

# Civil Society Organisation Stakeholders Report 2016



**Zimbabwe Second Cycle United Nations  
Universal Periodic Review**

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## Civil Society Organisations Stakeholders Report, 23 March 2016

*Co-ordinated by*



The compilation of this Stakeholders Report was co-ordinated and produced by the National Association of Non-Governmental Organisations (NANGO), Zimbabwe Human Rights NGO Forum and Zimbabwe Lawyers for Human Rights (ZLHR). A total of 68 civil society organisations listed below contributed to this report. For any queries or information please contact: info@zlh.org.zw

1. Artists for Democracy Trust in Zimbabwe
2. Bulawayo Progressive Residents Association
3. Basilwizi Trust
4. Catholic Commission for Justice and Peace
5. Centre for Peace Initiatives in Africa
6. Crisis in Zimbabwe Coalition
7. Christian Legal Society
8. Childline
9. Combined Mutare Residents and Ratepayers Trust
10. Combined Harare Residents Association
11. Community Tolerance Reconciliation and Development
12. Contact Family Counselling Services
13. Counselling Services Unit
14. Diocese of Mutare Community Care Programme
15. Evangelical Fellowship of Zimbabwe
16. Family AIDS Caring Trust Mutare
17. Gays and Lesbians of Zimbabwe
18. Harare Residents Trust
19. Hope for a Child in Christ
20. Inkanyezi Development Trust
21. Jekesa Pfungwa
22. Kunzwana Women's Association
23. Law Society of Zimbabwe
24. Legal Resources Foundation
25. Life Empowerment Support Organisation
26. Masakhaneni Trust
27. Media Institute of Southern Africa (Zimbabwe)
28. Media Monitoring Project Zimbabwe
29. Musasa Project
30. Mutasa Youth Front
31. Mutare Residents Trust
32. Mutare Residents and Ratepayers Association
33. National Association of Non-Governmental Organisations
34. National Association of Societies for the Care of the Handicapped
35. National Council for Disabled Persons of Zimbabwe
36. Platform for Youth Development
37. Prison Fellowship Zimbabwe
38. Radio Dialogue
39. Research and Advocacy Unit
40. Sexual Rights Centre
41. Shalom Project

42. The Forum for African Women Educationalists Zimbabwe Chapter
43. The HIV and AIDS Management and Support Organisation Zimbabwe
44. Transparency International Zimbabwe
45. United Mutare Residents Trust
46. Veritas
47. Voice of the Voiceless
48. Women in Leadership and Development
49. Women's Coalition in Zimbabwe
50. Women of Zimbabwe Arise
51. Youth Empowerment and Transformation Trust
52. Zimbabwe Association of Community Radio Stations
53. Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender
54. Zimbabwe Association of Doctors for Human Rights
55. Zimbabwe Coalition on Debt Development
56. Zimbabwe Christian Alliance
57. Zimbabwe Civic Education Trust
58. Zimbabwe Congress of Trade Unions
59. Zimbabwe Council of Churches
60. Zimbabwe Election Support Network
61. Zimbabwe Environmental Lawyers Association
62. Zimbabwe Human Rights Association
63. Zimbabwe Human Rights NGO Forum
64. Zimbabwe Lawyers for Human Rights
65. Zimbabwe National Network of People Living with HIV/AIDS
66. Zimbabwe Peace Project
67. Zimbabwe United Nations Association
68. Zimbabwe Women Lawyers Association

## **1. Introduction**

This report is a submission by 68 Zimbabwean civil society organisations (CSOs) that have been monitoring implementation of 130 recommendations accepted during the United Nations' first Universal Periodic Review of Zimbabwe in October 2011. This report considers the Government of Zimbabwe's (GoZ) implementation of the recommendations accepted, and some that were noted, highlighting gaps and progress. CSOs also make recommendations on action that can be taken by the GoZ to fulfil its obligations under the United Nations human rights framework.

### **Methodology**

This report was developed through a consultative process with the CSOs that have been monitoring compliance of accepted recommendations since 2012. The information has been provided by the CSOs, who are operating in Zimbabwe with diverse mandates, and the report is based on their areas of expertise. This report has also been validated by the listed CSOs who have contributed to this report.

## 2. Status of implementation

### 2.1 Ratification of outstanding human rights instruments

GoZ accepted to ratify outstanding human rights instruments and collaborate with treaty and charter-based mechanisms.

**Implementation:** GoZ ratified Optional Protocols to the Convention on Rights of the Child on Involvement of Children in Armed Conflict (22 May 2013); Sale of Children, Child Prostitution and Child Pornography (14 February 2012); and the Convention on the Rights of Persons with Disabilities and its Optional Protocol (23 September 2013).

**Outstanding:** Convention Against Torture and other Cruel, Inhuman or Degrading Treatment; International Convention for the Protection of all Persons against Enforced Disappearances; 1961 United Nations Convention on the Reduction of Statelessness; Optional Protocols to the Convention on the Elimination of All forms of Discrimination Against Women; International Covenant on Civil and Political Rights; and International Covenant of Economic, Social and Cultural Rights.

**Encourage GoZ to:**

- *Ratify all outstanding treaties and optional protocols.*

### 2.2 Domestication of human rights treaties

GoZ agreed to align domestic laws (including customary laws) with ratified human rights instruments and harmonise laws with the Constitution. Recommendations to review and amend the Public Order and Security Act (POSA) and the Private Voluntary Organisations Act (PVOA), in line with international standards were noted.

**Implementation:** The 2013 Constitution incorporates some of the accepted recommendations. GoZ has convened an inter-ministerial committee to align laws with the Constitution.

**Outstanding:** POSA and PVOA have not yet been repealed or amended and some provisions continue to be applied selectively against human rights defenders (HRDs).

**Encourage GoZ to:**

- *Pending harmonisation of PVOA with the Constitution, to not selectively apply provisions affecting the operations of CSOs and to repeal POSA;*
- *Pending harmonisation of the Criminal Law (Codification and Reform) Act, Access to Information and Protection of Privacy Act (AIPPA) with Constitution, remove restrictions on freedom of assembly and expression;*
- *Expedite harmonisation of all existing laws with the Bill of Rights in the Constitution.*

### 2.3 Creating/strengthening independent institutions

GoZ committed to strengthen constitutional media, human rights and anti-corruption institutions, ensuring the law operationalising the Zimbabwe Human Rights Commission complies with the Paris Principles.

**Implementation:** The Constitution provides for "Independent Commissions Supporting Democracy" which include the Zimbabwe Electoral Commission (ZEC), the Zimbabwe Human

Rights Commission (ZHRC), the Zimbabwe Gender Commission (ZGC), the Zimbabwe Media Commission (ZMC), the Zimbabwe Anti-Corruption Commission (ZACC), and the National Peace and Reconciliation Commission (NPRC). The ZHRC, ZEC and ZMC have functional secretariats.

**Challenges:** The ZGC and NPRC are not operational and ZACC does not have adequate funding or technical capacity. The ZHRC is not adequately funded and receives funding from the Ministry of Justice, contrary to the Paris Principles.

**Encourage GoZ to:**

- *Ensure adequate funding and resources for all Constitutional Commissions and guarantee their independence and effectiveness;*
- *Operationalise the NPRC and ZGC according to provisions of the Constitution.*

## **2.4 National healing and reconciliation**

Zimbabwe committed to ensure that the Organ on National Healing and Reconciliation and Integration (ONHRI) fully implemented its mandate.

**Implementation:** ONHRI remained symbolic without a clear policy. The 2013 Constitution now provides for the establishment of a National Peace and Reconciliation Commission (NPRC) to pursue the healing and reconciliation agenda.

**Challenges:** The President has appointed Commissioners to an NPRC that is not yet operational.

**Encourage GoZ to:**

- *Ensure that the NPRC is constitutionally compliant, effective and independent in spirit, word and action.*

## **2.5 Freedom of assembly and association**

GoZ was encouraged to respect the right to assembly of members of non-political groups, prioritise efforts to implement domestic policies to give effect to protection of human rights, and prevent politically-motivated violence and intimidation. It was further encouraged to take necessary measures to investigate all allegations of human rights violations, including unlawful acts of harassment against HRDs, non-governmental organisation (NGO) workers and other members of civil society, and bring perpetrators to justice. These recommendations were noted.

**Challenges:** Covert violence affected free participation in the 2013 elections. CSOs are still required to seek police clearance or sign “Memoranda of Understanding” to operate at district level in some parts of the country. This is not a legal requirement. Between November 2011 and 2016 a total of 32 CSOs were targeted by state agents through raids of offices, arbitrary arrest/ detention of staff members, confiscation of property, hate speech and other forms of attack that disrupted activities. Further, some HRDs have been disappeared, including (but not limited to) Paul Chizuze and Itai Dzamara.

**Encourage GoZ to:**

- *Fully implement the provisions of the United Nations Declaration on Human Rights Defenders, investigate acts of harassment of HRDs, and bring all those who perpetrate violations against HRDs to account;*

- *Reconsider the recommendation to uphold international obligations to respect the freedoms of expression, assembly, and cease arrests, harassment and detention of individuals with dissenting views;*
- *Educate law enforcement agents on the role and functions of CSOs and HRDs in a democratic society;*
- *Educate and ensure compliance of law enforcement agents on facilitating the right to peaceful protest and demonstration according to international standards;*
- *Remove extra-legal requirements such as “Memoranda of Understanding” that hinder the work of CSOs.*

## **2.6 Rule of law**

GoZ accepted to continue its efforts to strengthen the rule of law.

**Challenges:** Selective application of the law continued against perceived supporters of opposition political parties and HRDs. From January 2012 to December 2015, 3,629 HRDs were arrested and detained, of whom 1,005 were released without charge. The Prosecutor General also disregarded some court orders and only complied after censure from the Constitutional Court. Police are not investigating all cases reported to them by those with dissenting voices against government or perceived political party opposition members.

**Encourage GoZ to:**

- *Guarantee equal protection of the law and reform state institutions;*
- *Respect the Constitution and independence of institutions supporting the rule of law, such as the National Prosecuting Authority;*
- *Establish an effective independent complaints mechanism, as provided for in the Constitution, to address complaints against the security sector.*

## **2.7 Administration of justice**

GoZ undertook to take all appropriate legal and administrative measures to bring justice to the people and adopt necessary measures to enhance the courts’ competence and functioning in the administration of justice. GoZ also agreed to train court officials in human rights.

**Implementation:** A Constitutional Court was established. The Attorney-General’s office is now separate from the National Prosecuting Authority. There has been some improvement in the judicial appointment process of superior courts. Four courthouses were constructed in outlying areas, with plans to build 30 additional courts. A victim-friendly unit was opened in Murewa. Finalisation of cases at Magistrates’ and Supreme Courts has improved.

**Challenges:** The Constitutional Court does not have rules of procedure and there is a backlog of cases at this court, the High Court and the Labour Court. The Legal Aid Directorate has not been decentralised. It only has offices in Harare, Bulawayo, Masvingo and Mutare and remains inaccessible to indigent people requiring legal assistance. Exorbitant court fees required for processes put justice out of reach of the majority of people. Some judgments have not been handed down within the 180 days required by the Judicial Service Code of Ethics.

### **Encourage GoZ to:**

- *Further decentralise the Legal Aid Directorate, provide adequate funding, and expedite construction of courts;*
- *Improve case management and provide adequate funds for human and material resources required in judicial system;*
- *Ensure that court officials such as interpreters are trained in all the national languages.*

## **2.8 Prohibition of torture**

GoZ agreed to criminalise torture and prevent all forms of torture and inhuman or degrading treatment (including prohibiting corporal punishment as a form of sentence or punishment) and ensure full accountability of perpetrators and redress and rehabilitation to victims.

**Implementation:** Section 53 of the Constitution enshrines freedom from torture or cruel, inhuman or degrading treatment or punishment.

**Challenges:** The culture of torture, disappearances and impunity dating back decades has not been addressed and persists to date. Torture has not yet been criminalised. A total of 520 victims of torture received treatment, with 6 cases of death in police custody recorded between January 2012 and December 2015. At least 450 claims for damages have been filed at the courts against the Zimbabwe Republic Police and members of the Defence Forces since January 2012. Some police officers have also tortured lawyers during the course of their work when representing HRDs.

### **Encourage GoZ to:**

- *Ratify and domesticate the Convention against Torture, Cruel, Inhuman and Degrading Treatment and the International Convention on Protection of all Persons from Enforced Disappearances;*
- *Criminalise with very high penalties and prosecute all cases of torture and enforced disappearances;*
- *Establish a mechanism to ensure that monetary damages granted by courts in cases of torture are honoured;*
- *Enact laws and mechanisms to protect lawyers representing HRDs;*
- *Align provisions of the Police Act with the Constitution to minimise cases of torture.*

## **2.9 Prison conditions**

GoZ undertook to adopt necessary measures to improve conditions in prisons and other places of detention and establish an independent mechanism to monitor places of detention and prevent torture.

**Challenges:** The declining economy and inadequate financial and material resources has led to further deterioration of conditions in Zimbabwean prisons. There are acute shortages of uniforms, sanitary wear and other essential items with no mechanism to monitor prisons. The Zimbabwe Human Rights Commission (ZHRC) is empowered to visit and inspect prisons and places of detention, including refugee camps and mental institutions, but faces resource constraints. The Prison Act has not been aligned to the Constitution and there have



been no consultations with CSOs to assess the adequacy of proposed amendments. GoZ detains foreigners violating immigration laws indefinitely, despite overcrowding in prisons.

**Encourage GoZ to:**

- *Provide adequate funds and adequate resources for prisons;*
- *Minimise prison populations by expediting the hearing and finalisation of cases;*
- *Upgrade infrastructure and amenities, and ensure they also cater for people with disabilities;*
- *Improve resources for the ZHRC to carry out its role of monitoring prisons effectively;*
- *Reconsider the complete abolition of the death penalty in Zimbabwe.*

**2.10 Trafficking in persons**

GoZ was encouraged to continue efforts to combat trafficking in persons and accede to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons.

**Implementation:** GoZ acceded to the said Protocol and the President gazetted the Presidential Powers (Temporary Measures) (Trafficking in Persons Act) Regulations<sup>1</sup> on 3 January 2014. This was eventually passed into law.

**Challenges:** Trafficking of women and girls continues. Poverty – a root cause of trafficking – has not been addressed. People also continue to be trafficked through Zimbabwe to the Republic of South Africa. Statistical data on trafficked persons, and the existence and implementation of regional and bilateral agreements with other countries is lacking. GoZ does not provide counselling services for victims of trafficking.

**Encourage GoZ to:**

- *Provide training for improved identification and dealing with victims of trafficking by judicial and law enforcement officials;*
- *Increase public awareness on trafficking;*
- *Raise awareness on cyber-based trafficking;*
- *Improve border security and address corruption to prevent trafficking;*
- *Systematically collect and analyse data on trafficking;*
- *Increase international, regional and bilateral co-operation with countries of origin, transit and destination and ensure trafficked women and girls have access to quality medical care, counselling and legal services.*

**2.11 Women's rights**

GoZ agreed to implement legislative and administrative measures to outlaw discrimination against women, promote the status of women and prevent the marginalisation and exclusion of women from economic, social and political spheres of society; also to strengthen representation of women in decision making and reach quotas established by the Southern Africa Development Community (SADC).

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<sup>1</sup> Statutory Instrument 4/2014.

**Implementation:** The Constitution protects women's rights and outlaws discrimination on the basis of gender, including under customary law. A total of 60 seats of the House of Assembly are reserved for women.

**Challenges:** Reserved seats led to less women participating in elections for contested seats. Only 34% of parliamentarians are women (SADC quota is 50%). The envisaged equality has not translated to social and economic empowerment of women on the ground. The Zimbabwe Agenda for Sustainable Socio-Economic Transformation (ZimASSET) does not set targets for participation of women in the economy.

**Encourage GoZ to:**

- *Ensure alignment of all laws with the Constitution, including reviews of economic and financial legislation, for more participation and economic empowerment of women.*

### **2.12 Domestic violence**

GoZ undertook to collect and analyse disaggregated data on domestic violence to better understand prevailing trends, assess the effectiveness of measures in place and consolidate mechanisms to protect women against all forms of violence.

**Implementation:** GoZ collates information on victims of domestic violence seeking assistance from the police.<sup>2</sup>

**Challenges:** Inadequate protection mechanisms for survivors of domestic violence, with nine shelters for women experiencing violence run by one Non Government Organisation. The national budget allocates inadequate funds to the victim-friendly system within the courts.

**Encourage GoZ to:**

- *Address the root causes of domestic violence;*
- *Act against corruption and improve the framework to implement the Domestic Violence Act;*
- *Provide adequate resources for the implementation of the Domestic Violence Act.*

### **2.13 Children's rights**

GoZ agreed to look into the matter of orphans caught up in the battle for property within the Anglican Church and ensure that the rights of those children are protected. It also undertook to address issues of school drop-out rates of children and establish a specialised juvenile justice system. The Constitutional Court ruled that child marriages violated the Constitution.

**Implementation:** The Anglican Church dispute was resolved by courts and the property was returned to the legal trustees. In May 2013 the GoZ launched a pilot pre-trial diversion programme for juveniles for rehabilitative, educative and restorative support.

**Challenges:** In October 2013 Matabeleland South Province reported school drop-out of 3,000 children due to hunger and starvation. Birth registration continues to be a challenge for children born in Zimbabwe and child marriages are still rife.

### **Encourage GoZ to:**

- *Find a sustainable solution to poverty and ensure children have access to food and housing;*
- *Upscale implementation of the Constitutional Court order to end child marriages;*
- *Institutionalise and expand the pre-trial diversion programme;*
- *Enact legislation to address juvenile justice issues.*

### **2.14 Global Political Agreement**

GoZ was encouraged to implement fully the provisions of the Global Political Agreement (GPA) and support the constitution-making process. These recommendations were noted.

**Implementation:** Implementation of GPA was outstanding up to 2013 elections. A new Constitution was adopted in 2013.

### **Encourage GoZ to:**

- *Fully implement all provisions of the new Constitution, including the speedy alignment of laws.*

### **2.15 Elections**

GoZ was encouraged to take immediate steps to reform electoral processes and legislation in line with international standards and address concerns about the independence of the Zimbabwe Electoral Commission (ZEC) and accuracy of the voters' roll. GoZ was further encouraged to investigate all credible allegations of torture, arbitrary detentions and enforced disappearances during the 2008 elections. These recommendations were noted.

**Challenges:** the outcome of the 31 July 2013 elections was contested as recommendations about the ZEC were not implemented. There was no official investigation of the 2008 human rights violations. Harassment and intimidation of perceived opposition party supporters, CSOs and HRDs continued. The independence of the ZEC and the management of voter registration and compilation of the voters' rolls remained compromised due to the involvement of the Registrar General of Voters. HRDs with authority from ZEC to conduct voter education were arrested. Coverage by the public broadcaster favoured one political party (ZANU PF). Election Day 2013 was peaceful but with unusually high numbers of assisted voters, despite the country's high literacy rates. Violence was experienced during the 10 June 2015 by-elections in Hurungwe West constituency. From January 2012 to December 2015, 542 victims of politically motivated assaults received medical treatment and 23107 politically motivated violence incidents were documented. Hate speech was prevalent in all 15 constituencies without redress. The Electoral Amendment Act and General Laws Amendment Bill do not adequately align the Electoral Act with the new Constitution.

### **Encourage GoZ to:**

- *Investigate and prosecute the torture, enforced disappearances and arbitrary detention that occurred during the 2008 elections;*
- *Completely align the Electoral Act with the Constitution of Zimbabwe;*
- *Fully transfer custody of the voters' roll to ZEC and align all relevant provisions of the electoral laws;*

- Expedite the establishment of a biometric voters' roll system to enhance transparency;
- Guarantee equal access to the searchable electronic voters' roll by all political parties and the electorate;
- Prioritise adequate funding for ZEC for the proper administration of electoral processes;
- Open up the public broadcaster and guarantee equitable access to all political parties and candidates;
- Create a conducive electoral environment that enables free participation in electoral processes by all citizens and political parties;
- Allow CSOs to formulate and implement voter education programmes to complement ZEC's efforts;
- Put in place mechanisms to enable prisoners and the Zimbabwean Diaspora to vote.

## 2.16 Media

GoZ was encouraged to improve freedom of expression, media freedoms and to ensure a more pluralist media environment. These recommendations were noted.

**Implementation:** Section 61 of the Constitution provides for freedom of expression and freedom of the media. The Zimbabwe Media Commission (ZMC) has registered more than 85 media organisations.<sup>3</sup>

**Challenges:** Media reforms are still lacking and community radio stations have not been licensed. Hate speech continues through the public broadcaster, the Zimbabwe Broadcasting Corporation (ZBC). Many journalists have been arrested between 2012 and 2015. The Broadcasting Authority of Zimbabwe (BAZ) has selectively registered radio and television stations. There are delays in transitioning to digitisation. ZBC remains the only licensed television station, while only two other radio stations have been registered in addition to those stations operated by ZBC.

### Encourage GoZ to:

- Re-establish the ZBC as an independent, representative institution that reports fairly and accurately the opinions of all people;
- Stop harassment, arrests and selective malicious prosecution of journalists;
- Promote voluntary media self-regulation;
- Repeal restrictive provisions of the Broadcasting Services Act and Criminal Law (Codification and Reform) Act;
- Issue licenses to other players and prioritise community radio stations to create a truly pluralistic environment.

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<sup>3</sup> *The Herald*, Monday 25 November 2013, "ZMC registers 85 media organisations"

## 2.17 The right to education

GoZ agreed to ensure free access to education for everyone, especially girls and vulnerable children, to increase the budget for basic education and provide additional tuition assistance to orphans and vulnerable children. It also agreed to request necessary technical assistance in the education sector, such as teaching tools, technological and scientific materials.

*Implementation:* Section 75 of the Constitution provides for the right to basic state-funded education and for further education to be made progressively available by the state through reasonable legislative and other measures. From 2009 – 2013, there was progress with the Education Transition Fund providing curricula review, teacher training support, textbooks and early childhood development kits, school grants, education information systems.

*Challenges:* GoZ does not allocate adequate resources to support education. School infrastructure has deteriorated due to lack of maintenance, with only a third of schools considered to be in “good condition”.<sup>4</sup> Schools face capacity challenges, with double-session schooling and overcrowded classrooms.<sup>5</sup> The quality of education is poor for pupils with disabilities (estimated at 300,000). Gender disparities in education exist due to lack of access to schools and females are more likely to drop out of secondary school due to early marriages, the cost of education and gender-based violence in schools.<sup>6</sup> Teachers are demotivated due to low salaries, limited resources, pressure and political harassment.<sup>7</sup> Pass rate for public examinations is poor: in 2015, the pass rate for Grade 7 examinations was 41,82%; in 2014, the pass rates for Ordinary Level was 30,85%; in 2013, the overall pass rate for the November examinations was 20,72%. Cuts to funding, from \$73 million to \$15 million, under GoZ’s Basic Education Assistance Module (BEAM) at the beginning of 2014 negatively affected many orphans and vulnerable children. By 2014, 10% of pupils aged 15 to 24 had not completed basic education due to prohibitive costs.<sup>8</sup>

### Encourage GoZ to:

- *Provide free and accessible basic education as guaranteed in the Constitution;*
- *Provide resources equally to all provinces;*
- *Improve conditions of service for teachers and increase their opportunities for professional development;*
- *Synchronise deployment of teachers between the Ministry of Education and the Civil Service Commission to cater for the multiplicity of languages;*

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<sup>4</sup>“Millennium Development Goal 2” UNDP in Zimbabwe. <http://www.zw.undp.org/content/zimbabwe/en/home/mdgoverview/overview/mdg2/> accessed 7 January 2016

<sup>5</sup> Goronga, Pedzisai (2014). “Teachers’ and Students Perceptions of Double Session Schooling on Ordinary Level Students’ Performance in Geography” *The International Asian Research Journal* 2(1): 18-27.

<sup>6</sup> UNICEF Zimbabwe “Education in Emergencies and Post-Crisis Transition 2010 Report Evaluation [http://www.unicef.org/evaldatabase/files/EEPCT\\_Global\\_041511.pdf](http://www.unicef.org/evaldatabase/files/EEPCT_Global_041511.pdf) accessed 7 January 2016

<sup>7</sup> “Millennium Development Goal 2” UNDP in Zimbabwe, note 10 supra

<sup>8</sup> Education and Policy Data Centre, Zimbabwe-National Education Profile, [http://www.epdc.org/sites/default/files/documents/EPDC%20NEP\\_Zimbabwe.pdf](http://www.epdc.org/sites/default/files/documents/EPDC%20NEP_Zimbabwe.pdf) accessed 7 January 2016

- *Eliminate all barriers to students' access to education;*
- *Relax administrative requirements to enable people born in the 1980s with no living parents to access birth certificates required to further their education.*

## **2.18 The right to health**

GoZ committed to incorporate principles of the human rights framework created by the Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation into Zimbabwe's national policy on domestic water supply and sanitation. GoZ also agreed to work with the international community and development partners to fight diseases through securing relevant expertise.

**Implementation:** Section 77(a) of Constitution provides for the right to safe, clean and potable water. The GoZ has embarked on a process of retooling major hospitals through the purchase of essential equipment.

**Challenges:** Water shortages persist in most parts of the country, with residents resorting to unsafe sources of water such as open wells, leading to waterborne diseases such as typhoid. 132 people died of diarrhoea in 2014 and on average 12,000 cases are recorded weekly in the country. The Budget allocation for the Ministry of Health was only 8% of the total budget in 2015 and 6.3% for 2016, resulting in poor service delivery at public health institutions and no improvement of dilapidated infrastructure. Health workers are demotivated: junior and middle-level doctors went on strike in 2014 and 2016, and human resources for health remain a key challenge. There are weak health information systems for data collection, analysis and interpretation.

### **Encourage GoZ to:**

- *Invest in upgrading infrastructure to ensure all citizens are able to access clean and potable water;*
- *Upgrade primary and secondary health care infrastructure;*
- *Amend the Water Act and Zimbabwe National Water Authority Act;*
- *Increase the budgetary allocation to Ministry of Health and Child Care in line with international law obligations;*
- *Reintroduce, capacitate and resource community nurses;*
- *Increase oversight of medical aid associations to prevent misappropriation of funds;*
- *Fortify porous borders to prevent the illicit flow of unsafe prescription and other drugs into Zimbabwe;*
- *Outlaw withholding of birth records at health institutions;*
- *Develop climate change sensitive policies.*

## **2.19 HIV/AIDS, malaria and tuberculosis**

GoZ undertook to continue efforts to reduce HIV/AIDS, malaria and tuberculosis with the assistance of development partners.

**Implementation:** GoZ adopted the HIV Combination Prevention Strategy in 2012 to take advantage of complementary prevention interventions, including male circumcision, prevention of mother to child transmission (PMTCT), behaviour change and condom

promotion. GoZ scaled up Anti-Retroviral Therapy (ART) services to reduce morbidity and mortality due to HIV and AIDS through making drugs available and accessible and offering patients Anti-Retroviral drugs (ARVs) free of charge. The self-testing initiative that government seeks to introduce is commendable.

**Challenges:** Prevalence of HIV is still high (15%) and women have a higher prevalence (18%) than that of men (12%). PMTCT coverage is at 86% with 18% of babies currently being infected by their mothers. Low paediatric ART is a cause for major concern and of an estimated 121,111 children needing HIV treatment only 38% are on treatment.<sup>9</sup> There is politicisation of information, direct discrimination and denial of medication to the LGBTI community. The deliberate transmission of HIV is criminalised but prosecutions are ineffective in controlling the epidemic and result in the disproportionate prosecution of women, who are more likely to know their status first due to ante-natal testing. Tuberculosis incidence has increased in Matabeleland South.

**Encourage GoZ to:**

- *Fully implement the programmes and policies in place, and continue education and awareness programmes to combat HIV/AIDS;*
- *Improve access to ARVs and health care in rural areas;*
- *Prioritise provision of ART to children;*
- *Consider repealing the law criminalising the deliberate transmission of HIV;*
- *Address social issues, such as poverty, which are causing the spread of HIV/AIDS;*
- *Collaborate with neighbouring countries to ensure access to medication for people travelling;*
- *Depoliticise the National Aids Council;*
- *Effectively track and record incidences of malaria and tuberculosis.*

## **2.20 Maternal mortality and morbidity**

GoZ committed to address challenges of maternal and child mortality.

**Implementation:** Section 76 of the Constitution provides for the right to access basic healthcare services, including reproductive healthcare services. Section 73(a) provides for the right to an environment that is not harmful to health or well-being. The Constitution states that no person may be refused emergency medical treatment in any healthcare institution. Provisions complement other laws and policies in place on maternal health and delivery of equitable health services, including the multi-donor Health Transition Fund (2011 - 2015) providing resources towards reduction of maternal mortality.

**Challenges:** While a 2014 report by UNICEF suggests that Zimbabwe's maternal mortality rate has dropped to 614 per 100,000 live births from a high of 960, it remains one of the highest in the world. Zimbabwe has failed to meet its Millennium Development Goals target

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<sup>9</sup> Zimbabwe: Only 38% of HIV+ kids on treatment <http://www.hivsharespace.net/news/zimbabwe-only-38-hiv-kids-treatment> accessed 8 January 2016

of 71 deaths per 100,000 live births by 2015.<sup>10</sup> Only 59% of women have access to contraceptives. The National Budget in 2013 allocated 40% less to maternal health care as compared to 2012. There was a 56% decrease in budget allocation to village health workers from 2012, yet they are critical in ensuring health care access for women.

**Encourage GoZ to:**

- *Resolve the barrier of user fees and ensure adequate supplies of vital maternal and new-born health and medical equipment and commodities such as blood products;*
- *Ensure that there is adequate budgetary support to guarantee that the maternal mortality rate is reduced.*

## **2.21 Land and agriculture**

GoZ undertook to continue taking steps to ensure that land is made productive.

**Implementation:** GoZ issued 99-year leases to some farmers. The High Court of Zimbabwe has restated that underutilised land can be taken away and reallocated.<sup>11</sup>

**Challenges:** Banks do not accept the 99-year leases as collateral and farmers, especially women, are unable to raise capital for farming operations. Agribank (GoZ's primary vehicle for channelling financial resources to the agricultural sector) is underfunded and facing financial challenges. Some farmers allocated land lack the necessary know-how and are unable to produce whilst women remain largely sidelined from the allocation of land. As a result, in 2014 the Zimbabwe Vulnerability Assessment Committee estimated that 2.2 million Zimbabweans will require food aid.<sup>12</sup> Distribution of food aid continues to be abused and politicised.

**Encourage GoZ to:**

- *Rehabilitate and ensure effective use of irrigation schemes;*
- *Reconsider the recommendation to take concrete and effective measures to ensure that food, medicine and other humanitarian relief distribution at Government depots takes place without reference to partisan political considerations;*
- *Guarantee security of tenure, including for rural communities;*
- *Invest in and promote climate change resilience and adaptation systems;*
- *Depoliticise the allocation of productive agricultural land and incentivise productive farmers;*
- *Harmonise all laws regulating agriculture with the Constitution;*
- *Develop a national climate change mitigation and disaster management strategy;*

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<sup>10</sup> WHO Perspectives on Maternal Mortality in Zimbabwe: A Reflection of the Year 2014 <http://www.afro.who.int/en/zimbabwe/press-materials/item/7271-who-perspectives-on-maternal-mortality-in-zimbabwe-a-reflection-of-the-year-2014.html> accessed 8 January 2016

<sup>11</sup> Land Beneficiaries must produce <https://www.dailynews.co.zw/articles/2014/03/12/land-beneficiaries-must-produce> accessed 8 January 2016

<sup>12</sup> Zimbabwe Livelihood Assessment [http://reliefweb.int/sites/reliefweb.int/files/resources/Zim\\_VAC%20Rural%20Livelihood%20Assessment%202014.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Zim_VAC%20Rural%20Livelihood%20Assessment%202014.pdf) accessed 8 January 2016



- *Constitute and operationalise the Lands Commission as provided in the Constitution.*

## **2.22 Mining**

GoZ was encouraged to take concrete steps to comply fully with the minimum standards of the Kimberly Process and create stronger mechanisms to ensure greater revenue transparency from diamond mining. It noted these recommendations.

**Challenges:** All rights to minerals are vested in the President. The Mining Affairs Board and the Mines and Mining Development Ministry review licence applications and the President approves them. Major companies often negotiate contract terms directly with the government, and industry representatives (including officials of state-owned companies) sit on the Mining Affairs Board, compromising its independence. National law requires that licensing decisions be made in the “national interest”. The “national interest” clause has been used to frustrate the normal bidding process and award mining licences in an opaque manner. The Mines and Minerals Act does not permit adequate public participation in the granting of prospecting licences and mining permits. It lacks transparency and accountability.<sup>1</sup>

### **Encourage GoZ to:**

- *Finalise implementation of the diamond policy;*
- *Enact a Diamond Act to reassert transparent state control and define the framework of compensation for communities displaced by mining;*
- *Reconsider recommendations to create stronger mechanisms to ensure greater revenue transparency from diamond (and other natural resource) mining, demilitarise the diamond industry, and thoroughly investigate cases of beatings, abuse and other reported violations by government and security services, particularly in the Marange diamond mining area;*
- *Join the Extractive Industries Transparency Initiative to foster transparency in the mining sector;*
- *Benefit local communities through infrastructure development;*
- *Increase transparency and accounting on community ownership schemes;*
- *Devolve administration of mineral resources for local communities to benefit;*
- *Improve the capacity of the Environmental Management Agency to effectively monitor compliance with environmental standards and mining.*

## **2.23 Economic, social and cultural rights**

GoZ agreed to consider how the riches of the country can best benefit the citizens and to continue with measures to enable a conducive environment for economic, social and cultural rights, especially in areas of education, health, social security and the care of disabled, the implementation of Millennium Development Goals and to reduce poverty. GoZ undertook to implement further policies to support food production such as farm insurance,

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<sup>13</sup> Mines and Minerals Act [http://www.osall.org.za/docs/2011/03/Zimbabwe\\_Mines\\_and\\_Minerals\\_Act\\_Chap\\_21\\_05.pdf](http://www.osall.org.za/docs/2011/03/Zimbabwe_Mines_and_Minerals_Act_Chap_21_05.pdf) accessed 8 January 2016

access to credit and purchase of food by the Government to ensure a stable market for family farmers, and to implement school meal programmes and link them to local food production.

**Implementation:** The 2013 Constitution entrenches the rights to education, health care, food and water and freedom from arbitrary eviction.<sup>1</sup>

**Challenges:** The GoZ has however failed to uphold its obligations to protect citizens from arbitrary evictions. Since 2013 hundreds of homes were demolished, rendering thousands of people homeless. GoZ has also failed to stimulate economic growth by obtaining foreign direct investment, with growth falling from 8.7% from 2009 - 2012, to 4.5% in 2013, 3.2% in 2014, 1.5% in 2015 and projections of 3.4% or less in 2016 – well below potential.<sup>2</sup> The manufacturing sector has seen a huge drop in activity between 2011 and 2014 and at least 4,610 companies closed down, resulting in a loss of 55,443 jobs,<sup>3</sup> which lead to growth of the informal sector with 94.5% of the 6.3 million people defined as “employed” working in the informal sector. The largest number of these (4,16 million) comprise smallholder farmers in communal agriculture, with 615,000 in trade and commerce. The informalisation of the economy has created a battleground for control of informal traders by political actors, an increase in political patronage and discrimination in the allocation of operating spaces for informal traders.<sup>4</sup> As of 2014, 169,000 children in Zimbabwe are considered to be engaged in child labour.<sup>5</sup> 90% of child labourers work in agriculture, forestry or fishing, and 7 out of 10 work more than 49 hours per week. The majority of child labourers are found in rural areas.<sup>6</sup>

#### **Encourage GoZ to:**

- *Create a conducive environment for economic growth and job creation, and deliver on national economic policies;*
- *Uphold its responsibility to provide housing for its citizens, and regularise illegal settlements and stop forced evictions;*
- *Strive for policy consistency in order to draw investors;*
- *Ensure transparency in the allocation of trading spaces to informal traders;*
- *Harmonise subsidiary laws with the Constitution;*
- *Develop a comprehensive food security policy;*

Uphold social dialogue between stakeholders in labour.

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<sup>14</sup> Sections 72-78 of the Constitution of Zimbabwe.

<sup>15</sup> World Bank, Zimbabwe Overview <http://www.worldbank.org/en/country/zimbabwe/overview> accessed 8 January 2016

<sup>16</sup> 2015 Budget Statement <http://www.zimtreasury.gov.zw/203-2015-national-budget> accessed 8 January 2016

<sup>17</sup> The Standard, *Informal sector: New theatre of power struggles* <http://www.thestandard.co.zw/2015/07/19/informal-sector-new-theatre-of-power-struggles/> accessed 8 January 2016

<sup>18</sup> 2014 Labour Force Survey, [http://www.zimstat.co.zw/sites/default/files/img/publications/Labour/Labour\\_2014.pdf](http://www.zimstat.co.zw/sites/default/files/img/publications/Labour/Labour_2014.pdf) accessed 8 January 2016

<sup>19</sup> [http://www.unicef.org/zimbabwe/media\\_16426.html](http://www.unicef.org/zimbabwe/media_16426.html) accessed 8 January 2016

## **2.24 Co-operation with human rights mechanisms**

GoZ was encouraged to co-operate with all human rights mechanisms and issue a standing invitation to all United Nations Special Procedures mandate holders. These recommendations were noted.

**Implementation:** In May 2012 the GoZ invited the United Nations High Commissioner for Human Rights for a five-day visit to assess the human rights situation in Zimbabwe.

**Challenges:** GoZ refused or neglected to respond to reminders for requests for country visits sent by several Special Rapporteurs (SRs) such as SR on Freedom of Association and Assembly, SR on Violence Against Women, SR on the Independence of Judges and Lawyers, SR on Torture, SR on Adequate Housing, the Working Group on Enforced or Involuntary Disappearances, SR on the Human Right to Safe Drinking Water and Sanitation, SR on Extreme Poverty and Human Rights, and SR on Cultural Rights. Additionally, GoZ has failed to meet reporting obligations under the Convention of Elimination of Racial Discrimination, the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights.

**Encourage GoZ to:**

- *Accept all outstanding requests for country visits before 2018;*
- *Issue standing invitations to all Special Procedures mandates of the Human Rights Council;*
- *Submit all outstanding reports to the relevant treaty bodies.*

## **2.25 Co-operation with civil society organisations and other stakeholders**

GoZ agreed to co-operate closely with local human rights organisations in the follow up to the UPR and implementation of recommendations.

**Implementation:** In 2012 the GoZ invited CSOs to participate in a national process to draft an implementation plan for the accepted UPR recommendations. This resulted in the drafting of a National Plan of Action. A national UPR Steering Committee was constituted with government ministries, independent commissions, labour and CSOs. CSOs have been invited to attend the steering committee meetings and they have carried out activities to further the implementation of recommendations by working with arms of government, such as Parliament, various ministries and the justice sector, in their various fields of expertise.

**Challenges:** The GoZ's National Plan of Action was never formally implemented.

**Encourage GoZ to:**

- *Continue to create platforms for engagement with CSOs in implementing the recommendations;*
- *Urgently submit combined reports covering the years in which it has failed to comply with reporting obligations.*





**Co-ordinated by**

