/ ICESCR/ UDHR)

GoZ put in place the BEAM (Basic Education Assistance Module) in the late 90s, a facility that enables disadvantaged pupils to attend school at Government's expense. Zimbabwe is said to have one of the highest literacy rates in Africa at 92%. The State also introduced a cadetship programme in 2009 wherein the State undertakes to loan money for underprivileged students at tertiary institutions. Not all tertiary students have benefitted from this program. The economic problems in the country have affected the education sector leading to the brain drain resulting in teachers relocating mainly to neighbouring South Africa and Botswana. Conditions of service for teachers have generally been poor and this has resulted in the failure to open schools in 2008 as teachers were protesting against low salaries. A survey by a local CSO showed that there were only 23 days of normal learning during the 2008 school year due to teachers strike over inadequate pay. Learning at school has also been disrupted by the use of schools as bases for political parties such as ZANU PF. Political violence has also resulted in closure of schools as teachers perceived to be affiliated to MDC were attacked. It is estimated that in early October 2008 only 40% of the country's teachers were working, and only one third of the students were attending classes. Poorly planned and random settlements emanating from land reform programme also affected attendance of school children as well as the internal displacements caused by incidents of political violence in 2008. School attendance was reduced by 50% in 2008 according to the Zimbabwe Multiple Indicator Monitoring Survey conducted by the Zimbabwe Central Statistical Office. The University of Zimbabwe closed for six months in 2009. There was a shortage of water and unavailability of lecturers due to poor working conditions. Fewer than

20% 'O' level candidates attained a pass in 2009. Only 50% of registered students in 2009 wrote examinations; 8% drop outs in the country for children between 6 – 17 years; Examination fees set by the Government are too high. In 2009, a registration fee for a single subject was US\$10 for "Ordinary" Level and US\$20 for "Advanced" Level. Also in terms of registration of pupils, children without birth certificates are unable to register for school. The Zimbabwe Schools Examinations Council (Zimsec) which is the examining body also faced a myriad of challenges. In 2008 and 2009, results for Grade 7, O'Level and A'Level pupils were delayed because the body had failed to secure funds for markers. In 2011, At least 26% of primary classrooms are in need of repair; there is absence of functioning toilets; 555 primary and 399 Secondary schools have no desks; Until recently, text book to pupil ratio was 1:15; and 24% of the teachers are unqualified. There is no law protecting the girl children who fall pregnant allowing them to continue with school. In terms of the Marriages Act girls can marry at 16 or below that age as long as the Minister consents.

Recommendations

- GoZ must take progressive measures to facilitate the provision of free primary education in the schools.
- Loans must be provided to tertiary students on a needs basis in a non- discriminatory manner.
- Conditions of services for personnel in the education sector must be improved and their remuneration must be above the poverty datum line.
- Child marriages must be outlawed in the Marriages Act as well as all other laws on marriages with no exceptions.
- GoZ must take steps to ensure that girl children who fall pregnant continue to attend schools.

15. Right to work (ICESCR/UDHR)

Unemployment rate was around 80% between 2007-2008 and an estimated rise to about 95% by 2009. The Indigenisation and Economic Empowerment Act 14, 2007 was signed into law on April 17 2008. This makes it mandatory for all companies operating in Zimbabwe to have 51% of their shareholding vesting in indigenous Zimbabweans. The 2010 CZI Manufacturing Survey which was conducted by the Confederation of Zimbabwe Industries showed that policy pronouncements such as the Indigenisation and Empowerment Act impacted on the performance of the sector with some companies adopting a wait-and-see attitude. GoZ has therefore created an environment that makes it very difficult to attract foreign investment. Erratic electricity power supplies in the country over the last six years have affected operating capacities of companies. Currently most Zimbabweans are informally employed.

Recommendations

- GoZ should support informal businesses by reconstruction for those affected by Operation *Murambatsvina* in order to restore livelihoods.
- GoZ should undertake broad consultations before enactment of populist legislation such as the Indegenisation Act.

16. Right to shelter, right to clean environment (ICESCR)

Villagers discovered that there were diamonds in Marange and between 2006-2008, they started to dig as artisanal miners. It is estimated that more than 15 000 people from across the country and other foreign countries descended on Marange to mine and deal illegally in diamonds. The State has now taken over diamond mining and has embarked on a relocation exercise for communities in the Marange area. The relocation exercise does not show genuine concern for the lives of the people by the mining companies and the government. The social

services (boreholes for water, school and clinic) at the resettlement site cannot sustain such a massive number of families. The mining companies also started operations without complying with applicable environmental legislation and principles

Recommendations

- GoZ should comply with the minimum standards set out in the Kimberley Process Certification Scheme.
- Environmental Rights should be included in the Constitution. Further, the Constitution should guarantee the right of communities living in natural resource rich areas to derive economic, social and cultural benefits from natural resources.
- The legislature should pass a law that requires mining companies to carry out Corporate Social Responsibility projects in the community.
- State and mining companies should comply with international standards on relocation of the communities. In particular, the people to be relocated should be consulted and kept informed about the plans of government. They should also be given adequate notice before they are relocated and must be provided with all the basic social services such as adequate shelter, water schools, clinics, agricultural services.

17. Right to life – (Death penalty) (ICCPR/ UDHR)

Section 12 of the Constitution of Zimbabwe and section 20 of the Criminal Law Codification and Reform Act recognise the imposition of the death penalty in some criminal offences. Zimbabwe has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights.

Recommendations

- GoZ must be encouraged to ratify, domesticate and implement the 2nd Optional Protocol to the International Covenant on Civil and Political Rights.

18. Right to property (UDHR)

The Constitution recognises the right to property with limitations such as acquisition of property by the state. The Constitution also ousts the jurisdiction of the courts to determine the legality of land acquisition by the GoZ.

Recommendations

- GoZ must respect the concept of separation of powers and ensure that the principle is unconditionally enshrined in the Constitution and implemented in practice.
- Courts must be allowed to adjudicate over all land matters in the country.

General recommendations

- GoZ must ratify the Optional Protocols to CEDAW, ICCPR and ICESCR.
- GoZ must submit regular reports to the treaty monitoring bodies.
- GoZ must protect economic, social and cultural rights in the Constitution.