


AFRICAN UNION		UNION AFRICAINE
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## 69<sup>th</sup> Ordinary Session held virtually from 15 November – 05 December 2021

### Concluding Observations and Recommendations on the Combined Periodic Report of the Republic of Zimbabwe on the Implementation of the African Charter on Human and Peoples' Rights (2007 – 2019) and the Initial Report on the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) (2008-2019)

#### I. INTRODUCTION

1. The Republic of Zimbabwe (Zimbabwe) is a State Party to the African Charter on Human and Peoples' Rights (the African Charter), having ratified it in 1986.
2. It submitted its Periodic Combined Report in accordance with Article 62 of the African Charter and its Initial Report on the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) pursuant to Article 26 of the Maputo Protocol on 05 August 2019 and the Reports covered the periods 2007 to 2019 and 2008 to 2019 respectively.
3. The African Commission on Human and Peoples' Rights (the Commission) considered the Report at its 65<sup>th</sup> Ordinary Session, held from 21 October – 10 November 2019 in Banjul, The Gambia.
4. The Report was presented to the Commission by a high powered delegation led by Honourable Ziyambi Ziyambi, Minister of Justice, Legal and Parliamentary Affairs.
5. The Report highlights developments which have taken place in the country in the area of promotion and protection of human and peoples' rights, and the legislative, administrative and judicial measures put in place to comply with the country's obligations under the African Charter for the period 2007 to 2019 as well as the Maputo Protocol for the period 2008 to 2019.

6. The Commission appreciates the presentation of the Report by the high-level delegation and the constructive dialogue that followed the presentation.
7. The present Concluding Observations give an account of the positive aspects, the factors restricting the enjoyment of human rights and the areas of concern identified in the Report and from information given during the review of the Report.
8. Finally, the Commission makes recommendations on the measures needed to strengthen the enjoyment of human rights as guaranteed by the African Charter, the Maputo Protocol as well as other relevant human rights instruments.

## II. POSITIVE ASPECTS

### Reporting Obligations

9. The Commission:
  - i. Welcomes the efforts made in the preparation and presentation of its report and commends the country for its objectivity in the Report and during the constructive dialogue; as well as its commitment to implementing the provisions of Article 62 of the African Charter.
  - ii. Welcomes the update provided on the level of implementation of the recommendations of the Commission issued pursuant to its 6<sup>th</sup> to 10<sup>th</sup> Combined Report submitted in 2006.
  - iii. Welcomes the submission of the Initial and Combined Report providing information on the legislative, policy and institutional measures which have been taken to implement the Maputo Protocol.
  - iv. Also welcomes the representation of relevant stakeholders during the process of preparation of the Reports, including Government Ministries and Agencies, Civil Society Organisations and International Organisations based in Zimbabwe.
10. The Commission welcomes the ratification of the following regional and international instruments:
  - i. The Kyoto Protocol;
  - ii. The African Eurasian Water birds Agreement;
  - iii. The Rotterdam Convention;
  - iv. The Ramsar Convention on Wetlands of International Importance;
  - v. The Preferential Trade Area Treaty (PTA);

- vi. The Lome Convention;
- vii. The SADC Protocol on Gender and Development;
- viii. The SADC Protocol on Forestry;
- ix. The SADC Protocol on Fisheries; and
- x. The SADC Protocol on Conservation and Law Enforcement

### **Legislative Measures Promoting Human Rights**

11. The Commission further commends Zimbabwe for the enactment of the following laws:
  - i. Zimbabwe Gender Commission Act;
  - ii. Constitution Amendment Act;
  - iii. Trafficking in Persons Act;
  - iv. Domestic Violence Act;
  - v. The Legal Aid Act;
  - vi. Land Acquisition Act; and
  - vii. Zimbabwe Land Commission Act;

### **Policy and Institutional Measures Promoting Human Rights**

12. The Commission commends the adoption of the following policies to guarantee human rights:
  - i. The National Gender Policy;
  - ii. The National Disability Policy;
  - iii. The National Legal Assistance for Children Strategy;
  - iv. The National Health Strategy; and
  - v. The National Policy on Domestic Water Supply and Sanitation.
13. The Commission commends the following institutional measures in the promotion and protection of human rights:
  - i. Zimbabwe Human Rights Commission;
  - ii. Zimbabwe Gender Commission;
  - iii. Zimbabwe Electoral Commission;
  - iv. Zimbabwe Media Commission;
  - v. National Peace and Reconciliation Commission; and
  - vi. Zimbabwe Land Commission.

### **Civil and Political Rights**

14. The Commission commends:

- i. The enactment of the 2013 Constitution which provides amongst others for a bill of rights, devolution of powers and responsibility to lower tiers of government in Zimbabwe in order to enhance the preservation of unity, democratic participation in government by citizens and communities and for the equitable allocation of national resources;
- ii. The constitutional protection against discrimination and the adoption of specific policies and measures that address discrimination issues; and
- iii. The steps taken to enhance compliance of its justice delivery system with international standards relating to fair trial notably through the decentralisation of the operations of the Legal Aid Directorate to all the provinces to provide Legal Aid in both criminal and civil cases for poor and vulnerable members of society.

### **Death Penalty, Extrajudicial Killings and Enforced Disappearances**

15. The Commission commends:

- i. The measures taken towards the abolition of the death penalty in Zimbabwe including the imposition of a moratorium on executions; and
- ii. The setting up of a Commission of Enquiry into the Events of 1<sup>st</sup> August 2018 and the Special Committee established to implement its recommendations including compensation to the deceased families.

### **Prohibition of Torture and Cruel, Inhuman and Degrading Treatment**

16. The Commission commends:

- i. The establishment of the Anti-Trafficking Inter-Ministerial Committee to monitor and report on the implementation of anti-trafficking measures and advice on the investigation and prosecution of alleged cases of trafficking in persons;
- ii. The conduct of periodic monitoring visits to the prisons by the Justice, Law and Order Sector aimed at preventing and combatting acts of torture, cruel, inhumane and degrading treatment within prisons;
- iii. The inclusion of human rights and rule of law in the training curriculum of the Zimbabwe Republic Police (ZRP) and the Zimbabwe Prisons and Correctional Service (ZPCS);
- iv. The training of 30 000 police officers on human rights by the ZPR, since January 2014; and
- v. The confirmation by the Constitutional Court that judicial corporal punishment is an inhuman and degrading punishment and corporal punishment inflicted on juveniles in schools and in homes is also unconstitutional.

## **Due Process and Conditions of Detention**

17. The Commission commends:

- i. The amendment of the Criminal Procedure and Evidence Act to give effect to the constitutional provisions in line with international standards and best practice; including the requirement to bring an accused to court within 48 hours after arrest and the protection of vulnerable witnesses;
- ii. The directives of the Judicial Service Commission for all courts to remain open on Saturdays and on public holidays to give effect to the 48 hour detention rule;
- iii. The introduction of the Pre-Trial Diversion Programme in 2013 to divert child offenders from the mainstream punitive criminal justice system in cases where minor offences would have been committed;
- iv. The establishment of the open prison at Connemara for males to promote the right to liberty within the prison environment;
- v. The conduct of regular prison inspections by the judiciary, Parliamentary Portfolio Committees and the Zimbabwe Human Rights Commission (ZHRC);
- vi. The training of prison officials on the treatment and care of mentally challenged offenders; and
- vii. The establishment of the ZHRC, National Prosecuting Authority (NPA) and other Commissions to widen the domestic complaints mechanisms and also assist in reducing the backlog of cases in the conventional courts.

## **Right to Freedom of Conscience and Religion**

18. The Commission commends the upholding a person's constitutional right to freedom of conscience by the Supreme Court in **Dzvova vs. Minister of Education, Sport, Arts and Culture**.

## **Right to Freedom of Expression and Access to Information**

19. The Commission commends the:

- i. Establishment of the Zimbabwe Media Commission to uphold, promote and develop freedom of the media, ensure fair and wide access to information as well as conduct research into issues relating to freedom of the press and of expression.
- ii. Granting licence to eight (8) Local Commercial Radio Stations across the country's eight (8) major cities in addition to the existing six (6) National Commercial Radio Stations thereby increasing access to information;

- iii. Repealing the Access to Information and Protection of Privacy Act (AIPPA) which had provisions that had hindered access to information and freedom of expression;
- iv. Implementation of the digital migration project to address the challenges of Universal Access to Information in the country; including through the use of Public Private Partnerships; and
- v. Embarking on massive awareness campaigns for the digital migration project.

### **Right to Freedom of Assembly and Association**

20. The Commission commends:

- i. The domestication of the ILO Convention No. 87 and the reviewing of its Labour laws to bring them in line with the Constitution and ILO conventions ratified.
- ii. The training of Judges, Magistrates, Assessors, Labour Officers and Legal Officers on the International Labour Standards and the rights to freedom of Association and Assembly in collaboration with development partners.

### **Economic, Social and Cultural Rights**

21. The Commission welcomes the programmes implemented which are focused on health, education, employment, property and culture for the population.

### **Right to Health**

22. The Commission notes the following actions taken:

- i. The National Health Strategy and programme to achieve equity and quality in health for all;
- ii. The National Policy on HIV/AIDS to guide the present and future management of HIV and AIDS responses at national level, including, domestic resource mobilisation through the AIDS levy to ensure sustainability;
- iii. The national awareness and sensitisation programmes for the prevention and control of Malaria, HIV, and Malnutrition in collaboration with development partners;
- iv. The provision of free treatment including HIV related illness and tuberculosis for all children under 5 years in all public health institutions country wide to improve the infant mortality rate;
- v. Support to the agricultural sector through schemes such as the Special Maize Production and Import Substitution Programme and the Presidential Agricultural Input Scheme to those in communal farming to ensure food self - sufficiency and security in the country.

### **Right to Education**

23. The Commission notes the following actions taken:

- vi. Establishment of schools within 5km to 8 km radius and satellite schools in rural areas;
- vii. The various policies and programmes adopted to enhance the right to education, including the compulsory primary education, Early Childhood Development, Basic Education Assistance Module (BAEM), Education Development Fund, Cadetship Scheme, schools fees assistance and special facilities for children with special needs and children with disabilities;
- viii. The Second Chance Learning Initiative which is aimed at providing a second chance to children of school going age who have dropped out of school to learn, including academic, technical and vocational training; and
- ix. The introduction of the Science, Technology, Engineering and Mathematics 263 (STEM 263) Initiative which contributes towards the realisation of the right to free education.

### **Right to Employment**

24. The Commission notes the following actions taken:

- x. The establishment of Labour Court to deal with employment related disputes and issues; and
- xi. The creation of the Integrated Skills Outreach Program (ISOP), which has trained 4263 youths on various skills, funded 2 166 projects and created 3660 jobs.

### **Right to property**

25. The Commission notes the following actions taken:

- i. The establishment and operationalization of the Zimbabwe Land Commission to ensure accountability, fairness and transparency in the administration of land vested in the state;
- ii. Approval of the Revised National Housing Delivery Policy in 2012 aimed at providing one million two hundred and fifty thousand housing units by 2020;
- iii. Instituting Land Audit to address issues of accountability and transparency in the administration of agricultural land.

### **Right to Culture**

26. The Commission notes the following actions taken:

- iv. The broadening of the official languages to include minority languages in the Constitution with a view to facilitate communication and promote cultural unity;
- v. The establishment of a Department of Arts and Culture in every school properly supervised by the Head, the District and the Provincial Offices;
- vi. The introduction of Arts and Culture Inter-House Competitions in schools to motivate and encourage learners to appreciate culture as an important component of the school curriculum; and
- vii. The prohibition of harmful cultural practices in the Constitution.

### **Right to Adequate Standard of Life**

27. The Commission notes the following actions taken:

- i. The various projects aimed at improving the road networks, power generation and infrastructural development;
- ii. The completion of the Bubi-Lupane and the Tokwe-Mukosi dams to alleviate problems of water shortages in some towns;
- iii. The completion of other dam projects to assist in the adaptation to the climate change effects and increase in water supply.

### **Refugees, Migrants and Stateless Persons**

28. The Commission takes note of the following actions taken:

- i. The reduction of passport fees for nationals; and facilitation of procurement of refugee passports and other non-national in collaboration with the Office of the United Nations High Commissioner for Refugees; and
- ii. The establishment and operationalization of the Inter-Ministerial Refugee Committee to receive and consider applications for asylum seekers and refugees thereby promoting the right to movement and residence.

### **Women and Children's Rights**

29. The Commission commends the:

- i. Extensive coverage of women's rights including rights provided in the Maputo Protocol in the Constitution as well as the alignment of all gender related legislation to the Constitution;
- ii. Enactment of various pieces of legislation and policies aimed at advancing gender equality and promoting women's rights;
- iii. Establishment of institutions such as the Ministry of Women Affairs to advise Government on policies and issues relating to the wellbeing of women and girls; and the Zimbabwe Gender Commission to monitor



- and investigate possible violations of rights relating to gender and provide redress where rights have been violated;
- iv. Development of the first ever Girls and Young Women Empowerment Framework;
  - v. Establishment of a Young Women Desk at the Ministry of Women Affairs, Community, Small and Medium Enterprises Development to coordinate all empowerment initiatives targeted at children and girls with the view of eliminating all forms of discrimination.
  - vi. Various measures taken to coordinate the efforts of different stakeholders in combating Gender Based Violence(GBV) and in particular, adoption of the Gender Based Violence Strategy(2012-2015); the National Programme for GBV Prevention and Response (2016–2020; establishment of the Inter-Ministerial Cabinet Committee on Rape and Gender Based Violence (GBV); creation of the Victim Friendly System (VFS) comprising the Victim Friendly Units within the police and the Victim Friendly Courts; and the sensitisation and awareness raising campaigns for stakeholders including communities aimed at strengthening the holistic response to GBV in Zimbabwe;
  - vii. Establishment of One Stop Centres to provide health services, psycho-social support, victim friendly officers and provision of legal assistance to victims of GBV;
  - viii. Gender mainstreaming strategies in the education sector to promote girls’ education including the Mathematics, Science and Technical and Vocational Camps for girls and institutionalisation of Career Guidance and Counselling to encourage girls;
  - ix. The construction of schools through the Public Sector Investment Programme (PSIP), Public Private Partnerships (PPPs) and support from development partners with the objective of ensuring that no primary school child walks more than 5 km and no secondary school child walks more than 10 km to get to school as well as eradicating the double shift in schools;
  - x. Achieving gender parity at primary and secondary school levels, with respect to enrolment and literacy rates.
  - xi.* Outlawing child marriage by the Constitutional Court in *Mudzuru and Tsopodzo v Minister of Justice, Legal and Parliamentary Affairs and Others*; and the rolling out of the 18+ Campaign to end Child Marriage in collaboration with traditional leaders, civil society organisations and development partners;
  - xii. Various legal framework put in place to protect the rights of women to acquire and register property in their own names during marriage; and the rights of women and children in cases of divorce and death of a spouse/parent;
  - xiii. Joint parental responsibility to safeguard the interest of the family and provide the necessary protection for the children;

- xiv. Establishment of the Family Law Court System to ensure that cases arising from matrimonial disputes are dealt with in a specialised court and not the ordinary courts;
- xv. The mechanisms and programmes put in place to protect the reproductive health rights of women and girls; such as provision of information on cervical and breast cancer screening, free maternity booking, free sanitary pads for rural girls, immunisation of girl against cervical cancer and low cost birth control programmes;
- xvi. The various measures taken in collaboration with development partners to encourage and facilitate women's economic empowerment and participation in all economic sectors; including creating the enabling environment, mobilization of the needed financial resources and capacity building programmes;
- xvii. Institutionalisation of training in Sign Language for health workers to ensure access to effective and quality health services to women and girls with disability; and
- xviii. Compilation of Gender Disaggregated Data (GDD) through ZIMSTAT to facilitate the monitoring of the situation of women in the country;

### **Rights of Persons with Disabilities**

30. The Commission commends:

- i. The adoption of strategies and programmes to protect the rights of Persons with Disabilities;
- ii. Constitutional provision for representation of persons with disabilities in the Senate;
- iii. The provision of support to persons with disability notably the BEAM to cater for their educational needs of children with disability; and
- iv. Duty free importation of essential equipment to enhance their standard of living such as cars.

### **Rights of Older Persons**

31. The Commission commends:

- i. The establishment of the Older Persons Board pursuant to the Older Persons Act; and
- ii. The social safety net programmes in place to cater for all these category of people including, grants and quotas for veterans of the liberation struggle in allocation of land.

### **Extractive Industries and the Environment**

32. The Commission takes note of the actions taken:

- i. The launch of the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (Zim-ASSET) in 2013, aimed at achieving sustainable and equitable economic and social development, including the judicious and optimum utilization of its natural resources;
- ii. Introduction of the Transitional Stabilisation Programme (TSP) in 2018 upon the lapse of Zim- ASSET to among others; create a competitive and friendly business environment, enhance domestic and foreign investment and an aggressive fight against all forms of corruption.
- iii. Ensuring that the Kimberley Process Certification Scheme permits it to regulate its diamond industry; and
- iv. Ensuring that it has mandatory mining policies for beneficiation and value addition of strategic minerals in order to promote the free disposal of Zimbabwe's diamond resources on the international market.

### **Human Rights Institutions**

33. The Commission welcomes the establishment of the following Commissions mandated to promote and protect specific rights falling within their respective portfolios:

- i. Zimbabwe Gender Commission;
- ii. Zimbabwe Media Commission
- iii. National Peace and Reconciliation Commission; and
- iv. Zimbabwe Electoral Commission. .

### **III. FACTORS RESTRICTING THE ENJOYMENT OF THE RIGHTS GUARANTEED IN THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS AND THE MAPUTO PROTOCOL**

34. Despite the Government's efforts to comply with the provisions enshrined in the African Charter and the Maputo Protocol, the limited resources at its disposal especially financial, human and material, infrastructure as well as the significant economic challenges experienced by Zimbabwe over the last decade inhibit its ability to ensure that all its citizens enjoy the rights and fundamental freedoms enshrined in these human rights instruments.

35. The existence and continuous observance of deep rooted cultural and religious practices.

36. The pace at which legislative and policy reforms are undertaken to meet its obligations under the African Charter and the Maputo Protocol.

37. The negative effects of climate change on the environment and territory of Zimbabwe.

38. Non- translation into the local languages; and wide dissemination of the African Charter and Maputo Protocol to the general public to enable them to know its content and hold duty bearers accountable for non-implementation of the provisions therein.

#### **IV. AREAS OF CONCERN**

Whilst acknowledging the efforts made by the Government of Zimbabwe to promote and protect human rights, the Commission is concerned about the following:

##### **Ratification of Regional/International Human Rights Instruments**

39. Zimbabwe has not ratified the following human rights instruments:

- i. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons;
- ii. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa;
- iii. Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights;
- iv. Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment;
- v. African Charter on Values and Principles of Civil Service and Administration;
- vi. African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development;
- vii. Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT);
- viii. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT);
- ix. Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- x. International Convention for the Protection of all Persons from Enforced Disappearance;
- xi. International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families;
- xii. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;
- xiii. Optional protocol to the Convention on the Rights of Persons with Disabilities;
- xiv. Second Optional Protocol to the ICCPR aiming at the abolition of the Death Penalty; and

- xv. Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

### **Death Penalty, Extrajudicial Killings and Enforced Disappearances**

40. The Commission is concerned that there is:

- i. No statistics or evidence based data on the existence or otherwise of extra-judicial killings and enforced disappearances;
- ii. No information on the measures taken to prevent the premature death of inmates on death row and those serving life imprisonment jail terms; and
- iii. No information on the specific measures have been taken to accelerate the process of legal abolition of the death penalty, apart from the imposition of a moratorium on execution.

### **Prohibition of Torture and Cruel, Inhuman and Degrading Treatment**

41. The Commission is concerned that there is:

- i. No specific legislation enacted to criminalise torture;
- ii. No available national data on cases of torture; and
- iii. No coordinated national independent mechanism to prevent torture.

### **Due Process and Conditions of Detention**

42. The Commission is concerned about:

- i. The lack of adequate financial and other resources to effectively improve all aspects relating to conditions of detention including the full rehabilitation and smooth re-integration of child offenders and the timely scaling up of the open prison system to include females; and
- ii. The budgetary and other logistical challenges of the Legal Aid Directorate which impacts on the State's ability to expand the services to all districts countrywide.

### **Right to Freedom of Expression and Access to Information**

43. The Commission is concerned about:

- i. The absence of an Access to Information Law; and
- ii. The lack of a specific law or policy protecting the right to access to internet services and social media platforms.

### **Right to Freedom of Assembly and Association**

44. The Commission is concerned about lack of:

- i. Information on the implementation of the ACHPR Guidelines on Freedom of Assembly and Meetings; and
- ii. Information regarding implementation of the recommendations of the United Nations Declarations, the Grand Bay and the Kigali Declarations on Human Rights Defenders.

### **Economic, Social and Cultural Rights**

45. The Commission is concerned about:

- i. Lack of detailed information on the specific measures taken to effectively address the challenges of the land tenure system to ensure access to land/housing and equitable distribution of property especially poor households and the rural population;;
- ii. Lack of information on legislative measures taken to provide protection to workers in the domestic and agricultural sectors including the introduction of minimum wages;
- iii. Lack of information on legislative measures in place to protect against hazardous labour for people in the transport and industrial sectors;
- iv. Lack of information on legislative and other measures in place to provide adequate social security, health care services and pension schemes for civil servants and the private sector workers;
- v. Lack of specific information to address the challenges in implementing the National Employment Policy Framework;
- vi. The absence of information on the impact of the STEM programme and why it is no longer a policy of the Government?
- vii. The lack of information on the measures that have been in place to address the challenges associated with the demand for educational assistance and the timely disbursement of BAEM funds to facilitate access to education;
- viii. The measures taken to address the harmful cultural and religious practices that negatively affect the health and wellbeing of children especially the girl child;
- ix. Lack of information on access and affordability of life saving surgeries for the population; and
- x. Lack of information on measures taken to provide Universal Medical Coverage to Zimbabweans and, in particular the most disadvantaged.

### **Right to adequate standard of life**

46. The Commission is concerned that the severe drought suffered by the country coupled with the devastating cyclone in 2018/2019 had depleted water sources which has caused serious challenges to

clean, drinking water and sanitation in all the ten provinces, including cities, towns and growth points.

### **Refugees, Migrants and Stateless Persons**

47. The Commission is concerned that the report does not provide information on:

- i. The concrete measures taken to protect the rights of refugees and migrants in line with international law;
- ii. Lack of information on measures taken to guarantee the right to education of young migrant returnees as part of the rehabilitation process;
- iii. The measures taken to domesticate and implement the 1961 Convention on the Reduction of Statelessness and the 1954 Convention relating to the Status of Stateless Persons; and
- iv. Whether, as part of the local integration process long term refugees can acquire Zimbabwean citizenship and what is the process for doing so.

### **Women and Children's Rights**

48. The Commission is concerned about:

- i. On-going harmful cultural practice of early and forced marriage, in some communities contrary to the provisions of the National Laws, Maputo Protocol and other human rights legal instruments;
- ii. The prevalence of domestic and gender based violence despite numerous sensitisation activities conducted and mechanisms in place to prevent and respond to them;
- iii. Unavailability of One Stop Centres to provide victims/survivors of domestic and GBV with the necessary health, psycho -social and legal support services in all the provinces and districts countrywide;
- iv. Challenge in achieving the required number of female representation in the National Assembly, the Senate and in other decision making positions in line with the provisions of the Constitution; as well as the decline in the level of female representation in the local government, rural and urban councils;
- v. Lack of information on the mechanisms in place to provide a second chance to girls who have dropped out of school due to pregnancy or other reasons;
- vi. The slow pace in aligning the matrimonial and other laws in line with the Constitution to better protect the rights of women and girls;
- vii. Lack of information regarding the protection of the rights of women married under customary law;

- viii. Challenges regarding access to information and services on the sexual and reproductive rights of women especially those in rural communities;
- ix. Challenges particularly rural women, in accessing affordable health care services due to poverty and physical distance of health facilities, as most health facilities are not easily accessible due to lack of good infrastructure and road networks from the villages and communities;
- x. Challenges in accessing suitable and affordable housing due to their low economic standing and high cost of available public and private housing schemes;
- xi. Challenges relating to the gender imbalance in the economic and productive sectors despite the mechanisms and schemes in place to provide access to women;
- xii. Challenges relating to child labour, trafficking and sexual exploitation of women and girls;
- xiii. Lack of information on the measures taken to protect the rights of women in distress; and
- xiv. Challenges regarding the effective implementation of the provisions of laws protecting the rights of women and girls due to existing deep rooted cultural practices and inadequate material, financial and other resources;

### **Persons with Disabilities**

49. The Commission is concerned that:

- i. The Report does not provide information on measures taken to combat discrimination and stigmatization for persons with disabilities; and
- ii. The Report does not indicate how the measures, policies and strategies put in place to protect the rights of persons with disabilities have been effectively implemented especially, in the rural areas bearing in mind their own realities.

### **Older Persons**

50. The Commission is concerned that the Report does not indicate how the measures put in place to protect the rights of older persons have been effectively implemented especially in the rural areas bearing in mind their own realities as compared to their counterparts in the urban areas.

### **Extractive Industries and Environment**

51. The Commission is concerned that the Report does not provide sufficient information on:



- i. The legislative and other measures in place to adequately regulate the Extractive Industries of Zimbabwe, including implementation of the State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment ;
- ii. The application of the Mining, Exploration and Production Laws, including amongst others, the process of negotiation and granting of mining/exploration licence; the body responsible and its membership; the number of licences granted to companies/businesses/individuals, artisanal and semi-artisanal miners; and the process of distribution of revenue generated from mining/exploration resources;
- iii. The negative impact of the industrial, artisanal and semi-artisanal mining on the environment and the security and health of people living along mining communities and other related risks;
- iv. The procedures for confiscating land for mining/exploration purposes and the laws regulating it;
- v. Conservative measures put in place and how compliant are these measures with human rights standards;
- vi. The role and functions of Environmental Regulatory Institution in the process of implementing the construction of dams including the Bubi-Lupane and the Tokwe-Mukosi dams, the Kariba South Hydro Extension and Batoka and Hwange thermal power generation projects;
- vii. The adequacy of the budgetary allocation and human resource capacity of the Environmental Regulatory Institution to effectively implement its mandate nationwide; and
- viii. The role and functions of the Central and Local Government in addressing environmental concerns including provision of proper sanitation and waste management services to the population.

### **Human Rights Institutions**

52. The Report does not provide sufficient information on the mandate, functions, powers, financing, accessibility and impact of the work of the following institutions: Zimbabwe Human Rights Commission; Zimbabwe Gender Commission, Zimbabwe Media Commission, the National Peace and Reconciliation Commission and the Zimbabwe Electoral Commission.

### **V. Recommendations**

53. In view of the foregoing, the Commission makes the following recommendations to the Government of Zimbabwe:

## **Ratification of Regional/International Human Rights Instruments**

54. Ratify the following human rights instruments:

- i. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons;
- ii. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa;
- iii. Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights;
- iv. Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment;
- v. African Charter on Values and Principles of Civil Service and Administration;
- vi. African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development;
- vii. Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT);
- viii. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT);
- ix. Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- x. International Convention for the Protection of all Persons from Enforced Disappearance;
- xi. International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families;
- xii. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;
- xiii. Optional protocol to the Convention on the Rights of Persons with Disabilities;
- xiv. Second Optional Protocol to the ICCPR aiming at the abolition of the Death Penalty; and
- xv. Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

## **Death Penalty, Extrajudicial Killings and Enforced Disappearances**

55.

- i. Generate evidence based data on extra- judicial killings and enforced disappearances with a view to determining its prevalence or otherwise based on available data;
- ii. Take measures to prevent the premature death of inmates on death row and those serving life imprisonment jail terms; and

- iii. Provide information on the specific measures that have been taken to accelerate the process of legal abolition of the death penalty, apart from the imposition of a moratorium on execution.

### **Prohibition of Torture and Cruel, Inhumane and Degrading Treatment**

56.

- i. Adopt a specific law to criminalise Torture in conformity with the Convention Against Torture (CAT) and the Robben Island Guidelines;
- ii. Establish a Coordinated National Mechanism to prevent torture in Police Stations, detention centres and other private places as well as collect relevant statistical data on torture cases; and
- iii. Ensure the dissemination and training of relevant stakeholders on the Robben Island Guidelines with a view to popularising them nationally.

### **Due Process and Conditions of Detention**

57.

- i. Provide adequate financial and other resources to effectively improve all aspects relating to conditions of detention including the full rehabilitation and smooth re-integration of child offenders and the timely scaling up of the open prison system to include females;
- ii. Take appropriate measures to address the budgetary and other logistical challenges of the Legal Aid Directorate to enable it expand the services to all districts countrywide;
- iii. Utilise the Commission's Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa (the Luanda Guidelines) and General Comment No. 3 on the Right to Life, when conducting training to the Police, Correctional Service and other Security Outfits.

### **Right to Freedom of Expression and Access to Information**

58.

- i. Accelerate the enactment of an Access to Information Law in line with the Commission's model law on Access to Information, 2013 and Declaration on Freedom of Expression and Access to Information in Africa, 2019; and
- ii. Take appropriate legislative and other measures to adequately protect the right to access to internet services and social media platforms.

## **Right to Freedom of Assembly and Association**

59.

- i. Take the necessary measures to protect and promote human rights in conformity with the African Charter, ACHPR Guidelines on Freedom of Assembly, the Grand Bay and Kigali Declarations on Human Rights Defenders, the UN Declaration on Human Rights Defenders and other regional and international human rights instruments that guarantee the right to freedom of association and assembly; and
- ii. Consider adopting a specific law to protect the rights of human rights defenders.

## **Economic, Social and Cultural Rights**

### **Right to Health**

60.

- i. Take appropriate measures to address the harmful cultural and religious practices that negatively affect the health and wellbeing of children especially the girl child;
- ii. Take appropriate measures to provide access to safe and affordable lifesaving treatment/surgeries for the population in situations of emergency;
- iii. Increase the budget allocation to the health sector in line with the Abuja Declaration; and
- iv. Take appropriate measures to provide Universal Medical Coverage to Zimbabweans and, in particular the most disadvantaged.

### **Right to Work**

61.

- v. Take appropriate measures to provide protection to workers in the domestic, transport, industrial and agricultural sectors including the introduction of minimum wages;
- vi. Accelerate the review of legislative and policy frameworks with a view provide adequate social security, health care services and pension schemes for civil servants and the private sector workers; and
- vii. Monitor and evaluate the legislative and policy framework to address the challenges in implementing the National Employment Policy Framework.

### **Right to Education**

62.

- viii. Evaluate the impact of the STEM programme and provide information on the reasons why the programme is no longer a policy of the Government; and
- ix. Take appropriate measures to address the challenges associated with the demand for educational assistance and the timely disbursement of BAEM funds to facilitate access to education especially for children of low-income earners in society.

### **Right to Property**

63.

- x. Evaluate the legislative framework and land tenure system with a view to putting in place comprehensive policies, plans and programmes aimed at making acquisition of land and housing accessible and affordable to all its citizens, particularly the poor households and rural population; and

### **Right to Social Protection**

64. Zimbabwe should accelerate the introduction of comprehensive and inclusive legal framework and measures for the provision of adequate social security and social protection services to its citizens.

### **Right to adequate standard of life**

65.

- i. Take appropriate short, medium and long term measures to address the issues of climate change effects on the country; including sustainable adaptation programmes especially in the areas and communities most affected;
- ii. Continue to work with partners in completing projects aimed at sustainably alleviating the water shortage problems in the cities, towns and growth; and
- iii. Make effective use of the ACHPR's Guidelines on the Right to Water to ensure an equitable, inclusive and sustainable management of its water resources and needs;

### **Refugees, Migrants and Stateless Persons**

66.

- i. Take concrete measures to protect the rights of refugees and migrants in line with international law;
- ii. Take appropriate measures taken to guarantee the right to education of young migrant returnees as part of the rehabilitation process;
- iii. Provide information on the legislative and other measures taken to implement the 1961 Convention on the Reduction of Statelessness and the 1954 Convention relating to the Status of Stateless Persons;
- iv. Provide information on whether long term refugees can acquire Zimbabwean citizenship as part of the local integration process and the process for acquiring citizenship ; and
- v. Take measures to domesticate and implement the Kampala Convention and to report on its implementation to the ACHPR pursuant to Article 14 (4) of the Convention.

### **Women and Children's Rights**

67.

- i. Adopt proactive multi-faceted strategies at the national and community levels to end harmful practices of early and forced marriages such as including *inter alia*; empowering girls with information, skills and support networks; educate and rally parents and community members on the dangers of the practice and provide skills on alternative sources of income for practitioners;
- ii. Review and evaluate the current protocols and approaches in dealing with gender based violence with a view to effectively addressing the challenges identified in line with international best practices and provide adequate resources to accelerate prosecution and completion of cases of gender based violence;
- iii. Take appropriate measures to establish One Stop Centres services in all the provinces and districts countrywide to facilitate the provision of the necessary health, psycho -social and legal support to victims/survivors of domestic and GBV;
- iv. Implement targeted policies and programmes aimed at achieving the required number of female representation in the National Assembly, the Senate and in other decision making positions in line with the provisions of the Constitution; as well as representation in the local government, rural and urban councils;
- v. Provide information on the mechanisms in place to provide a second chance to girls who have dropped out of school due to pregnancy or other reasons;
- vi. Accelerate the pace in aligning the matrimonial and other laws in line with the Constitution to better protect the rights of women and girls;
- vii. Take appropriate legislative and other measures to protect the rights of women married under customary law;

- viii. Develop effective Information, Education and Communication (IEC) tools to provide information and services to women on their reproduction rights and health especially those in rural communities;
- ix. Take appropriate measures to provide access to affordable health care services especially rural women;
- x. Take appropriate measures to provide access to suitable and affordable housing to low economic earners especially women;
- xi. Take appropriate targeted measures in collaboration with partners to sustainably remedy the gender imbalance in the economic and productive sectors including mechanisms and schemes to economically empower women;
- xii. Continue its efforts in collaboration with partners to combat child labour, trafficking and sexual exploitation of women and girls;
- xiii. Take appropriate measures to protect the rights of women in distress; and
- xiv. Adopted a proactive and multifaceted approach to enhance the implementation of the laws protecting the rights of women and girls.

### **Persons with Disabilities**

68.

- i. Adopt legislative and other measures to combat discrimination and stigmatization for persons with disabilities; and
- ii. Adopt appropriate policies and support programmes to protect the rights of Persons with Disabilities and ensure their effective implementation nationwide; and
- iii. Put in place adequate budgetary and material resources to address the inequality and other challenges faced by persons with disabilities which restrict the full enjoyment of their rights.

### **Older Persons**

69. Enact laws and adopt appropriate policies and support programmes to protect the rights of Older Persons and ensure their effective implementation nationwide especially in the rural areas.

### **Extractive Industries and Environment**

70.

- i. Comply with the State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment;
- ii. Put in place the necessary legislative and other measures to adequately regulate the extractive industries and mitigate/eradicate

the negative impact of the industrial, artisanal and semi-artisanal mining/exploration licences on the environment, the security and health of people living along these communities and other related risks;

- iii. Provide sufficient information on
- The application of the Mining, Exploration and Production Laws, including amongst others, the process of negotiation and granting of mining/exploration licence; the body responsible and its membership; the number of licences granted to companies/businesses/individuals, artisanal and semi-artisanal miners; and the process of distribution of revenue generated from mining/exploration resources;
  - The procedures for confiscating land for mining/exploration purposes and the laws regulating it;
  - Conservative measures put in place and how compliant are these measures with human rights standards;
  - The role and functions of Environmental Regulatory Institution in the process of implementing the construction of dams including the Bubi-Lupane and the Tokwe-Mukosi dams, the Kariba South Hydro Extension and Batoka and Hwange thermal power generation projects;
  - The adequacy of the budgetary allocation and human resource capacity of the Environmental Regulatory Institution to effectively implement its mandate nationwide; and
  - The role and functions of the Central and Local Government in addressing environmental concerns including provision of proper sanitation and waste management services to the population.

## **Human Rights Institutions**

71.

- i. Provide information on the powers, functions and accessibility to the mandate, functions, powers, financing, accessibility and impact of the work of the following institutions: Zimbabwe Human Rights Commission; Zimbabwe Gender Commission, Zimbabwe Media Commission, the National Peace and Reconciliation Commission and the Zimbabwe Electoral Commission; and



- ii. Highlight the impact of the work of these Commissions in enhancing the promotion and protection of human and peoples' rights in the country.

### **Cooperation with the Commission**

72.

- i. Translate the African Charter in the local languages and widely disseminate it to the general public for their use;
- ii. Comply with its obligations under Article 62 of the African Charter and 26 of the Maputo Protocol by implementing the recommendations made herein; and
- iii. Inform the Commission, in its next periodic report of the measures taken to address all the above issues of concern and recommendations.

**Adopted by the African Commission on Human and Peoples' Rights at its 69<sup>th</sup> Ordinary Session held virtually from 15 November to 05 December 2021**