



# **WOMEN HUMAN RIGHTS DEFENDERS AND THE OPERATING ENVIRONMENT IN ZIMBABWE**

ZLHR would like to thank the Royal Norwegian Embassy for its support and contributions towards the production of this publication. ZLHR extends its gratitude to a number of individuals who have also contributed to the success of this publication, namely:

- Azaria B Kutsanzira and Idirashe A Chikomba who undertook research and drafting of this publication.
- Beverley Hargrove who copy edited and typeset the document.
- Roselyn Hanzi, who provided invaluable support and contributed to the views in this publication.
- Emmanuel Chibwe and Siphon Moyo who assisted with collating data and statistics on ZLHR's WHRDs cases between 2015 and 2025.

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### **About ZLHR**

Established in February 1996, Zimbabwe Lawyers for Human Rights (ZLHR) is a not-for-profit law based human rights organisation. ZLHR works towards fostering a culture of human rights in Zimbabwe by encouraging the growth and strengthening of human rights at all levels of Zimbabwe society through observance of the rule of law. ZLHR is committed to upholding respect for the rule of law and unimpeded administration of justice, free and fair elections, free flow of information and the protection of constitutional rights, human rights and freedoms enshrined in human rights instruments in Zimbabwe and the surrounding region. We keep these values central to our programming activities. ZLHR holds observer status with the African Commission on Human Rights and People's Rights. We participate actively in the work of the committees of SADC Lawyers' Association and have affiliate status with the International Commission for Jurists.

# ***WOMEN HRDS AND THE OPERATING ENVIRONMENT IN ZIMBABWE***

## ***Chapter 1***

### ***Zimbabwe's Women Human Rights Defenders***

#### **1.1 Introduction**

Women in Zimbabwe have always been impelled to defend their rights and those of others. This phenomenon can be traced back to Zimbabwe's independence when women lobbied the government to implement laws and policies that protect and advance their rights.<sup>1</sup> The bravery of women on the frontline for human rights in Zimbabwe has triggered positive change and conceived progressive legislation and policies for the betterment of the standard of living. The assertion of such rights has been actioned directly and indirectly by women, in their capacity as human rights defenders, and as guardians of social change.<sup>2</sup> Globally, human rights defenders are known to work audaciously to improve and contribute to democracy and the establishment of pluralistic societies. Accordingly, a human rights defender (HRD) is a person who, individually or in concert with others, acts to promote or protect human rights in a peaceful manner.<sup>3</sup> HRDs are therefore primarily identified by what they do to advocate for the realisation of human rights through their peaceful and crucial contributions. This notion is cemented in the United Nations Declaration on Human Rights Defenders (The Declaration on Human Rights).<sup>4</sup> In the context of Zimbabwe, women human rights defenders (WHRDs) are women who position themselves to protect and defend various rights which typically include civil and political rights and socio-economic and cultural rights.

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<sup>1</sup>Amnesty International, "Zimbabwe: Between a rock and a hard place women human rights defenders at risk" available at <https://www.amnesty.org/en/documents/afr46/020/2007/en/#:~:text=This%20report%20focuses%20on%20the,the%20government%20to%20crush%20dissent>. [Accessed on 5 February 2024].

<sup>2</sup> R Hanzi, *In their capacity as Human Rights Defenders: Women* (2007) ZLHR 4.

<sup>3</sup> OHCHR "About Human Rights Defenders, Special Rapporteur on Human Rights Defenders" available at <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/about-human-rights-defenders> [Accessed on 5 February 2024].

<sup>4</sup> The United Nations Declaration on Human Rights Defenders available at <https://www.ohchr.org/en/civic-space/declaration-human-rights-defenders#:~:text=The%20Declaration%20reaffirms%20rights-%20that,ideas%20in%20the%20area%20of> [Accessed on 5 February 2024].

Amongst them are teachers, mothers, lawyers, girls, health practitioners, environmental activists, journalists and media practitioners, students, and politicians.

Unlike their male counterparts, in the course of safeguarding and advancing fundamental human rights, WHRDs are further exposed to multiple human rights violations that are attached to, or specific to, their gender or sexual orientation.<sup>5</sup> This publication aims to depict the plight of such women in Zimbabwe, based on cases handled by ZLHR and other reported violations. Specifically, it delves into the operating environment of WHRDs and provides an overview of the role they play in the promotion and protection of human rights in Zimbabwe. Additionally, it strives to make a case for the urgent need for an enabling operating environment.

## **1.2 Bearing the Brunt of Human Rights Abuses: The Operating Environment of Zimbabwe's Women Human Rights Defenders**

The Declaration on Human Rights Defenders underscores that “Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels”.<sup>6</sup>

However, this right has not been fully realised for women bearing the brunt of human rights abuses in Zimbabwe. The operating environment of Zimbabwe’s WHRDs is harsh and characterised by grave violations of their fundamental human rights. In their very nature, women in Zimbabwe are subjected to stigmatisation and demeaning social, cultural and religious practices that are designed to force them to conform to societal stereotypes of “appropriate female behaviour”. As for WHRDs, they have to go beyond what is deemed “acceptable” by challenging societal norms, upholding the principles of non-discrimination and gender equality, and defending elemental rights.<sup>7</sup> As a consequence, they are met with an array of obstacles and an ever-increasing risk associated with being women advancing human rights in their operating environment.

In the past, the situation of WHRDs in Africa has been highlighted by the African Commission on Human and Peoples’ Rights (ACHPR). Specifically, in a report focused on the situation of women human rights defenders in Africa, the ACHPR opined that “The environment in which

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<sup>5</sup> OHCHR, “Women Human Rights defenders” available at: <https://www.ohchr.org/en/women/women-human-rights-defenders#:~:text=Who%20are%20women%20human%20rights,rights%20related%20to%20gender%20equality>. [Accessed on 7 February 2024].

<sup>6</sup> The UN Declaration on Human Rights Defenders, Article 1.

<sup>7</sup> Hanzi note 2.

WHRDs operate is characterised in many countries by increasing and incessant arbitrary arrests and detention, including judicial harassment, threats, intimidation, summary and extrajudicial executions, torture, and inhumane and degrading treatment because of their activities". The African context of the work of WHRDs is complex and the range of violations they experience is extensive, which means that ensuring effective protection of these targets will require actions and concrete and effective measures from the State.<sup>8</sup>

The ACHPR's acknowledgement of the situation of WHRDs in Africa conveys the gravity of their challenges and the nature of their operating environment. In the context of Zimbabwe, WHRDs are faced with a multitude of similar challenges which include sexual and gender-based violence (SGBV); politically motivated violence; cyber-bullying; arbitrary arrests and detention; abductions; rape; inhuman and degrading treatment; intimidation and reprisals; and sexist attacks.<sup>9</sup> Zimbabwe's WHRDs operate in an environment that is deeply rooted in patriarchy and misogyny. Women are regarded as unequal to men, and have a set role which confines them to the home. Through patriarchy, society believes that women require guidance and direction from their male counterparts.<sup>10</sup> Consequently, and unfortunately, in many ways their first battle is for their individual voices to be heard before any other right. Attempts to use their voices often result in hate speech and other sexist forms of abuse targeted at such women, in both the public and private domains.<sup>11</sup> Zimbabwe's WHRDs are therefore operating in the face of verbal and digital hate speech attacks aimed at tarnishing their reputations, demeaning them, and silencing dissent.

WHRDs who amplify their voices in Zimbabwe experience continued violations of their freedom of assembly, association, expression and movement by state and non-state actors.<sup>12</sup> In many ways, these rights are severely curtailed to avoid "undue influence" on other women who may feel inspired to assert their rights and those of others. In WHRDs' exercise of the freedoms of assembly, association and expression, the regime makes use of repressive legislation against them, routinely arresting and arbitrarily detaining such WHRDs. The women are also beaten and held in deplorable conditions in addition to being denied their

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<sup>8</sup> African Commission on Human and People's Rights, "Report of the Study on the Situation of Women Human Rights Defenders in Africa" 2015, available at <https://ishr.ch/sites/default/files/article/-files/achpr-whrd-report.pdf> [Accessed on 7 February 2024].

<sup>9</sup> Amnesty International, "Zimbabwe: Between a rock and a hard place women human rights defenders at risk" [Accessed on 7 February 2024].

<sup>10</sup>As above.

<sup>11</sup>As above.

<sup>12</sup>As above.

right to a fair trial (this is better illustrated in Chapter 2).<sup>13</sup> Additionally, Zimbabwe's WHRDs operate within a limited scope of personal security and privacy. They are surveilled by state security agents and subjected to unwarranted searches on their person and property. For WHRDs such searches can result in intimate violations of their person.<sup>14</sup> It is further discouraging that WHRDs in Zimbabwe are operating in the absence of domestic legislation that provides measures to guarantee their protection.<sup>15</sup> Whilst there are laws in place to combat violations in general, they fail to address the gender-specific issues and needs associated with WHRDs.<sup>16</sup> For instance, WHRDs in Zimbabwe are exposed to SGBV, rape, sexual assault, sexist and homophobic rhetoric. The absence of gender-specific policies and laws means that WHRDs in Zimbabwe operate in an environment which breeds impunity for crimes against them.

Moreover, WHRDs who are committed to the advancement of civil and political rights are subjected to politically motivated violence and intolerance by suspected state and non-state actors to stifle dissent.<sup>17</sup> Specifically, they are the target of state-assisted abductions, enforced disappearances, torture and other cruel, inhuman and degrading treatment.<sup>18</sup> Specifics of such human rights abuses in Zimbabwe reveal that WHRDs who are victims of such ordeals suffer violations to their bodily integrity.<sup>19</sup> Additionally, WHRDs who assert their sexual and reproductive rights in Zimbabwe are threatened and suffer an injury to their honour.<sup>20</sup> In addition to facing spurious charges for their work defending women's rights,

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<sup>13</sup>Amnesty International, "Zimbabwean Activists beaten, arrested and detained" available at <https://www.amnesty.org/en/latest/news/2008/10/zimbabwe-activists-beaten-arrested-and-detained-20081020/> [Accessed on 14 February 2024].

<sup>14</sup>As above.

<sup>15</sup>International Commission of Jurists, "Sexual and Gender-Based Violence in Zimbabwe: Women Human Rights Defenders' Experiences and Legal Challenges" available at <https://icj2.wpenginepowered.com/wp-content/uploads/2021/03/Zimbabwe-SGBV-WHRD-Publications-Reports-Thematic-reports-2021-ENG.pdf> [Accessed on 14 February 2024].

<sup>16</sup>As above.

<sup>17</sup> J Burke & N Chingono, "Zimbabwean MDC activists 'abducted and sexually assaulted'" *The Guardian* 17 May 2020 available at <https://www.theguardian.com/world/2020/may/17/zimbabwean-mdc-activists-abducted-and-sexually-assaulted> [Accessed on 12 February 2024].

<sup>18</sup>Amnesty International, "Zimbabwe: Authorities must investigate the disappearance and torture of political activist" available at <https://www.amnesty.org/en/latest/news/2023/08/zimbabwe-authorities-must-investigate-abduction-of-political-activist/> [Accessed on 14 February 2024].

<sup>19</sup> As above.

<sup>20</sup> Civicus, "Report on the challenges faced by women in civil society in Africa" available at [https://www.civicus.org/view/media/Challenges\\_Faced\\_by\\_Women\\_in\\_Civil\\_Society\\_in\\_Africa.pdf](https://www.civicus.org/view/media/Challenges_Faced_by_Women_in_Civil_Society_in_Africa.pdf) [Accessed on 15 February 2024].

other challenges include a tainted character, impugned integrity and poor moral standing in society.<sup>21</sup>

While Zimbabwe's 2013 Constitution enshrines rights that are critical to the work of HRDs,<sup>22</sup> the government of Zimbabwe's attitude towards them is negative, which has further restricted their operating environment. The government has imposed restrictions on the space for HRDs through its failure to align existing national laws with the Constitution. As a means of regulating the work of HRDs, the government employs restrictive laws that pose a peril to the work of HRDs in general.<sup>23</sup> For WHRDs who already face primary and particular challenges associated with their activism, the crackdown on democratic freedoms has made their operating space shrink further.

Additionally, the state's response regarding the protection of HRDs in general has made their operating environment hazardous. Zimbabwe's 2016 Universal Periodic Review (UPR), reveals that the government accepted recommendations from its peers to take steps to create an enabling environment for HRDs and ratify the Convention against Torture and other Cruel, Inhuman and Degrading Treatment (CAT).<sup>24</sup> In spite of a surge in cases of torture, enforced disappearances and abductions of HRDs, Zimbabwe has neither ratified the CAT nor the International Convention for the Protection of All Persons from Enforced Disappearance.<sup>25</sup> Zimbabwe also accepted recommendations to adopt national legislation for the effective implementation of the UN Declaration on HRDs. However, this has not been done and HRDs in Zimbabwe continue to operate without protection.<sup>26</sup> Therefore, in their fight to defend and advance rights in Zimbabwe, WHRDs face significant risks to their lives, reputation, and the wellbeing of their dependents. However, in spite of the many setbacks highlighted above, Zimbabwe's WHRDs continue to persevere.

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<sup>21</sup>Human Rights Watch, "Zimbabwe: Drop Charges Against Rights Defenders" available at <https://www.refworld.org/docid/4c0cb5fe1e.html> [Accessed on 16 February 2024].

<sup>22</sup> Sections 58 & 61 of Constitution of Zimbabwe Amendment (No. 20) Act 2013.

<sup>23</sup> ZLHR and International Service for Human Rights Briefing Paper, Universal Periodic Review "The Situation of Human Rights Defenders in Zimbabwe" available at [https://ishr.ch/wp-content/uploads/2022/05/Zimbabwe-HRD-UPR-Briefing-Paper\\_FINAL.pdf](https://ishr.ch/wp-content/uploads/2022/05/Zimbabwe-HRD-UPR-Briefing-Paper_FINAL.pdf) [Accessed on 16 February 2024].

<sup>24</sup> OHCHR, "Universal Periodic Review – Zimbabwe" Report of the Working Group A/HRC/50/9 available at <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F50%2F9&Language=E&DeviceType=Desktop&LangRequested=False> [Accessed on 17 February 2024].

<sup>25</sup> As above.

<sup>26</sup> As above.

## 1.2 Regional and International frameworks for the protection of WHRDs

Zimbabwe displayed allegiance to the cause for the advancement of rights associated with women and their participation in democratic processes through the 2013 constitutional referendum.<sup>27</sup> Among the founding values of the 2013 Constitution are the principles of gender equality and non-discrimination, amongst others.<sup>28</sup> While the Constitution buttresses the notions of equality, non-discrimination, and the realisation of women's rights, gaps in domestic legislation (and its implementation by the courts) often results in a failure to coincide with the Constitution to ensure the protection of WHRDs.<sup>29</sup>

Since the promulgation of the Constitution, the persisting socio-economic downturn and the blatant disregard for civil and political rights have led to the emergence of more HRDs, and, more specifically, the rise of WHRDs who are determined to assert and defend fundamental freedoms. However, the alarming nature of their operating environment has resulted in a surge in cases of human rights violations and the abuse of women in this arena.<sup>30</sup> This abuse has revealed that Zimbabwe's legislation still falls short of protecting and addressing the issues associated with WHRDs.

However, Zimbabwe is a signatory to numerous regional and international human rights frameworks for the protection of women. Additionally, it has recognised and become a party to some instruments and guiding principles of the Southern African Development Community (SADC) on the rights of women.<sup>31</sup> The regional and international human rights frameworks on the rights of women proffer an expansive guide on the human rights standards that ought to be achieved for their protection. As such, state parties to these protection mechanisms are bound to promote, protect, respect, and fulfil the rights of women HRDs, as well as create a conducive environment for them.<sup>32</sup> Chief amongst them is the Convention on the Elimination

<sup>27</sup> P Machakanja, D Jeranyama & E Bere, "The Constitutional and Legal Frameworks for the Protection of Women against Violence in Zimbabwe" (2016) *Zimbabwe Legal Information Institute* available at <https://zimlil.org/akn/zw/doc/paper/2022-12-01/the-constitutional-and-legal-frameworks-for-the-protection-of-women-against-violence-in-zimbabwe/eng@2022-12-01> [Accessed on 17 February 2024].

<sup>28</sup> Section 56 of the Constitution of Zimbabwe Amendment (No. 20) Act 2013.

<sup>29</sup> As above.

<sup>30</sup> "Politically motivated violence against women in Zim on the rise, says Human Rights NGO Forum" *The Zimbabwean* 30 November 2023 available at <https://www.thezimbabwean.co/2023/11/politically-motivated-violence-against-women-in-zim-on-the-rise-says-human-rights-ngo-forum/> [Accessed on 17 February 2024].

<sup>31</sup> As above.

<sup>32</sup> Equality Now, "Guide and Guidelines for the protection on the protection of Women Human Rights Defenders in Africa" available at <https://equalitynow.org/resource/guide-and-guidelines-on-the-protection-of-women-human-rights-defenders-in->

of All Forms of Discrimination against Women (CEDAW).<sup>33</sup> Zimbabwe ratified the 1979 Convention on 13 May 1991. Accordingly, the CEDAW provides a comprehensive outline of the international human rights standards on women's rights which ought to be observed by states who are party to the convention.<sup>34</sup> In this regard, such rights extend to women HRDs. The Convention defines discrimination against women as "... any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field".<sup>35</sup> Additionally, the CEDAW provides a gender-specific protective measure in affirming the reproductive rights of women, as well as targeting culture and tradition as influential forces shaping gender roles and family relations.<sup>36</sup> As a state party to the Convention, Zimbabwe undertakes to incorporate the principles of equality, prohibit discrimination against women, establish tribunals and public institutions for the adjudication of their matters, and eliminate all forms of discrimination against women by persons, organisations or enterprises.<sup>37</sup>

Moreover, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), are critical instruments for the protection of WHRDs. Specifically, the CAT requires that states take measures to prevent torture within their borders and lays down a prohibition against it.<sup>38</sup> Correspondingly, the ICPPED prescribes the act of enforced disappearance as an offence to human dignity. It further obliges state parties to make the act a punishable offence, and search for disappeared persons, investigate their

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*africa/#:~:text=The%20Guide%20and%20Guidelines%20on,these%20rights%20by%20African%20States.* [Accessed on 17 February 2024].

<sup>33</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979.

<sup>34</sup> A Tsanga, "A Critical Analysis of the Women's Constitutional and Legal Rights in Zimbabwe in Relation to the Convention of the Elimination of All Forms of Discrimination Against Women" (2002) 54 *Maine Law Review* available at <https://digitalcommons.maine.edu/cgi/viewcontent.cgi?article=1438&context=mlr> [Accessed on 17 February 2024].

<sup>35</sup> As above

<sup>36</sup> Tsanga, note 34.

<sup>37</sup> Tsanga, note 34.

<sup>38</sup> ZLHR, "Enforced Disappearances - An Information Guide for Human Rights Defenders and CSOs" available at <https://www.zlhr.org.zw/wp-content/uploads/2016/10/Enforced-Disappearances-An-Information-Guide-for-Human-Rights-Defenders-and-CSOs.pdf> [Accessed on 17 February 2024].

disappearance, and provide victims with redress.<sup>39</sup>As alluded to above, WHRDs in Zimbabwe are faced with the risk of abductions, torture and other cruel, inhuman or degrading treatment, and enforced disappearances. Notwithstanding the numerous calls to do so, the government of Zimbabwe has neither ratified the CAT or ICPPED.<sup>40</sup>

Of paramount importance is the Declaration on Human Rights Defenders which is the normative framework regarding the work of HRDs. The Declaration affirms and legitimises the work of HRDs.<sup>41</sup> It espouses that states “shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”.<sup>42</sup> The Declaration on Human Rights Defenders therefore prescribes an overarching duty on states with regard to the protection and wellbeing of all HRDs.

The duty to protect WHRDs also derives from the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (The Maputo Protocol).<sup>43</sup> Within the African human rights system, the Maputo Protocol guarantees extensive rights to African women and girls. It advances women’s reproductive health rights as well as their participation in politics, and economic empowerment. Moreover, it addresses the elimination of gender discrimination and violence against women in Africa.<sup>44</sup> Being in agreement with the gender-specific challenges faced by WHRDs, the Protocol protects women in a more comprehensive manner. Zimbabwe ratified the protocol on 15 April 2008 and therefore committed itself to be bound by its provisions. In a manner similar to other instruments, the Maputo Protocol directs its state parties to ensure the promotion, protection and enforcement of the rights of women in Africa.<sup>45</sup>

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<sup>39</sup> OHCHR, “Background to the International Convention for the Protection of All Persons from Enforced Disappearance” available at <https://www.ohchr.org/en/treaty-bodies/ced/background-international-convention-protection-all-persons-enforced-disappearance> [Accessed on 17 February 2024].

<sup>40</sup> As above

<sup>41</sup> OHCHR, note 39.

<sup>42</sup> The UN Declaration on Human Rights Defenders, Article 12(2).

<sup>43</sup> Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (The Maputo Protocol).

<sup>44</sup> Equality Now, “The Maputo Protocol: Protecting African Women's Rights” available at [https://equalitynow.org/promoting\\_african\\_womens\\_rights/](https://equalitynow.org/promoting_african_womens_rights/) [Accessed on 17 February 2024].

<sup>45</sup> The Maputo Protocol.

The Esperanza Protocol is also an effective instrument in the fight against threats emerging against WHRDs today. Specifically, the Protocol aims to “better protect at-risk human rights defenders by improving the investigation of, and response to, serious threats and attacks”.<sup>46</sup> This Protocol provides guidelines based on international human rights law which are primarily directed to governments and justice officials to promote an adequate response to threats against HRDs.<sup>47</sup> The Esperanza Protocol presents a breakthrough for WHRDs by supporting the effective investigation, prosecution and punishment of threats that face HRDs.<sup>48</sup> It further provides a functional definition for “threats ” specific to the plight of HRDs as “an intentional conduct that indicates a future harm or that intimidates an HRD, their family or community”, including “individual, collective, direct and indirect, explicit and symbolic threats, whether they take place in offline or online spaces”.<sup>49</sup> As with other instruments, the Esperanza Protocol also reinforces considerations of state obligations to develop and implement public policies to ensure an enabling environment for the defence of human rights and HRDs.<sup>50</sup>

Complimenting the instruments above are other indentures in the form of resolutions which speak to the situation and protection of HRDs.<sup>51</sup> Such resolutions on the wellbeing of HRDs are further harmonised by the work of the Special Rapporteur on the Situation of Human Rights Defenders, regarding the security and protection of human rights defenders.<sup>52</sup> Accordingly, there are a large number of protection mechanisms that can be utilised for the protection of WHRDs at regional and international level.

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<sup>46</sup> Spotlight Initiative, “Better protection for women human rights defenders in Latin America” available at: <https://spotlightinitiative.org/news/better-protection-women-human-rights-defenders-latin-america> [Accessed on 22 January 2025].

<sup>47</sup> The Esperanza Protocol, available at: <https://esperanzaprotocol.net/> [Accessed on 25 February 2025].

<sup>48</sup> As above.

<sup>49</sup> As above.

<sup>50</sup> As above

<sup>51</sup> United Nations Human Rights Council Resolution 13/13 on Protection of Human Rights Defenders; and UN General Assembly Resolution 68/181 on Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders.

<sup>52</sup> OHCHR, “Mandate of the Special Rapporteur on Human Rights defenders” available at <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/mandate> [Accessed on 17 February 2024].

### **1.3 Conclusion**

This chapter has laid out the background of the work of HRDs and their protection through regional and international standards and mechanisms. It has also given insights into the various challenges faced specifically by WHRDs in their quest to defend their rights and the rights of others, specifically showing challenges that are peculiar to them for being women. In addition, it has shown the contributions of WHRDs in civil and political rights and socio-economic and cultural rights, which is the focus of Chapters 2 and 3 that follow.

## Chapter 2

### ***Champions of Civil and Political Rights in Zimbabwe***

#### **2.1. Introduction and History of WHRDs in Zimbabwe**

Women Human Rights Defenders (WHRDs) have been characterised as all women and girls working on any human rights issue. They have also been classified as people of all genders whose work promotes women’s rights and rights related to gender equality.<sup>53</sup> The United Nations posits that the definition includes civil society actors and advocates in what may be considered non-conventional human rights fields such as the environment and health.<sup>54</sup> WHRDs are faced with unique and gendered challenges to their activism.<sup>55</sup>

A country’s political and economic standing has an impact on the work of WHRDs. Hence, the political instability in Zimbabwe in the late 1990s and early 2000s led to disgruntlement among the citizens of Zimbabwe. The deteriorating human rights situation in Zimbabwe led to the rise of activism and, in turn, WHRDs. It is common knowledge that the human rights situation has been declining rapidly since the early 2000s.<sup>56</sup> Additionally, women have also struggled to secure a foothold in the political arena despite making up more than half of the electorate.<sup>57</sup> They have faced abuse, exclusion, social and political stigma.<sup>58</sup> Consequently, there was a need to specifically protect women as HRDs as these issues were strictly peculiar to women. The country’s economic decline and political struggles marked the birth of WHRDs as Zimbabwean women actively involved in women’s rights organisations who mobilised and confronted the government in response to the infringement of human rights on behalf of their communities.<sup>59</sup> The *Murambatsvina* scourge also severely impacted WHRDs. Since 2005,

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<sup>53</sup> OHCHR, “Women Human Rights Defenders” available at: <https://www.ohchr.org/en/women/women-human-rights-defenders#:~:text=Who%20are%20women%20human%20rights,rights%20related%20to%20gender%20equality>. [Accessed on 31 January 2024].

<sup>54</sup> As above.

<sup>55</sup> Kvinna till Kvinna Foundation, “The situation for women's rights activists” available at: <https://kvinnatillkvinna.org/the-situation-for-womens-rights-activists/> [Accessed on 2 February 2024].

<sup>56</sup> As above.

<sup>57</sup> HIVOS, “New approaches needed to improve women’s political participation in Zimbabwe” available at <https://hivos.org/opinion/new-approaches-needed-to-improve-womens-political-participation-in-zimbabwe/> [Accessed on 22 February 2024].

<sup>58</sup> Reliefweb, “Intersectional analysis of women human rights defenders’ lived experiences under COVID-19 lockdowns in Zimbabwe” available at <https://reliefweb.int/report/zimbabwe/intersectional-analysis-women-human-rights-defenders-lived-experiences-under-covid-19-lockdowns-zimbabwe> [Accessed on 22 February 2024].

<sup>59</sup> As Above.

several HRDs, the majority being women, were arbitrarily arrested and detained for participating or attempting to participate in peaceful protests.<sup>60</sup> A report by Amnesty International reported a significant number of women being subjected to assaults and ill treatment while in police custody. Additionally, WHRDs in police custody were denied access to food, water, medical assistance and legal representatives.

WHRDs have met with resistance and subsequently faced persecution by prosecution.<sup>61</sup> Other challenges WHRDs have faced in Zimbabwe over the years include arbitrary arrests and detentions, abductions, cyber bullying and sexual violence.<sup>62</sup> The situation was further exacerbated by the continuing closure of the civic space in Zimbabwe. It has been reassuring to see that in the face of an increasing clampdown by the government, WHRDs have continued to show resilience over the years. They have continued in the fight for human rights, despite the likely possibility of victimisation.<sup>63</sup> In similar style to the current context, stringent legislation was also used to stifle the work of WHRDs in the past. Provisions of repealed legislation such as the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA) were selectively applied to victimise WHRDs and curtail their rights.<sup>64</sup>

As already alluded to earlier, history shows that there has not been any adequate representation of women in Parliament. Due to the prevalence of patriarchy, women's participation in politics in the 1980s and 1990s was scarce. This is what necessitated the reservation of 60 seats for women in the Constitution.<sup>65</sup> In June 2011, it was recorded that Zimbabwe had a representation of 15 percent women in Parliament.<sup>66</sup> However, despite the 60 seats reserved on proportional representation, women's participation remains low. In the

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<sup>60</sup> UNHCR (The UN Refugee Agency), "Zimbabwe: Between a rock and a hard place - women human rights defenders at risk" available at <https://www.refworld.org/reference/countryrep/amnesty/2007/en/46749> [Accessed on 25 January 2024].

<sup>61</sup> ZLHR *The Legal Monitor* available at <https://kubatana.net/wp-content/uploads/2021/04/LM-WHRD-Edition.pdf> [Accessed on 2 February 2024]

<sup>62</sup> Spotlight Initiative, "Guide and Guidelines Protection of Women Human Rights" available at [https://equalitynow.storage.googleapis.com/wp-content/uploads/2023/03/28192507/Guide-and-Guidelines-on-the-Protection-of-Human-Rights-Defenders-digital\\_0.pdf](https://equalitynow.storage.googleapis.com/wp-content/uploads/2023/03/28192507/Guide-and-Guidelines-on-the-Protection-of-Human-Rights-Defenders-digital_0.pdf) [Accessed on 27 January 2024].

<sup>63</sup> UNHCR, note 60.

<sup>64</sup> R Hanzi, *In their capacity as Human Rights Defenders: Women* (2007) ZLHR 4.

<sup>65</sup> K Nyavaya, "Stereotypes, violence keep women out of politics in Zimbabwe" *Aljazeera* 25 July 2022 available at <https://www.aljazeera.com/features/2022/7/25/stereotypes-violence-keep-women-out-of-politics-in-zimbabwe> [Accessed on 22 February 2024].

<sup>66</sup> T Dube, "Engendering politics and parliamentary representation in Zimbabwe" (2013) available at [https://www.researchgate.net/publication/282730805\\_Engendering\\_politics\\_and\\_parliamentary\\_representation\\_in\\_Zimbabwe](https://www.researchgate.net/publication/282730805_Engendering_politics_and_parliamentary_representation_in_Zimbabwe) [Accessed on 25 February 2024].

26 March 2022 by-elections, only 16 female candidates participated in the elections out of 118 candidates vying for 28 National Assembly seats.<sup>67</sup>

In the August 2023 general elections, *Aljazeera* recorded that the numbers had diminished as there was eventually one female Presidential candidate, whereas in 2018 there were four female Presidential candidates.<sup>68</sup> All this indicates that despite all the efforts that have been made to alleviate the lack of women's participation in elections, the challenge still persists. This is despite the provisions of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) mandates the participation of women in the political and decision-making process in their respective states.<sup>69</sup> Despite all the efforts that have been made to alleviate the lack of women's presence in political office, challenges therefore still persist. Although other jurisdictions in Africa, such as Kenya, have recorded similar deficits, safeguards have been put in place to guard against this. The Constitution of Kenya prohibits one gender occupying more than two-thirds of the seats in Parliament.<sup>70</sup> This is arguably a better safeguard than the proportional representation in Zimbabwe. Therefore, under the current circumstances, the challenges will persist.

## **2.2 Operating environment of WHRDs in Zimbabwe and the challenges they face**

WHRDs have been instrumental in the protection and promotion of civil and political rights in Zimbabwe. They have done so in their capacity as political and student activists. WHRDs have interacted with the following civil and political rights: the right to demonstrate and petition (section 59); freedom of assembly and association (section 58); freedom of conscience (section 60); and freedom of expression and freedom of the media (section 61).<sup>71</sup> These are the fundamental freedoms provided for in the Zimbabwean Constitution that they interact with. However, they also interact with other critical rights such as the right to dignity (section 51), the right to privacy (section 57), freedom from torture or cruel, inhumane and degrading treatment (section 53) and the rights of arrested and detained persons while advancing their freedoms.<sup>72</sup> What is also critical to note is that WHRDs have been persecuted for advancing

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<sup>67</sup> K Nyavaya, "Stereotypes, violence keep women out of politics in Zimbabwe" *Aljazeera* 25 July 2022 available at <https://www.aljazeera.com/features/2022/7/25/stereotypes-violence-keep-women-out-of-politics-in-zimbabwe> [Accessed on 22 February 2024].

<sup>68</sup> F Matiashe, "Another Zimbabwe election cycle reveals decline of women in politics" *Aljazeera* 22 August 2023 available at <https://www.aljazeera.com/features/2023/8/22/another-zimbabwe-election-cycle-reveals-decline-of-women-in-politics> [Accessed on 25 February 2024].

<sup>69</sup> The Maputo Protocol), Article 9; Articles 7 & 8 of CEDAW.

<sup>70</sup> Article 27(8) of the Constitution of Kenya.

<sup>71</sup> Constitution of Zimbabwe Amendment (No. 20) Act 2013.

<sup>72</sup> As above.

economic, social and cultural rights and, in turn, had their civil and political rights infringed upon. However, the economic, social and cultural rights aspects will be covered in depth in the following chapter.

The current operating environment in which WHRDs are operating is quite stringent. As stated earlier, WHRDs can be civic society actors. In addition to this, WHRDs may be part of civil society organisations (CSOs) or they may get support from them in the form of Non-Governmental Organisations (NGOs) that handle women's rights issues. Therefore, the closure of civic space has adverse effects on the operations of all HRDs, including WHRDs. In the Zimbabwean context, it is not possible to talk about the operating space of WHRDs without highlighting the adverse effects of repressive legislation such as the Private Voluntary Organisations Amendment Bill (PVO Bill) and the Criminal Law (Codification and Reform) Amendment Act incorporating the so-called patriotic provisions. These pieces of legislation have been used to target HRDs in general, including organisations that champion the rights of HRDs.

The PVO Bill (which lapsed with the 9th Parliament but revived during the 10th parliament) if passed in its current form, will have the net effect of closing the operational space of CSOs in Zimbabwe if they are not doing so in line with the provisions being effected by the amendments. CSOs currently operating as trusts would need to regularise and this may lead to their accounts being frozen and operations suspended. When this happens, the protection afforded to WHRDs by CSOs that operate in the human rights and governance space will cease to exist. Similarly, the amendments effected on the Criminal Law (Codification and Reform) Act, also known as the Patriotic Act, seek to inhibit any criticism of the government in regional and international forums. It follows that if any WHRD attends any meeting in whatever capacity and is asked about the human rights, political and economic landscape in Zimbabwe, they are not at liberty to say, as this may be viewed as unpatriotic. Anyone charged with these provisions will be subjected to harsh penalties, including the loss of one's citizenship. Ultimately, the operating environment of WHRDs is deteriorating as the government seeks to muzzle free expression and other related human rights at every turn.

### **2.3 The plight of WHRDs asserting their Freedom of Association, Assembly and Expression Rights**

This section focuses on the work of ZLHR in protecting the rights of action-oriented WHRDs. Rose Hanzi has defined action oriented WHRDs as those who are forthright and directly

challenge the system, while asserting their rights or the rights of others.<sup>73</sup> As has already been alluded to, such WHRDs have often found themselves on the receiving end of arbitrary arrests and detention, prosecution and, in some instances, convictions and the serving of prison sentences. In some cases, WHRDs have also been abducted by state security agents in response to them asserting their rights.

**Freedom of assembly and association:** Herein, this body of work details cases taken up by ZLHR where WHRDs have been arrested and detained during the course and scope of their employment as members of staff of a civil society organisation (CSO). In the last few years, the Maintenance of Peace and Order Act<sup>74</sup> has been used to curtail the freedom of assembly and association. The Constitution of Zimbabwe expressly provides for the freedom of assembly and association in section 58. It provides that every person has the right to freedom of assembly and association and not to assemble or associate with others.<sup>75</sup> It is also imperative to highlight that the Constitution stipulates in section 45 that even juristic persons as well as natural persons are entitled to the rights and freedoms set out in Chapter 4, to the extent that those rights and freedoms can appropriately be extended to them.<sup>76</sup> It follows that juristic persons including CSOs have a right to freedom of assembly and association.

In the run-up to the 2023 general elections and immediately after the PVO Amendment Bill was gazetted, several WHRDs were arrested while conducting rights literacy programmes on constitutional issues and implementing women empowerment projects. ZLHR assisted a member of staff of the Institute of Young Women Development (IYWD), Sandra Zenda. She was arrested for convening a meeting without notifying the police when their organisation held a consultative meeting at Mayfair Lodge in Bindura.<sup>77</sup> She and her other colleagues were charged with contravening section 7 of the Maintenance of Peace and Order Act. In a related incident, Onai Chitakunye, a volunteer at IYWD who had mobilised people to attend a National Association of Youth Organisations (NAYO) meeting at Twin Lodges in Bindura, was also arrested and charged for convening a meeting without notifying the police.<sup>78</sup> Sandra and Onai were eventually acquitted at the close of the prosecution case as the court established that the prosecutors had failed to prove a case at face value against both WHRDs.

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<sup>73</sup> R Hanzi, *In their capacity as Human Rights Defenders: Women* (2007) ZLHR 4.

<sup>74</sup> Maintenance of Peace and Order Act [*Chapter 11:23*].

<sup>75</sup> Section 58 of the Constitution of Zimbabwe, 2013.

<sup>76</sup> Section 45 of the Constitution of Zimbabwe, 2013.

<sup>77</sup> *State v Sandra Zenda & Kudakwashe Munemo* BNP1447-8/2022.

<sup>78</sup> *State v Onai Chitakunye* BNP1446/2022.

In another case taken up by ZLHR, Transparency International Zimbabwe employees Lisa Mataka, Benevolence Taguta and Tracy Mutowekuziva had partnered with Shamwari yeMwanasikana and conducted a workshop on educating women on court processes and women empowerment.<sup>79</sup> During the course of the workshop, members of the Central Intelligence Organisation raided the meeting, alleging that the trio conducted the meeting without notifying the President and the Provincial District Co-ordinator of Harare Metropolitan Province. This led to the trio's arrest as it was alleged that they had contravened section 7 of the Maintenance of Peace and Order Act. In this case, Benevolence and Tracy were released upon arrival at Makoni Police Station while Lisa Mataka was taken to court. Fortunately, when lawyers challenged her placement on remand, the court upheld the application and she was released without being prosecuted.<sup>80</sup>

In all these cases, the law has been interpreted incorrectly to further the agenda of the state. The Maintenance of Peace and Order Act stipulates exemptions in the Schedule of the Act. Meetings conducted by CSOs are exempt from notifications as they can be classified as public gatherings held for educational purposes or a public gathering held by an organisation that is not of a political nature and at which the discussions and matters dealt with are not of a political nature.<sup>81</sup> This is why the trend has been that the charges are withdrawn before plea or the accused persons are acquitted at the close of the state case as there is insufficient evidence to convict them.<sup>82</sup> This further buttresses the idea there is a witch hunt by the government for purposes of curtailing dissent.

**Freedom to demonstrate and petition:** The Zimbabwean Constitution provides for the freedom to demonstrate and petition peacefully.<sup>83</sup> Despite exercising these rights within the confines of the law, WHRDs have still been arrested for protesting against human rights violations. ZLHR efforts in representing political figures, civilians and student activists are notable in this category. For instance, political figure and lawyer, Advocate Fadzayi Mahere, was arrested on 31 July 2020 after peacefully demonstrating and holding a placard in an anti-corruption protest. The anti-corruption protests had been necessitated by the misappropriation of funds and corruption by the government amidst the procurement of

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<sup>79</sup> CIVICUS, "CSOs and the opposition bear the brunt of intensified crackdown on association and assembly" available at <https://monitor.civicus.org/explore/csos-opposition-bear-brunt-intensified-crackdown-association-assembly/> [Accessed on 19 February 2024].

<sup>80</sup> As above.

<sup>81</sup> Schedule to the Maintenance of Peace and Order Act (a) & (i).

<sup>82</sup> See *State v Sandra Zenda & State v Onai Chitakunye*.

<sup>83</sup> Section 59 of the Constitution of Zimbabwe.

COVID-19-related Personal Protective Equipment (PPE).<sup>84</sup> Tsitsi Dangarembga, a Zimbabwean author and activist, and Julie Barnes were also arrested on similar charges and eventually joined in the same case with Fadzayi Mahere.<sup>85</sup> Fadzayi Mahere was removed from remand in 2021 while Tsitsi Dangarembga and Julie Barnes were each convicted for “inciting violence” in 2022 and given a six-month suspended sentence for participating in the 31 July 2020 protests.<sup>86</sup>

Student activists have also been at the forefront of advancing their rights at educational institutions as early as the 1980s.<sup>87</sup> Student activism has been influential at critical periods such as the liberation struggle and the turn of the 21st century, when the political and economic landscape in Zimbabwe was at an all-time low.<sup>88</sup> They also participated in demonstrations to challenge the unfair and despotic university ordinances and laws by their respective institutions.<sup>89</sup> In a similar fashion, students have challenged the unreasonable fee hikes that have been arbitrarily imposed by institutions such as the University of Zimbabwe, Harare Institute of Technology and National University of Science and Technology.<sup>90</sup> Female students have also become vocal and actively participate in student politics.

ZLHR has been instrumental in representing these student activists in instances where they have come in contact with law enforcement agents in such quests. One such case involved University of Zimbabwe students Hazel Gwande and Tinotenda Mangana who were arrested on 14 September 2022 on charges of disorderly conduct.<sup>91</sup> It was alleged that they disturbed

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<sup>84</sup> Amnesty International, “Zimbabwe: Authorities thwart anti-corruption protests, launch a witch-hunt against activists” 31 July 2020 available at <https://www.amnesty.org/en/latest/news/2020/07/zimbabwe-authorities-thwart-anti-corruption-protests-launch-a-witchhunt-against-activists/> [Accessed on 5 February 2024].

<sup>85</sup> *State v Tsitsi Dangarembga and Julie Barnes* CRB 7024-25/20, “Zimbabwe author held as streets empty on day of planned protests” *Aljazeera* 31 July 2020 available at <https://www.aljazeera.com/news/2020/7/31/zimbabwe-author-held-as-streets-empty-on-day-of-planned-protests> [Accessed on 12 February 2024].

<sup>86</sup> “Zimbabwe: Conviction of author Tsitsi Dangarembga and Barnes for protesting economic hardship a travesty of justice” 30 September 2022 available at <https://www.amnesty.org/en/latest/news/2022/09/zimbabwe-conviction-of-author-tsitsi-dangarembga/> [Accessed on 23 February 2024].

<sup>87</sup> D Hodgkinson, “Five lessons from Zimbabwe’s life-changing student protests” available at <https://theconversation.com/five-lessons-from-zimbabwes-game-changing-student-protests-50141> [Accessed 18 February 2024].

<sup>88</sup> As above.

<sup>89</sup> Note 82.

<sup>90</sup> M Dube, “Varsity fees hikes put education beyond reach” *The Chronicle* 30 March 2021 available at <https://www.chronicle.co.zw/varsity-fees-hikes-put-education-beyond-reach/> [Accessed on 22 February 2024].

<sup>91</sup> *State v Charles Moyo & Others* (including Hazel Gwande and Tinotenda Mangana) CR/100/09/22.

lectures during a University of Zimbabwe protest against tuition fees hikes. They were detained at Avondale Police Station under horrendous conditions of detention at the holding cells, without any functional toilets, which severely impacted their dignity.<sup>92</sup> Other female students who were arrested under similar circumstances are Thelma Nzero and Havana Mtetwa.<sup>93</sup> Hazel Gwande and Tinotenda Mangana were acquitted after a full trial, with the assistance of ZLHR lawyers.<sup>94</sup> Despite being victimised and persecuted, WHRDs have remained resolute in safeguarding civil and political rights.

The freedom to demonstrate and petition has been fiercely defended by WHRDs, even before the 2013 Constitution was promulgated. On behalf of Women of Zimbabwe Arise (WOZA), ZLHR filed a communication at the African Commission on Human and Peoples' Rights challenging the repressive laws in Zimbabwe and the police in impeding the freedom to demonstrate.<sup>95</sup> The African Commission declared that the use of repressive laws was contrary to regional and international human rights standards.<sup>96</sup>

**Freedom of expression and access to the media:** The creative arts industry has also been under attack in instances where comedians have spoken out and criticised the grave human rights violations in Zimbabwe.<sup>97</sup> As will be discussed further along in this chapter, political satirists have been targeted and persecuted for expressing themselves in their work.

Citizens have also been arrested for expressing their views on the country's political and social climate on various social media platforms. ZLHR intervened in a case involving Edith Mupondi, a teacher from Budiro high-density suburb in Harare. Edith was summoned to court on allegations of violating section 88(b) of the Postal and Telecommunications Act.<sup>98</sup> She was summoned on allegations that she sent by telephone a message that she knew to be

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<sup>92</sup> Amnesty International, "Zimbabwe: Authorities launch crackdown against students protesting high fees" 15 September 2022 available at <https://www.amnesty.org/en/latest/news/2022/09/zimbabwe-authorities-launch-crackdown-against-students/> [Accessed on 23 February 2024].

<sup>93</sup> As above.

<sup>94</sup> Note 86.

<sup>95</sup> Robert F Kennedy Human Rights, "African Commission found that Zimbabwe violated fundamental freedoms: Zimbabwe must immediately implement the Commission's decision and guarantee better human rights protection" 5 January 2023 available at <https://rfkhumanrights.org/african-commission-found-that-zimbabwe-violated-fundamental-freedoms-zimbabwe-must-immediately-implement-the-commissions-decision-and-guarantee-better-human-rights-protection> [Accessed on 23 February 2024].

<sup>96</sup> As above.

<sup>97</sup> J Moyo, "Comedians standing up to 'repression' in Zimbabwe" *Anadolu Ajansi* 18 February 2021 available at <https://www.aa.com.tr/en/africa/comedians-standing-up-to-repression-in-zimbabwe/2149424#> [Accessed on 23 February 2024].

<sup>98</sup> *State v Edith Mupondi* CRB 7662/2022.

false for the purpose of causing annoyance, inconvenience or needless anxiety to any person. It was alleged that she sent a message on “Epworth Ladies” WhatsApp group on 23 October 2020, which read: “*PaEpworth High School, Mr Muzondo, Mr Mudzengere, Mrs Sithole please tinyareiwo muzvigarire kumba, muri kurwisa vanhu vari kukurwirai kuti muwane mari inotenga. Tinyareiwo please.*” [This means: “At Epworth High School, Mr Muzondo, Mr Mudzengere and Mrs Sithole, please respect us by staying at your respective homes. You are fighting people that are clamouring for payment of improved salaries for teachers. This stemmed from an industrial action by teachers who were advocating for better salaries. Yvonne Sithole, one of the teachers at Epworth High School, who was allegedly mentioned in the WhatsApp communication, lodged a complaint with Zimbabwe Republic Police. After a lengthy trial, Edith was ultimately acquitted of the charges levelled against her.”<sup>99</sup>

In another case disrupting freedom of expression, Joana Mamombe and Cecilia Chimhiri were arrested and charged with publishing or communicating falsehoods prejudicial to the state, as defined by section 31(a)(ii) of the Criminal Law (Codification and Reform) Act.<sup>100</sup> The pair was arrested for detailing their experience and account of their abduction which occurred in May 2020. They were persecuted, detained and denied bail on the pretext that their account of events was a smear campaign against the state as the state actors insisted that there was no abduction. In fact, the state actors insisted that the abduction was staged and a “Western agenda” to vilify the government. The two were subsequently acquitted after the High Court upheld ZLHR lawyers’ application for review against the decision to put them to their defence in the magistrates court, after dismissing their application for discharge at the close of the state case.<sup>101</sup> This abduction also calls to mind the abduction of another WHRD that occurred in December 2008. Jestina Mukoko and two of her colleagues from the Zimbabwe Peace Project were abducted and their whereabouts remained unknown until 24 December 2008.<sup>102</sup> She and other pro-democracy campaigners were accused of attempting to overthrow the then President Robert Mugabe’s administration. This is an indication that abductions have been carried out by state actors to counter any activism and actions by HRDs.

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<sup>99</sup> As above.

<sup>100</sup> *State v Joana Mamombe & Cecilia Chimhiri* ACC170-1/2021.

<sup>101</sup> S Mazingaizo, “Zimbabwe court acquits opposition politicians accused of lying over police assault” *Times Live* 6 July 2023 available at <https://www.timeslive.co.za/news/africa/2023-07-06-zimbabwe-court-acquits-opposition-politicians-accused-of-lying-over-police-assault/> [Accessed on 23 February 2024].

<sup>102</sup> Frontline Defenders, “Jestina Mukoko abducted” available at <https://www.frontlinedefenders.org/en/case/jestina-mukoko-abducted> [Accessed on 25 February 2024].

Section 31 of the Criminal Law (Codification and Reform) Act has occasionally been used to impede freedom of expression, especially on social media platforms. The legislation criminalises making false statements presumed to be against the government. However, the provision has been used to target politicians for sentiments criticising the government which were shared on various social media platforms. In like manner, Fadzayi Mahere was arrested on 11 January 2021 for allegedly publishing false statements prejudicial to the state, contrary to section 31 of the Criminal Law (Codification and Reform) Act. This charge emanated from a post she allegedly made on X (then Twitter) condemning police brutality after information circulated that a police officer had assaulted a woman with a baby on her back (and the baby died) while enforcing COVID-19 Regulations in 2020. She was tried and subsequently convicted and sentenced to pay a US\$500 fine. Through the intervention of ZLHR, the matter is currently on appeal.<sup>103</sup>

Journalists have not been spared the scourge of persecution. While male HRDs have also been targeted, arrested, and prosecuted in larger numbers, WHRDs have also borne the brunt as a direct consequence of their work in the media. In one incident, ZLHR intervened on behalf of Chengeto Chidi who was arrested while covering by-elections in Chitungwiza and charged with taking photographs in the vicinity of a polling station. Through ZLHR and MISA's intervention, she was acquitted at the close of the prosecutor's case.<sup>104</sup>

**Cyberbullying and digital violence:** Patriarchy has also played a role in the treatment of WHRDs over the years. In fact, there seems to be a general belief that HRD work is predominantly male dominated. This is also evident in the politics of the country. There is a general consensus that politics and political offices are for male figures. This has manifested in how female politicians have been treated in the Zimbabwean political space. Several female political figures have been subjected to ridicule and cyberbullying. Political figures such as Linda Masarira and former Vice President of the Movement for Democratic Change (MDC) Thokozani Khuphe have been victims. Linda Masarira has on several occasions been

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<sup>103</sup> Amnesty International, "Zimbabwe: Conviction and sentencing of opposition spokesperson shows escalating assault on freedom of expression" 6 April 2023 available at <https://www.amnesty.org/en/latest/news/2023/04/zimbabwe-conviction-and-sentencing-of-opposition-spokesperson/#:~:text=She%20was%20arrested%20and%20detained,statements%20prejudicial%20to%20the%20state> [Accessed on 23 February 2024].

<sup>104</sup> Committee to Protect Journalists, "Zimbabwe police detain and charge 2 journalists covering attempted arrest of opposition politician" 11 May 2022 available at <https://cpj.org/2022/05/zimbabwe-police-detain-and-charge-2-journalists-covering-attempted-arrest-of-opposition-politician/> [Accessed on 23 February 2024].

subjected to sexist comments about her looks and body shaming.<sup>105</sup> Thokozani Khuphe's contribution in politics has also been undermined on the basis that she is a woman. Fadzayi Mahere has also been subjected to sexist comments on various social media platforms about her marital status.<sup>106</sup> It is quite disturbing that WHRDs have to be subjected to such instances of abuse which are solely targeted at women. For WHRDs, the attacks are intended to undermine them – as if their looks or marital status have a correlation to their ability to perform their duties effectively in their various offices as politicians.

Women in Zimbabwe continue to be marginalised especially in political spaces. Zimbabwe is a relatively patriarchal and conservative society and the political space is still predominantly occupied by men. Several women in such spheres have been subjected to ridicule and insults on social media platforms. Another barrier to women's participation emanates from the financial implications of being nominated as a presidential candidate. During the 2023 election cycle, female candidates, Linda Masarira and Elisabeth Valerio, struggled to file their nomination papers on time due to the strict US\$20 000 fee imposed by the Zimbabwe Electoral Commission,<sup>107</sup> and only Elisabeth eventually contested after a successful court challenge. Linda Masarira and Elisabeth Valerio faced challenges in contesting in these general elections. Ultimately, only Elisabeth Valerio contested after a court challenge was filed on her behalf, seeking an order to allow her to file her nomination papers.<sup>108</sup>

**Abductions, sexual assaults, and extrajudicial killings:** HRDs have also been subjected to abductions while defending human rights through various means. This is the states *modus operandi* in countering HRDs challenging gross human rights violations. WHRDs including political activists, writers, artists, and comedians have been abducted for enforcing their rights and the rights of others. For instance, in 2019, political satirist and comedian Samantha Kureya, popularly known as "Gonyeti", was abducted from her home by

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<sup>105</sup> K Nyavada, "Stereotypes violence keep women out of politics in Zimbabwe" *Aljazeera* 25 July 2022 available at <https://www.aljazeera.com/features/2022/7/25/stereotypes-violence-keep-women-out-of-politics-in-zimbabwe> [Accessed on 22 February 2024].

<sup>106</sup> N Ndoro, "Mahere slaps Kudzayi with US\$100k lawsuit over adultery allegations" *Nehanda Radio* 11 July 2022 available at <https://nehandaradio.com/2022/07/11/mahere-slaps-kudzayi-with-us100k-lawsuit-over-adultery-allegations/> [Accessed on 23 February 2024].

<sup>107</sup> S Mazingaizo, "Several presidential candidates in Zimbabwe fail to raise nomination fees" *Sowetan Live* 22 June 2023 available at <https://www.sowetanlive.co.za/news/africa/2023-06-22-several-presidential-candidates-in-zimbabwe-fail-to-raise-nomination-fees/> [Accessed on 20 February 2024].

<sup>108</sup> G Dube, "Zimbabwe Court Grants Elisabeth Valerio Permission to Contest 2023 Presidential Election" available at <https://www.voazimbabwe.com/a/7187057.html> [Accessed on 25 January 2024].

unidentified armed men who accused her of undermining the government with her skirts. She was assaulted, stripped and forced to drink sewage.<sup>109</sup>

This buttresses the contention by the International Commission of Jurists that WHRDs in Zimbabwe are at a heightened risk of sexual or gender-based violence as a result of their defence of human rights.<sup>110</sup> It is disconcerting to note that in addition to being targeted for their work in advancing human rights, WHRDs have also been subjected to sexual assaults by state agents. After their abduction in May 2020, Joana Mamombe, Cecilia Chimbiri and Netsai Marova were stripped naked and sexually assaulted with firearms. While their male counterparts may face the same resistance as they do, there is rarely an infraction on their dignity through sexual abuse. In extreme circumstances, WHRDs have been killed because of their affiliation with opposition politics. In 2022, Moreblessing Ali, a political activist associated with the Citizens Coalition for Change (CCC) disappeared and her dismembered body was found in a disused well in the Nyatsime area, two weeks later.<sup>111</sup> The person responsible was Pius Jamba, a ZANU PF activist, who has since been tried and convicted to 30 years' imprisonment.<sup>112</sup>

**Conditions of detention:** WHRDs have been subjected to deplorable conditions of detention while awaiting trial or their initial appearance in court. In 2022 ZLHR challenged the lack of proper ablution facilities at Avondale Police Station where several student activists were detained for protesting against the hiking of university tuition fees.<sup>113</sup> In a group of five students, two female students, namely Hazel Gwande and Tinotenda Mangana, were detained at Avondale Police Station for 48 hours and during their stay their detention cells were filthy and had a pungent smell. There was no demarcation between the rest of the cell and the ablution facilities. Amenities to cater for women during their monthly cycles were not

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<sup>109</sup> N Oppenheim, "Zimbabwe satirist abducted, stripped and forced to drink sewage amid crackdown on opposition" *Independent* 23 August 2019 available at <https://www.independent.co.uk/news/world/africa/samantha-kureya-gonyeti-zimbabwe-satirist-abducted-gonyeti-harare-a9076256.html> [Accessed on 20 February 2024].

<sup>110</sup> As above.

<sup>111</sup> "Zimbabwean MDC activists 'abducted and sexually assaulted'" *Nehanda Radio* 13 June 2022 available at <https://nehandaradio.com/2022/06/13/murdered-ccc-activist-moreblessing-alis-family-demand-answers/> [Accessed on 19 February 2024].

<sup>112</sup> T Mutsvairo, "Moreblessing Ali's killer jailed 30 years" *The Standard* 21 December 2023 available at <https://www.newsday.co.zw/thestandard/local-news/article/200021204/moreblessing-alis-killer-jailed-30-years> [Accessed on 16 February 2024].

<sup>113</sup> Zimbabwe Lawyers for Human Rights, "Zim Students Under Siege as ZRP Makes More Arrests Over #Feesmustfall Protest", available at: <https://www.zlhr.org.zw/?p=2837> [Accessed on 15 February 2025].

available and the students could not shower for 48 hours.<sup>114</sup> In addition, WHRDs are generally always compelled to remove their undergarments when in police detention, which compounds the violation of the right to privacy.

Generally, there is limited infrastructure and lack of personnel in some detention centres, particularly when it comes to assistance to people with mental incapacitation. In 2022 ZLHR, through one of its lawyers, filed an application challenging the conditions of detention of mentally incapacitated individuals, including three women namely Violet Kudoma, Jessica Marara, and Esther Katandawa.<sup>115</sup> This case is an indictment of the treatment of women and the conditions of detention at the various detention centres in Zimbabwe, especially concerning the treatment, or lack thereof, of mentally challenged individuals.

In June 2024, Tambudzai Makokoro was arrested on allegations of participating in a gathering with intent to commit public violence while attending a meeting at Jameson Timbas house to commemorate the Day of the African Child. Tambudzai sustained a broken leg during the assault as police officers used force and assaulted the accused persons. She was denied bail and, due to the inadequate conditions of detention, she had to endure much pain before she could undergo surgery, which surgery was very time-sensitive as any delay would have led to an amputation. She lost her son while in police custody and was not afforded an opportunity to attend the burial. Tambudzai was denied access to basic medical services and a medical facility recommended by her own doctors, contrary to the Constitution of Zimbabwe.<sup>116</sup>

**Election petitions:** During the pre- and post-election periods in 2023, several WHRDs challenged electoral malpractices and misconduct during this election. As referred to above, Linda Masarira and Elisabeth Valerio filed petitions challenging the exorbitant nomination fees. Linda was an aspiring Presidential candidate and, on 21 June 2023, she presented her nomination papers to the nomination court of the Zimbabwe Electoral Commission, together with proof of payment of her nomination fee in the Zimbabwe dollar equivalent of US \$20—000. The Zimbabwe Electoral Commission rejected her payment of the nomination fees in Zimbabwe dollars. On 23 June 2023, lawyers filed an appeal against the Zimbabwe Electoral Commissions decision to reject Linda Masarira’s payment of the nomination fee in Zimbabwe dollars. The Zimbabwe Electoral Commission responded to the appeal stating that Linda Masarira had not presented sufficient proof that she had paid the nomination fees.<sup>117</sup>

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<sup>114</sup> ZLHR case reports.

<sup>115</sup> ZLHR case reports.

<sup>116</sup> Section 76(1) and (3) of the Constitution of Zimbabwe.

<sup>117</sup> ZLHR case reports.

Similarly, Elisabeth Valerio presented her nomination papers to the Zimbabwe Electoral Commission nomination court. She also presented her proof of payment of the nomination fees of the Zimbabwean dollars equivalent of US \$20 000. The Zimbabwe Electoral Commission rejected her payment of the nomination fees in Zimbabwean dollars. On 23 June 2023, lawyers filed an appeal against the Zimbabwe Electoral Commission's decision rejecting Elisabeth Valerio's nomination fee payment in Zimbabwean dollars. On 29 June 2023, the Zimbabwe Electoral Commission responded to the appeal stating that Elisabeth had not presented sufficient proof that she had paid the nomination fees. The High Court set aside the Zimbabwe Electoral Commission's decision to reject Elisabeth Valerio's nomination as a candidate in the August 2023 elections<sup>118</sup> and she proceeded to contest in the 2023 elections.<sup>119</sup>

In another case, Judith Tobaiwa, a Member of Parliament representing the Citizens' Coalition for Change opposition political party, was harassed by a ZANU-PF member who called her derogatory words insinuating that she was a prostitute during a campaign rally for the 2023 elections. On 21 July 2023 ZLHR lawyers filed a court application for a prohibitory interdict against Energy Ncube, whose conduct violated female political candidates' right to participate freely in the pending harmonised elections without being sexually harassed, intimidated, and subjected to any violence or being called derogatory names such as "prostitute." However, the magistrate handling the matter found that the court had no jurisdiction since the matter was an electoral dispute and should have instead been brought before the electoral court.<sup>120</sup> Although this matter was not successful, it shows how resilient female candidates are as they are willing to stand up against abuse and ill-treatment by their male counterparts when they enter the political arena.

## 2.4 Conclusion

In the foregoing, this chapter has examined and explored the role of WHRDs as guardians of human rights, specifically civil and political rights. It has also highlighted the advent of WHRDs and the challenges they faced, and continue to face, emanating from persecution by state actors. Most importantly, it has evidenced the resilience of WHRDs as, despite persecution, they have continued in their quest to fight for human rights.

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<sup>118</sup> ZLHR case reports.

<sup>119</sup> G Dube, "Zimbabwe Court Grants Elisabeth Valerio Permission to Contest 2023 Presidential Election" available at <https://www.voazimbabwe.com/a/7187057.html> [Accessed on 25 January 2024].

<sup>120</sup> As above.

## Chapter 3

### *Guardians of Socio-Economic and Cultural Rights*

#### 3.1 Introduction

The status of socio-economic and cultural rights has always been confronted by women in Zimbabwe. The *status quo* of the country has necessitated their assertion of socio-economic and cultural rights.<sup>121</sup> The WHRDs inclination to socio-economic matters is derived from their role as women who are mothers, guardians, girls, breadwinners and professionals. In Zimbabwe, women are the litigants and litigators in socio-economic and cultural rights matters which have a direct bearing on their well-being, and that of their dependents.<sup>122</sup> For WHRDs in Zimbabwe, socio-economic and cultural rights typically encapsulate the right to healthcare, shelter, education, culture, right to marry and found a family, sexual and reproductive health rights, and the right to access water. Correspondingly, the Constitution distinctly prescribes these socio-economic and cultural rights in several provisions.<sup>123</sup> This range of rights is essential because they facilitate the enjoyment of other rights and, more importantly, ensure that dignity is not undermined. Moreover, these rights impose upon the state an obligation to respect, promote and fulfil them.<sup>124</sup>

As alluded to earlier, the role of WHRDs can be traced back to when the country gained its independence. Today, such activism is ripe as Zimbabwe has still not recovered from the lamentable record-setting hyperinflation of 2008 which has left the citizenry living in deplorable conditions.<sup>125</sup> Although the Constitution of Zimbabwe expressly provides for socio-economic and cultural rights, the economic downturn has resulted in the state failing to deliver basic services. As a state party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), Zimbabwe should recognise the right to work; the right to adequate food; the right to adequate housing; the right to culture; the right to the highest attainable

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<sup>121</sup>Amnesty International, "Zimbabwe: Between a rock and a hard place women human rights defenders at risk" available at <https://www.amnesty.org/en/documents/afr46/020/2007/en/#:~:text=This%20report%20focuses%20on%20the,the%20government%20to%20crush%20dissent.> [Accessed on 20 February 2024].

<sup>122</sup> As Above.

<sup>123</sup> Mainly in ss 74,75,76,81(1)(f), and 82 of the Constitution of Zimbabwe Amendment (No. 20) Act 2013.

<sup>124</sup> Constitution of Zimbabwe Amendment (No. 20) Act 2013.

<sup>125</sup> ZLHR NCA, "Economic and Social Cultural rights in Zimbabwe: Options for Constitutional Protections" available at: [https://hrp.law.harvard.edu/wp-content/uploads/2009/08/Zimbabwe\\_6.23.09.pdf](https://hrp.law.harvard.edu/wp-content/uploads/2009/08/Zimbabwe_6.23.09.pdf) [Accessed on 20 February 2024].

standard of health; and the right to education; amongst others.<sup>126</sup> The denial of such rights in Zimbabwe has resulted in violations of the Constitution and international obligations and, as such, has motivated women to confront the government on socio-economic and cultural rights.<sup>127</sup> Moreover, the court's enforcement of socio-economic and cultural rights in Zimbabwe has been dismal. Specifically enforcing "positive claims" is difficult in instances where the state has a duty to guarantee socio-economic and cultural rights.<sup>128</sup>

In spite of the many hardships they experience, WHRDs at the forefront of defending socio-economic and cultural rights in Zimbabwe have made great strides. In particular, in 2022 the Constitutional Court handed down a landmark ruling on the age of consent to sexual intercourse in Zimbabwe in *Kawenda v Minister of Justice, Legal and Parliamentary Affairs and Others*.<sup>129</sup> The appellants in the matter were young women who challenged the constitutional validity of the law that governs the age at which children can consent to sexual activities. The appellants acted in their capacity as women human rights activists with special interest and concern for children, gender, women's and socio-economic rights. Recognising the inconsistencies that were apparent in the law which stripped away the protection of young persons under the age of 18 years, the WHRDs acted in the public interest. As a result, the Constitutional Court declared the Criminal Law Code provisions that set the age of consent to sexual intercourse at 16 years as inconsistent with section 81(1) of the 2013 constitution, which defines a child as anyone under 18 years.<sup>130</sup>

### 3.2. Zimbabwe's Guardians of Socio-Economic and Cultural rights

As illustrated above, WHRDs in Zimbabwe are of different ages and are expanding the range of socio-economic and cultural rights in the country. Through the support and interventions of ZLHR, WHRDs in Zimbabwe have also defended a plethora of economic, social and cultural rights violations and abuses in Zimbabwe. The cases highlighted below provide a snapshot of the continuous assertion and advancement of human rights by WHRDs in Zimbabwe as litigants in socio-economic and cultural issues of concern.

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<sup>126</sup> ICESCR, Article 11.1

<sup>127</sup> As Above.

<sup>128</sup> T Kondo, "Socio-economic rights in Zimbabwe: Trends and emerging jurisprudence" (2017) 17 *African Human Rights Law Journal* 163 available at [http://www.scielo.org.za/scielo.php?script=sci\\_arttext&pid=S1996-20962017000100009](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1996-20962017000100009) [Accessed on 20 February 2024].

<sup>129</sup> *Kawenda v Minister of Justice, Legal and Parliamentary Affairs and Others* HC 2617/20.

<sup>130</sup> Human Rights Watch, "Zimbabwe Events of 2022" Country Report available at <https://www.hrw.org/world-report/2023/country-chapters/zimbabwe> [Accessed on 20 February 2024].

***The Right to Freedom from Arbitrary Eviction:*** In *Chipo Masimo v Ernest Munhari*<sup>131</sup> ZLHR assisted a widow living in a rural village in Manicaland to obtain a protection order against her brother-in-law, who was threatening to evict her from her home after she turned down his sexual demands. The High Court Judge stopped the “primitive” ill-treatment of the widow, Manesi Ncube, by interdicting a local traditional leader and councillor from evicting her from her homestead in Mpoyi village in Plumtree. Manesi Ncube was in August 2020 ordered to leave her village after being accused by some community members of neglecting her sick adult daughter. Aggrieved by the irrational decision, Manesi Ncube approached ZLHR in pursuit of justice. ZLHR lawyers subsequently led an urgent chamber application at the Bulawayo High Court. At the High Court, ZLHR sought an order interdicting the headman and councillor for Ward 12 in Hingwe, Plumtree, in Matabeleland South province, from evicting Manesi Ncube. It emerged during the court proceedings that Manesi Ncube’s daughter, who had passed away, was an adult person and married to someone who resided in the same village. At some point, the husband of Manesi Ncube’s daughter decided to take his sickly wife back to the widow’s homestead, abandoning his duties as a husband to care for his ailing wife. Being a widow and having other minor children to look after, Manesi Ncube decided to travel to Botswana in search of employment as economic problems deteriorated at home. Manesi Ncube’s daughter died during her stay in Botswana, forcing her to return home. On her return home to bury her daughter, Manesi Ncube discovered that the burial had already been conducted, with the community already having passed “judgment” that Manesi Ncube was irresponsible and should, therefore, be evicted from the village. A traditional court convened and decided that Manesi Ncube should leave the village by August 31. Meanwhile, the Ward 12 councillor, assisted by other villagers, had destroyed one of Manesi Ncube’s properties. The High Court also stopped the continued destruction of the widow’s home. The court also barred the headman and councillor from further harming the widow and her children in any other way. ZLHR lawyers further assisted the widow so that her property remains safe while she awaits further police investigations.

In the case of *Chenai Muchererwa v Minister of Home Affairs, Commissioner General of Police, Inspector Mwisai, Zimbabwe Republic Police (ZRP) officers* raided and forcibly evicted her and some villagers residing at Arnold Farm, also known as Manzou Farm, and demolished their homesteads destroying their crop produce of maize, groundnuts and beans. During the demolition exercise, ZRP officers indicated that the eviction was meant to pave the way for the government to establish a national monument and to allow the Former First Lady Grace Mugabe to expand her business venture in Mazowe. Chenai Muchererwa filed summons at

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<sup>131</sup> *Chipo Masimo v Ernest Munhari*, Mutasa Civil Magistrates Court, August 2020 unreported case.

Bindura Civil Magistrates Court on 9 November 2017 seeking various orders for payment of damages for the destruction of her homestead and property. ZLHR lawyers argued that the malicious damage to her property was in violation of section 219 of the Constitution, which provides that the country's Police Service is responsible for protecting and securing the lives and property of people and upholding the Constitution. Additionally, ZLHR lawyers highlighted that Chenai suffered great humiliation, shock, and trauma as a result of the unlawful destruction of her homestead and property and endured emotional suffering and physical hardship after being rendered homeless and left exposed to rain. On 15 July 2022, Bindura Magistrate Miriam Banda held that the ZRP officers, acting in the scope of discharging their official duties, were liable for unlawful conduct in demolishing Chenai's homestead and property. As a consequence, Chenai Muchererwa was awarded damages amounting to US\$800 for pain and suffering and US\$500 for property damage.<sup>132</sup>

In a similar case where pleadings were brought forward by the Arnold Farm clients, WHRD Ennie Mutizwa was awarded damages of US\$300 for pain and suffering, US\$1 430 for property damaged and US\$300 for contumelia after being forcibly evicted from her homestead in Arnold Farm.<sup>133</sup>

Recently, the Constitutional Court of Zimbabwe issued a landmark ruling on behalf of Chitungwiza Residents Trust (CHITREST), a grassroots organisation led by WHRD Alice Kuvheya. The ruling relates to the protection of citizens from arbitrary evictions by errant local authorities using unconstitutional provisions of the law. CHITREST, led by Alice Kuvheya, approached ZLHR lawyers after the Chitungwiza Municipality had issued a notice to demolish structures in Chitungwiza without following due process, yet relying on the provisions of the Regional, Town and Country Planning Act [Chapter 29:12]. Lawyers challenged the constitutionality of the provisions of sections 32(2)(c) and (d) and 37(1)(a)(i) of the Regional, Town and Country Planning Act which Chitungwiza Municipality had relied upon in issuing demolition orders. Justice Katiyo, sitting at the High Court in Harare, granted an order declaring these provisions ultra vires section 74 of the Constitution in 2024. On 5 February 2025 the Constitutional Court confirmed this constitutional order of invalidity, reiterating the

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<sup>132</sup> *Chenai Muchererwa v Minister of Home Affairs, Commissioner General of Police, Inspector Mwisai*, C1630/17

<sup>133</sup> *Ennie Musizwa v Minister of Home Affairs, Commissioner General of Police, Inspector Mwisai*, C1633/17

position of the High Court, which marked a resounding victory for residents all over the country.<sup>134</sup>

**Right to Identity:** In 2021, a mother, Memory Mupanganyama<sup>135</sup> sought to assert her right to identity and the right to education for her child. The 16-year-old minor child was set to miss the registration deadline set by the Zimbabwe School Examinations Council (ZIMSEC) for people seeking to sit for Ordinary Level examinations scheduled for early December. The minor's mother, Memory Mupanganyama, had failed to obtain a birth certificate for her child because she did not have a national identity document to prove she is the girl's mother. The Registrar General's Office in Bikita, Masvingo province, had declined to issue her with a national identity document claiming that she had previously obtained another national identity document, a claim she denied. Memory Mupanganyama told authorities that she had not been issued any other national identity document before, as asserted by the Registrar General's Office. Fearing that her daughter would miss the registration deadline for ordinary-level examinations as set by ZIMSEC, she engaged ZLHR for assistance. Memory Mupanganyama first attempted to obtain a national registration document in Bikita, the place of her birth in February 2020, but officials declined to issue her with one and instead referred her to Makombe Building offices in Harare. In April 2020, when Memory Mupanganyama approached the Registrar General's Office at Makombe Building in Harare, she was referred to the Registrar General's Office at Market Square, also in Harare. There officials referred her back to the Bikita office. ZLHR lawyers wrote to the Registrar General's Office protesting against the actions of authorities in their office, which amounted to a violation of the client's right to identity. The right to identity is enshrined in section 35(3)(c) of the Constitution, which states that every Zimbabwean citizen is entitled to a birth certificate and other identity documents issued by the state. ZLHR lawyers threatened to take legal action against the Registrar General's Office if authorities failed to issue Mupanganyama with the national identity document as requested. In response to the letter, the Deputy Registrar General undertook to ensure that officials complied with the request. Consequently, Memory Mupanganyama was issued with a national identity document and managed to obtain birth certificates for her children and her 16-year-old managed to register for her examinations.

In a similar matter, *Thando Moyo v Registrar of Births and Deaths*, ZLHR lawyers effectively litigated for the advancement of the right to identity. Thando Moyo sought to uphold the right

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<sup>134</sup> *CHITREST v Minister of Local Government Public Works and National Housing & 3 Ors*, CCZ32/24; Judgment No. CCZ 2-2025

<sup>135</sup> *Memory Mupanganyama v Zimbabwe School Examination Council*, June 2021, ZLHR Access to Justice Unit case, unreported matter.

to identity of her five undocumented grandchildren on behalf of her absent daughter Sikhululekile Mpofo, ordinarily resident in South Africa. Previously, Thando Moyo had tried to acquire the children's birth certificates but was told to send the documents to her daughter to complete forms at the Embassy offices. However, Sikhululekile sent the documents back as she failed to process the applications. Ms Moyo subsequently attended a mobile registration at Manqe Primary School but was advised that her daughter was needed to process the birth certificates. Ms Moyo had all the birth confirmation records, the baby health cards for all five grandchildren and a photocopy of her daughter's identity document. ZLHR lawyers intervened on their behalf and engaged the Tsholotsho District Registrar who requested that Ms Moyo come to the registry offices. The Tsholotsho District Registrar further advised that if any of the children were above 16 years of age, they must accompany Ms Moyo so that their national registration cards could be processed. On 14 December 2022, Ms Moyo advised that she had been assisted and all the children were now documented.<sup>136</sup>

In a landmark ruling by the High Court in November 2017 in the case of Sarah Kachingwe and Others v Registrar General and Others, Justice Nyaradzo Munangati-Manongwa granted an order allowing Zimbabwean citizens by birth whose identity documents mistakenly identify them as "Aliens", to register as prospective voters in the 2018 general elections provided that they bring along with them their identity documents endorsed "alien", coupled with a birth certificate and proof of residence. The granting of the court order came after ZLHR lawyers petitioned the High Court on behalf of WHRD Sarah Kachingwe and two opposition political parties, namely MDC-T and MDC-N, seeking an order to compel the Zimbabwe Electoral Commission (ZEC) to register the so-called aliens as prospective voters in the 2018 general elections during the ongoing biometric voter registration exercise. In her ruling, Justice Munangati-Manongwa ordered that any person born in Zimbabwe who is of or over eighteen (18) years with an identification card endorsed "alien" and a birth certificate showing that such person was born in Zimbabwe and at least one of the parents of such person was born in Zimbabwe, or from the Southern African Development Community region with proof that he or she was ordinarily resident in Zimbabwe on the relevant publication date in 2013, was entitled to be registered by ZEC to vote without any impediment or additional requirement other than requirements relating to all people.<sup>137</sup>

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<sup>136</sup> *Thando Moyo v Registrar of Births and Deaths*, December 2022, ZLHR Access to Justice Unit case, unreported matter.

<sup>137</sup> *Sarah Kachingwe and Others v Registrar General and Others* HC 10523/17

**Right to Access Water:** In the case of *Lindiwe Mukoka and 9 Ors v Mutasa Rural District Council*,<sup>138</sup> Lindiwe and nine others were representatives of the residents of Penhalonga. Prior to August 2021, the residents of Penhalonga had been receiving an undisturbed supply of tap water almost on a daily basis. However, the water supply was disconnected without notice to the residents and they had no water for almost two weeks. After numerous follow-ups being made to the Mutasa Rural District Council, the residents started to notice a sporadic supply of water which created uncertainty for the residents' access to water. The water-rationing schedule to supply water two days a week was grossly inadequate and only benefited residents in low-lying areas. Residents were forced to pay for access to the residents who were receiving water. The same challenges were faced at Tsvingwe clinic and Tsvingwe primary and secondary schools, which are service centres for the community, especially when their reservoirs run dry. Pregnant women were forced to bring a bucket of water thus creating a health hazard. The health of school children and teachers at Tsvingwe primary and secondary schools was also seriously compromised given the then COVID-19 pandemic and other diseases. Due to the shortage of tap water, the residents were forced to drink water from an unsafe spring in their area. On 24 January 2022, a letter of demand for the immediate provision of clean, potable and sufficient water supply in the form of tap water or water bowsers was written to Mutasa Rural District Council. The local authority was also requested to furnish information or reasons that were making it difficult for them to supply the water on a daily basis and the plans that were in place to remedy the situation. Lawyers filed a court application at the High Court seeking the court to compel Mutasa Rural District Council to supply the residents of Penhalonga with water. On 28 July 2022, Justice Muzenda granted an order declaring Mutasa RDC's failure to ensure the supply of adequate, constant, clean and potable water to be a violation of the applicants' rights. The court further ordered Mutasa RDC to supply adequate, constant, clean and potable water to the applicants' premises within 60 days. The municipal authority complied with the court order and the right to access water for Lindiwe and other residents was upheld.

**Right to shelter:** In the matter of WHRD, *Rosemary Nyamuba v Hwange Colliery Company Limited*,<sup>139</sup> Rosemary Nyamuba was evicted from her home which she was leasing from Hwange Colliery Company on 11 March 2021. She was advised by two security officers employed at Hwange Colliery that they had received a complaint from her neighbours that she was running a *shebeen* from her premises. They gave her thirty minutes to remove her belongings from the property. She removed her property with the help of neighbours.

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<sup>138</sup> *Lindiwe Mukoka and 9 Ors v Mutasa Rural District Council* HC 37/22.

<sup>139</sup> *Rosemary Nyamuba v Hwange Colliery Company Limited* Case: GL06/21.

Because she had no notice to vacate, she had made no other plans and as a result, slept outside with her two minor children. On 12 March 2021, ZLHR lawyers filed a spoliation order at the Hwange Magistrates Court, which was granted on the same day. As a result, Rosemary Nyamuba returned to her residence. ZLHR lawyers further engaged the respondents' lawyers to ensure that Rosemary Nyamuba was handed back the house keys that the colliery's security officers took. On 6 October 2021, the Estates Office called Rosemary threatening her and demanding an apology for dragging the Hwange Colliery Company to court. ZLHR was alerted the next day and on 7 October 2021, lawyers engaged the Company Secretary at Hwange Colliery. A follow-up email was sent condemning the Estates Office's conduct which violated Rosemary's constitutionally enshrined right to protection of the law. While the Constitution of Zimbabwe does not specifically provide for the right to shelter, it does protect children's rights as enshrined in section 81(1)(f). For purposes of this publication, this case has been spotlighted as an advancement of the right to shelter since Rosemary's minor children's right to shelter had been infringed upon by the Colliery's functionaries.

**Right to Education:** In the case of *Ntombizodwa Gumede v Mawanke Primary School*,<sup>140</sup> ZLHR lawyers intervened to protect the right to education, as enshrined in section 75 of the Constitution. Ntombizodwa Gumede is a community activist under Masakheneni Projects Trust. Ntombizodwa has a son who is in Grade 6 at Mawanke Primary School in Ward 7, Gwanda Rural. Her concern was piqued by reports that the results of some Grade 7 pupils had been withheld on the basis that the Basic Education Assistance Module (BEAM) fees (BEAM is a government education funding scheme which covers the costs of education for disadvantaged children) had not been disbursed to the school. Acting in the public interest, Ntombizodwa approached ZLHR lawyers who, in turn, contacted the Gwanda District Schools Inspector, Mr Sibanda to have him look into the matter and call the school head to order. Mr Sibanda informed ZLHR lawyers that he would investigate the issue and revert with feedback. On 14 December 2023, Mr Sibanda informed ZLHR lawyers that he spoke to the school head and cautioned him that withholding the results was against the policy of the Department of Education and that learners should be allowed to collect their results. ZLHR lawyers then followed up with Ms Gumede who confirmed that the school head had instructed his deputy that all results should be released.

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<sup>140</sup> *Ntombizodwa Gumede v Mawanke Primary School*, December 2023, ZLHR Access to Justice Unit case, unreported matter.

Similarly, in *Jane Moyo v Daluka Primary*,<sup>141</sup> ZLHR responded to uphold the right to education as enshrined in section 75 of the Constitution on behalf of Jane Moyo. Jane Moyo is the maternal grandmother and guardian of Carlis Zulu, aged twelve. Jane advised that Carlis Zulu has been denied placement into the BEAM programme despite several bids to be included. No reasons were given as to why Carlis was not placed on BEAM. Ms Moyo sought the assistance of ZLHR lawyers during a mobile legal clinic held at Zwangendaba High School, in Ward 19 Lupane, on 8 March 2023. ZLHR lawyers contacted the Lupane District Schools Inspector (DSI) to request that the office investigate why Carlis had not been placed on BEAM as he is an ideal candidate for the social relief programme. The matter was subsequently referred to the Department of Social Development for further investigation and Carlis was successfully placed on the BEAM program as a result of the efforts of ZLHR lawyers.

**Right to religion:** In the case of *Shamilla Mbidzo v Chogugudza Primary School*, ZLHR sought to enforce the freedom of religion enshrined in section 60(1)(a) of the Constitution. Shamilla Mbidzo was a pupil at Chogugudza Primary School, in Domboshava, and was preparing for her Grade 7 ZIMSEC final examinations. Shamilla's family are devout members of the African Apostolic Faith Mission Church and in terms of the doctrine of the church, female members are strictly prohibited from shaving their hair. On 9 January 2024, when schools opened for the first term, the Headmaster of Chogugudza Primary School barred Shamilla from attending classes. He went on to bar Shamilla on three separate days from attending school until she had shaved her hair. Benny Mbidzo, the legal guardian and biological father of Shamilla engaged the headmaster and advised him that due to their religious beliefs as a family, Shamilla was not allowed to shave her hair. The headmaster banned Shamilla from attending school until her hair was shaved. On 5 February 2024 ZLHR lawyers wrote a letter to the headmaster demanding that Shamilla be admitted back into school. The lawyers advised the headmaster that his conduct violated Shamilla's right to freedom of religion and belief, as provided for in section 60(1)(a) of the Constitution. They further highlighted that the headmaster's conduct violated the freedom to practice, propagate and give expression to thought, opinion, religion or belief as provided for in section 60(1)(b) of the Constitution. In addition, lawyers highlighted that the headmaster was violating the right to education provided for in sections 75 and 81(1)(f) of the Constitution, as read with section 4(2)(b) of the Education Amendment Act, 2020. Lastly, lawyers noted that the headmaster's conduct violated the best interests of the child principle provided for in section 81(2) of the Constitution as it was in the best interests of Shamilla to be allowed to attend

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<sup>141</sup> *Jane Moyo v Daluka Primary*, March 2023, ZLHR Access to Justice Unit case, unreported matter.

her lessons. On 6 February 2024 Shamilla was allowed back to school and is attending her lessons.<sup>142</sup>

**Right to Healthcare:** In 2022 Letwin Sympongo<sup>143</sup> wrote a letter to the City of Harare challenging the refusal by certain council clinics, including Rutsanana Polyclinic in Highfield, to access maternal healthcare services. Through her lawyers from ZLHR, she also complained about the corruption by healthcare workers who sought bribes from pregnant women so that they could get services. Letwin had been going to Rutsanana Polyclinic in Highfield, seeking assistance with maternal healthcare services. Letwin was eight months pregnant. On all occasions that she had gone to the clinic, the clinic informed her that they had taken enough patients for the day. Since she was six months into her pregnancy, Letwin had gone to the clinic more than five times. She had not been registered at any polyclinic for delivery and neither had she been given any antenatal care since she fell pregnant. Provision of these services falls within the mandate and ambit of all council polyclinics. Letwin instructed her lawyers to demand the urgent facilitation of access to maternal health services within 7 days at Rutsanana Polyclinic in Highfield, which is the nearest polyclinic to her place of residence. Unfortunately, the matter could not proceed as Letwin was not comfortable litigating the case any further.

In another case brought by ZLHR, the Combined Harare Residents Association (CHRA) v City of Harare,<sup>144</sup> the City of Harare had closed all its polyclinics due to a lack of COVID-19-related resources, including personal protective equipment (PPE), which resulted in those requiring emergency care, including pregnant women, being turned away. High Court Judge, Justice Edith Mushore, issued an order that the City of Harare ensure that all pregnant women receive emergency medical services and that all 42 council clinics be re-opened by 14 October 2020. Following the order, all 42 council clinics were re-opened to the public to ensure that there were enough clinics to offer emergency medical treatment to residents, including pregnant women.<sup>145</sup>

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<sup>142</sup> Benny Mbidzo (*on behalf of minor child Shamilla Mbidzo v Chogugudza Primary School, Domboshava*, February 2024, ZLHR Access to Justice Unit case, unreported matter.

<sup>143</sup> *Letwin Sympongo v City of Harare*, March 2022, ZLHR Access to Justice Unit case, unreported matter.

<sup>144</sup> *Combined Harare Residents Association (CHRA) v City of Harare*, October 2020, ZLHR Access to Justice Unit case, unreported matter.

<sup>145</sup> Combined Harare Residents Association, "Statement on the Court Judgement for Re-Opening of Council Clinics", available at: <https://kubatana.net/2020/10/08/statement-on-the-court-judgement-for-re-opening-of-council-clinics/> [Accessed on 4 February 2025].

***Sexual and Reproductive Rights & Self-Determination:*** In 2023, ZLHR responded in the matter of the State v Nyasha Chabika & Flora Tofa,<sup>146</sup> in which two young women who identify as non-binary were arrested for contravening section 13(1) of the Censorship and Entertainment Control Act. The state alleged that the two girls circulated an intimate video of them together on social media leading to their arrest. It is alleged that sometime in June 2023 the two attended a party in Masvingo suburb and recorded an intimate moment. It is further alleged that they circulated the video on social media, which led to their arrest. Bail was opposed by the prosecution on the grounds of a possibility of a public outcry, however lawyers managed to secure the release of the two on bail on 4 December 2023. They were ordered to pay RTGS 100 000 each, and to continue residing at a given address, to report every fortnight to the police and not to interfere with witnesses. On 31 January 2024 lawyers applied for Nyasha and Flora to be removed from remand as the prosecution's case was not ready. The court ordered that the two be removed from remand and the prosecution was ordered to proceed by way of summons. Nyasha and Flora were arrested merely for being non-binary. ZLHR lawyers therefore intervened to protect their right to sexual and reproductive self-determination.

Additionally, in the case of Nigel Muchunguma v Headman Machaka & Others,<sup>147</sup> Nigel Muchunguma is a non-binary individual who resides in Village 31 Tavakonza, Chief Charumbira, Masvingo with her parents. Nigel is a learner at Ruvhure Secondary School in Masvingo. Sometime in June 2023 the Headmaster of Ruvhure Secondary School, Mr Mandava, summoned Nigel's parents to her school to hear allegations that Nigel was proposing relationships with other female students and that Nigel was initiating the students into Satanism. Nigel's parents were also summoned to several meetings which were convened by Headman Machaka and other headmen and were told that Nigel's behaviour of proposing to female students was satanic. The headmen further instructed Nigel's parents to approach one Headman Machokoto for spiritual cleansing as a form of conversion therapy. The headmen further demanded that if Nigel's parents did not seek such conversion therapy, their family would be banished from their village. The school headmaster Mr Mandava also made it impossible for Nigel to attend classes and, consequently, she missed one term of schooling. Learners at Ruvhure Secondary School were also instructed by the school authorities not to associate with Nigel. On 14 July 2023, upon receiving instructions, ZLHR lawyers wrote a letter to overall Headman Machaka and Mr Mandava of Ruvhure Secondary

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<sup>146</sup> *State v Nyasha Chabika & Flora Tofa* CRB MSVP 1987-88/23.

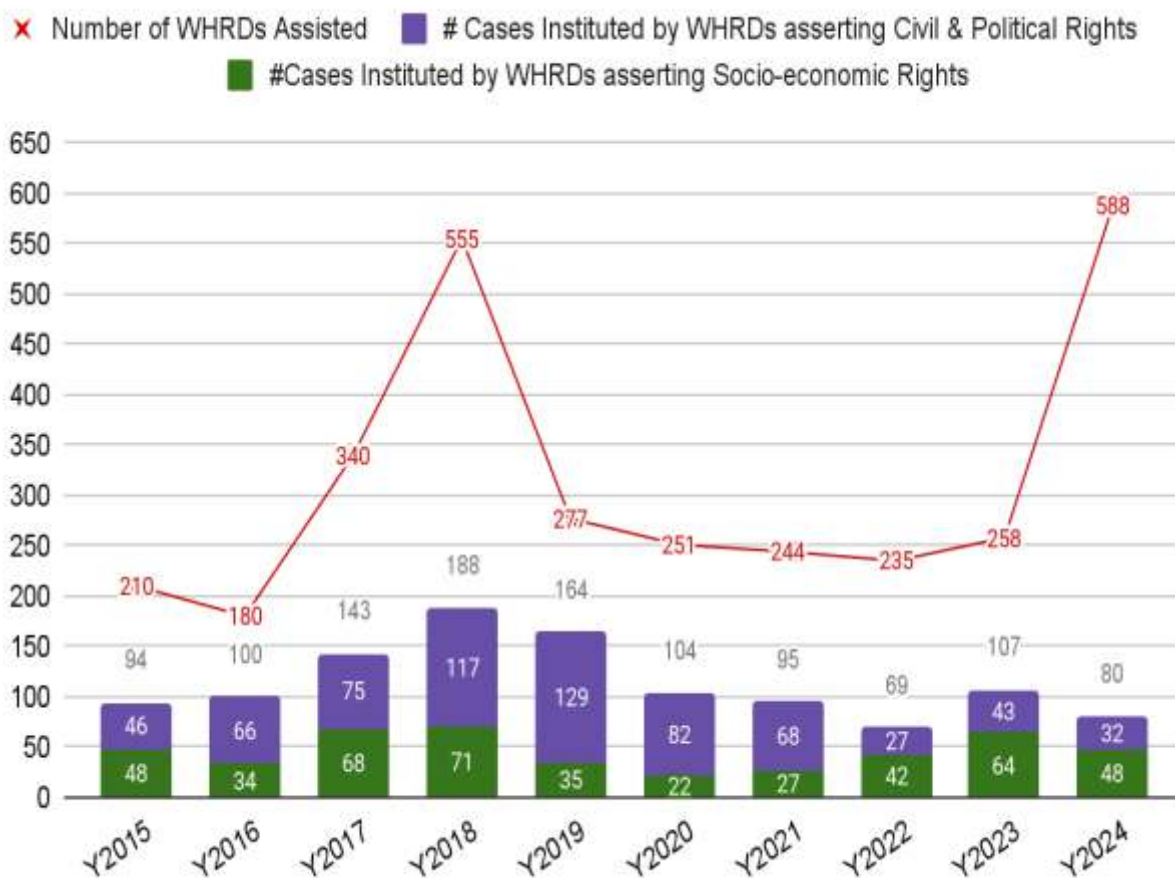
<sup>147</sup> *Nigel Muchunguma v Headman Machaka & Others*, July 2023, ZLHR Access to Justice Unit case, unreported matter.

School in which they impugned their conduct as breaching Nigel's right to equal treatment and non-discrimination, as provided for in section 56 of the Constitution, and her freedom of conscience not to be compelled to participate in cleansing ceremonies or conversion therapies as provided for under section 60 of the Constitution, her right to dignity as provided for in section 51 of the Constitution, rights of children to equal treatment, and to be protected from all forms of abuse and maltreatment as provided for in section 81 of the Constitution. ZLHR lawyers further argued that Nigel has a right to freedom of association as provided for in section 58. Lawyers argued that the totality of the actions of the headmaster and the headmen violated the best interests of the child principle as provided for in section 81(2) of the Constitution. The letter also impugned Mr Mandava's conduct of making it impossible for Nigel to attend school, as violating her right to education as provided for under section 81 of the Constitution. ZLHR lawyers finally advised the headmen and headmaster to cease and desist from their conduct, and that should they persist with such conduct, litigation would be instituted to assert Nigel's rights. Since the intervention of the lawyers, Nigel has been allowed back to school, and the headmen and headmaster have stopped harassing her.

### **3.3 Overview of ZLHR's WHRDs Interventions and Beneficiaries**

Between 2015 and 2025, ZLHR provided emergency and follow-up legal services to WHRDs targeted by the state for exercising their rights. ZLHR took up cases and matters to enforce the civil and political rights and socio-economic rights of various WHRDs in Zimbabwe. Prominent amongst the charges and concerns were violations of the freedom of association, assembly and expression; personal liberty and human dignity; equality and non-discrimination; freedom from torture or cruel and degrading treatment or punishment; rights to shelter, freedom from arbitrary eviction; healthcare; education; and the right to identity.

Apart from legal services rendered, ZLHR also offered legal aid to walk-in clients and at community outreaches. The organisation carried out community outreaches in predominantly rural communities. Additionally, national radio programmes were utilised to continue to raise awareness on various human rights topics concerned with WHRDs. Below is an overview of the WHRDs beneficiaries and interventions by ZLHR lawyers during this period.



NB: This illustration is based on a compendium of ZLHR's case reports from 2015 -2024.

### 3.4 Examining the Challenges Faced by WHRD Litigants

In the course of accessing their constitutionally enshrined freedoms as champions of civil and political rights and guardians of socio-economic rights, WHRDs are faced with numerous hurdles, as outlined above. Unfortunately, their problems extend beyond these hurdles as other challenges emerge when seeking redress through legal proceedings. As established earlier, WHRDs are targets of misogynistic attacks and gender-based violence. Thus they not only lack protection but are also deprived of access to justice.<sup>148</sup> Whilst the latter can be largely attributed to gaps in the legal framework on HRDs that make it difficult for WHRDs to seek redress,<sup>149</sup> other obstacles exist in their fight for justice. Specifically, the experiences and challenges faced by WHRDs when seeking legal recourse and remedies have

<sup>148</sup> OHCHR, "Tackling the challenges faced by women human rights defenders through a gender lens" available at: <https://www.ohchr.org/en/special-procedures/wg-women-and-girls/tackling-challenges-faced-women-human-rights-defenders-through-gender-lens> [Accessed on 22 January 2025].

<sup>149</sup> As above.

unfortunately worsened their plight.<sup>150</sup> Through data informed by ZLHR's litigation department, WHRDs litigants in Zimbabwe have encountered some of the following challenges:

3.4.1 Accessing Courts – The legal framework on equality and non-discrimination in Zimbabwe is comprehensive as it domesticates several international human rights standards.<sup>151</sup> However, even with the existence of an all-encompassing legal framework, access to courts for WHRDs remains an issue. In October 2023 ZLHR lawyers responded in the case of a WHRD who sued the Judicial Service Commission (JSC) over its decision to compel litigants to exclusively use its newly introduced Integrated Electronic Case Management System (IECMS) for filing court processes and conducting hearings in the country's superior courts. The WHRD resorted to taking legal action against JSC after she failed to institute summons for a decree of divorce at Harare High Court in a matter in which she was a self-actor, meaning that she would effectively be kept in a legal marriage which she has lost interest in. The WHRD experienced several hurdles as she waited to be assisted – she was told legal practitioners take precedence which forced her to leave the High Court without getting the opportunity to receive legal aid. In her application, the WHRD sought to have the High Court declare that the mandatory and exclusive use of the IECMS platform in all superior courts in Zimbabwe for filing pleadings and conducting hearings, violates fundamental rights enshrined in the Constitution, which include the right to a fair hearing, the right to access to justice and the right to equal benefit and protection of the law. The WHRD contended that the exclusive use of the IECMS platform discriminates as to who can access the court on the basis of class and social or economic status, which means that the less privileged and marginalised members of society will find it extremely difficult to access the courts through the JSC's new system.<sup>152</sup>

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<sup>150</sup> International Commission of Jurists, "Sexual and Gender-Based Violence in Zimbabwe: Women Human Rights Defenders' Experiences and Legal Challenges", available at: <https://www.icj.org/wp-content/uploads/2021/03/Zimbabwe-SGBV-WHRD-Publications-Reports-Thematic-reports-2021-ENG.pdf> [Accessed on 22 January 2025].

<sup>151</sup> Sections 17, 56, and 80 of the Constitution comprehensively provide for the rights of women in Zimbabwe. Additionally, Zimbabwe has ratified a number of treaties and conventions that promote the rights of women including, the CEDAW and the Maputo Protocol.

<sup>152</sup> ZLHR, "ZIM Woman Sues JSC Over Mandatory and Exclusive Use of IECMS in Court Processes", available at: <https://www.zlhr.org.zw/?p=3141> [Accessed on 3 February 2025].

- 3.4.2 User Fees – ZLHR lawyers have challenged the exorbitant levying of court user fees, which has the effect of impeding access to justice for WHRDs. Conservative narratives that confine women to family and procreation roles contribute to their economic incapacity to engage the services of legal practitioners to defend their rights and guarantee access to justice. As such, WHRDs often have limited financial or other resources to access the courts and meet bail and further financial requirements of sureties. With regard to the implementation of the right of women to access legal aid, the UN Guidelines and Principles on access to Legal Aid in Criminal Justice Systems provides that “States should take applicable and appropriate measures to ensure the right of women to access legal aid”.<sup>153</sup> This notion is also supported by the UN Committee on the Elimination of Discrimination Against Women which has recommended that states should, “Remove economic barriers to justice by providing legal aid and ensure that fees for issuing and filing documents, as well as court costs, are reduced for women with low incomes and waived for women living in poverty”.<sup>154</sup>
- 3.4.3 Poor Investigation Measures – The instances of WHRDs seeking justice through the courts are often sidelined by investigating officers or responsible authorities. In the course of attending to their clients, ZLHR lawyers have witnessed a general unwillingness to investigate and prosecute offences committed against WHRDs. Allegations of abuse and violations of rights put forward by WHRDs are meagrely investigated. Moreover, most investigating officers are not capacitated in gender sensitive interrogation techniques.
- 3.4.4 Victimization by the Justice System – WHRDs who pursue justice through the courts are often victimised by the very same justice system they approach to seek redress. They experience smear campaigns and stigmatisation from the public and counter suits are levelled against them for coming forward and allegedly “fabricating instances of rights violations”. Detailed in chapter two, the case of Joana Mamombe, Cecilia Chimбири and Netsai Marova give a glimpse into the struggles of WHRDs who are victimised by the justice system.<sup>155</sup> The trio was arrested and charged with falsifying

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<sup>153</sup> United Nations Principles and Guidelines on access to legal aid in criminal justice systems, available at: [https://www.unodc.org/documents/justice-and-prison-reform/UN\\_principles\\_and\\_guidelines\\_on\\_access\\_to\\_legal\\_aid.pdf](https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf) [Accessed on 23 January 2025].

<sup>154</sup> Committee on the Elimination of Discrimination against Women, “CEDAW General Recommendation No. 33 para. 17(a) on women’s access to justice” available at: <https://digitallibrary.un.org/record/807253?ln=en&v=pdf> [Accessed on 23 January 2025].

<sup>155</sup> *State v Joana Mamombe & Cecilia Chimбири* ACC170-1/2021.

the accusation of their abduction and torture at the hands of suspected state security agents.<sup>156</sup>

3.4.5 Discriminatory tendencies - ZLHR lawyers have also observed discriminatory tendencies towards WHRD mothers who are incarcerated with their children. These practices have extended to the failure to provide feminine hygiene needs for WHRDs. The latter has made their pursuit of justice difficult through a violation of the women's dignity in detention. These challenges have further discouraged other WHRDs from asserting their rights.

### 3.5 Conclusion

In the foregoing, this chapter has examined and explored the role of WHRDs as guardians of socio-economic rights. The chapter has showcased WHRDs as champions of their communities who ensure adequate service delivery by state actors and relevant duty bearers. Additionally, it has examined the barriers to seeking justice and redress for WHRDs litigants. In spite of such challenges, ZLHR has been instrumental in assisting WHRDs in enforcing their rights and exploring the Bill of Rights, as enunciated in the 2013 Zimbabwean Constitution. This chapter is quite inspiring as it also showcases WHRDs as fierce defenders and protectors of their families and communities at large.

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<sup>156</sup> Zimbabwe Lawyers for Human Rights, "Anti-Impunity Litigation Anti-Impunity Litigation by Zimbabwe Lawyers for Human Rights from 2018 - 2019: Successes, Challenges and Recommendations", available at: <https://kubatana.net/wp-content/uploads/2021/06/Anti-Impunity-Litigation-By-Zimbabwe-Lawyers-For-Human-Rights-From-2018-2019-Successes-Challenges-And-Recommendations.pdf>, [Accessed on 23 January 2025].

## **Chapter 4**

### **Conclusion & Recommendations**

#### **4.1. Conclusion**

Women Human Rights Defenders play an important role in safeguarding, promoting and advancing fundamental human rights in Zimbabwe. They do so in different spheres to defend an array of civil and political rights; and socio-economic and cultural rights which have a bearing on them and others. WHRDs are motivated to assert their human rights due to the violations of fundamental freedoms and the continuous decline of the Zimbabwean economy. Their work is highly unpopular as it entails a challenge to the existing order of power and authority, as well as the *status quo* of Zimbabwe's patriarchal societies. They therefore operate in a rigid environment characterised by reprisals, including: harassment, persecution by prosecution, abductions, violence and even death. Moreover, in comparison to their male counterparts, WHRDs in Zimbabwe are faced with other gender-specific challenges in addition to those generally faced by HRDs. These challenges include gender-specific threats and violence in the public and private spheres, sexual harassment, rape, and stigmatisation. Such challenges are not limited to them alone but also targeted at their supporters and family members.

As prescribed in the Constitution and by regional and international standards, WHRDs in Zimbabwe are entitled to enjoy their rights and freedoms by freely carrying out their human rights activities without interference. Their work is guided and protected by the United Nations Declaration on Human Rights Defenders which reaffirms readily existing rights. Correspondingly, the work undertaken by WHRDs in Zimbabwe falls within this ambit and should not be restricted. Additionally, WHRDs in the country should not be met with reprisals for carrying out their vital work in the advancement of civil and political rights, and socio-economic and cultural rights. As a state party to several regional and international treaties that articulate the rights of HRDs at large, Zimbabwe has bound itself to the standards and agreements set out regarding HRDs. It therefore serves that the government should create an enabling environment for WHRDs in Zimbabwe.

#### **4.2. Recommendations**

The discussion above details the operating environment of WHRDs in Zimbabwe and makes a case for the need to create an enabling operating environment for all. This publication proffers recommendations to the Government of Zimbabwe as follows:

## Recommendations to the Government of Zimbabwe

- Prioritise and enhance the security of WHRDs who are actively engaged in the exercise of civil and political rights, in particular the freedom of assembly, association and expression. Specifically, document and catalogue threats and other forms of violence made against WHRDs and undertake systematic investigations to create a safe and enabling environment for them.<sup>157</sup>
- Ensure that WHRDs do not face reprisals for promoting and protecting human rights, through victimisation, persecution and subsequent prosecution. Instead, advocate for victim-centred justice by adopting laws such as article 11 of Côte d'Ivoire's national law on promoting and protecting human rights defenders which grants specific protection needs to WHRDs.<sup>158</sup>
- Interrogate the inequalities and discrimination associated with WHRDs' interface with the criminal justice system. Specifically, avail economic safety nets to offset user fees, transportation costs to courts and childcare for WHRDs seeking access to justice.
- Address the ineffective and problematic legal procedure stemming from a lack of gender-sensitive procedures in the legal system through training courses for police officers, investigative officers and other law enforcement personnel on gender sensitivity and gender-sensitive investigation techniques, in accordance with UN General Assembly resolution 68/181 for the protection of WHRDs<sup>159</sup>, specifically those who are victims of SGBV, assault and torture.
- Enact laws that protect WHRDs from violence and harassment for freely expressing themselves both online and offline.
- Ensure that all persons under the state's jurisdiction can assert and enjoy their fundamental freedoms and human rights by respecting and supporting the activities of human rights defenders, including women human rights defenders in Zimbabwe.

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<sup>157</sup> The Esperanza Protocol provides a roadmap for establishing public policies that effectively address threats, as well as guidelines to States for diligent criminal investigation.

<sup>158</sup> Côte d'Ivoire: Law No. 2014 388 on the promotion and protection of human rights defenders, available at: [https://ishr.ch/wp-content/uploads/2025/01/Cote-dIvoire-HRD-Law\\_ENG.pdf](https://ishr.ch/wp-content/uploads/2025/01/Cote-dIvoire-HRD-Law_ENG.pdf) [Accessed on 4 February 2025].

<sup>159</sup> UN General Assembly resolution 68/181 on the Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: Protecting Women Human Rights defenders, available at: <https://docs.un.org/en/A/RES/68/181> [Accessed on 4 February 2025].

- Create a safe and conducive operating environment for WHRDs by safeguarding the civic space and addressing impunity for violations committed against WHRDs in Zimbabwe.
- Domesticating regional and international laws that Zimbabwe is a state party to in accordance with section 34 of the Constitution. Specifically, align national laws with regional and international treaties such as the Convention on the Elimination of all forms of Discrimination Against Women and the International Covenant on Civil and Political Rights.
- The Convention against Torture and other Cruel, Inhuman and Degrading Treatment and the International Convention for the Protection of All Persons from Enforced Disappearance should be ratified so as to separately prosecute the use of torture and violence that are routinely used against WHRDs who assert the freedoms of assembly, association and expression.
- Publicly acknowledge the role of WHRDs and consult with them on policies and laws that have a bearing on them.
- Adopt a national legal framework as in the case of the Democratic Republic of the Congo, Côte d'Ivoire, Mali and Niger that formulate protection policies that promote the rights and work of WHRDs.
- Work to ensure that public officials, state and non-state actors do not make assertions or contribute to narratives that attack, defame, stigmatise, or incite violence against WHRDs in Zimbabwe. Where the latter is the case, to identify, investigate, and punish perpetrators of such violations.
- To encourage and safeguard women's participation, Zimbabwe may benefit from a provision similar to that in the Kenyan Constitution which prohibits one gender to comprise more than two-thirds in Parliament.