

Zimbabwe

Civil Society Engagement Scan in Health Policy and Law



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Foreword

Zimbabwe as a country has made significant progress in the fight against the HIV and AIDS pandemic as witnessed by the sharp decline in the prevalence rate from 26.5% in the mid 90s to the current prevalence rate of 13,5%. This success can be attributed to the multi-stakeholder response addressing and targeted diverse groups using multi-pronged approaches that include comprehensive prevention strategies, mobilization and linkage to test and treatment, policy review and reform to address marginalized groups as well keep people within the treatment. This is reinforced by the desire to end Aids through spearheading Global targets.

The national HIV and AIDS response has, until recently been quite generalized leaving other groups behind especially key populations i.e. Men who have sex with other men, Sex workers, People who use drugs, Transgender amongst others. This has led to high prevalence rate of HIV amongst Key populations compared to that of the general population. With Global and local evidence generated by partners, allies and key population groups. Government and partners could not ignore these groups in controlling the epidemic.

Despite receiving behavioral interventions, bio-medical services that include HIV testing, Pre-Exposure prophylaxis, Post -Exposure prophylaxis, Anti-Retroviral Therapy amongst other interventions, Key Populations still struggle with structural barriers characterized by harsh laws and limited key population inclusive policy documents and guidelines. The Zimbabwean constitution of 2013 prohibits persons of the same sex from marriage and the Criminal Codification Act criminalizes consensual and non-consensual same sex sexual contact between two consenting male adults. These laws have an adverse effect on Men who have sex with men and other marginalized populations in the uptake of HIV and other SRHR services, as they fear victimization, possible arrests and other human rights violations

Key population programming is a grey area with limited research and evidence coupled by barriers and laws that impedes access. The Engagement Scan is a guiding tool for all actors working on HIV and SRH rights to plan for and strategically engage and advocate for legal and policy reform in Zimbabwe. It provides action where gaps and challenges have been identified while at the same providing opportunities for strengthening existing mutually-beneficial partnerships with government and other relevant key actors in the country in the formulation, adoption and implementation of appropriate action.

GALZ

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Zimbabwe Civil Society Engagement Scan in Health and Policy Law National Steering Committee

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Acronyms

ACHPR	African Charter on Human and Peoples' Rights
African Commission	African Commission on Human and Peoples' Rights
AU	African Union
BEAM	Basic Education Assistance Module
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CBOs	Community-Based Organisations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSOs	Civil Society Organisations
ES	Engagement Scan
FBOs	Faith-Based Organisations
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organisation
IMC	Inter-Ministerial Committee on Human Rights and International Humanitarian Law
IMT	Inter-Ministerial Task Force on Alignment
JLOS	Justice, Law and Order Sector
LEA	Legal Environment Assessment
Maputo Protocol	African Charter on Human and Peoples' Rights on the Rights of Women in Africa
MoJLPA	Ministry of Justice, Legal and Parliamentary Affairs
MPs	Members of Parliament
NANGO	National Association of Non-Governmental Organisations
NGO	Non-Governmental Organisation
NPA	National Plan of Action
PEC	Public Enquiry Counter
PLC	Parliamentary Legal Committee
PVOs	Private Voluntary Organisations
SDGs	Sustainable Development Goals
SHR	Sexual and Reproductive Health
TB	Tuberculosis
UN	United Nations
UPR	Universal Peer Review Process

VFU	Victim-Friendly Unit
ZADHR	Zimbabwe Association of Doctors for Human Rights
ZESN	Zimbabwe Election Support Network
ZGC	Zimbabwe Gender Commission
ZHRC	Zimbabwe Human Rights Commission
ZIMRIGHTS	Zimbabwean Human Rights Association
ZLHR	Zimbabwe Lawyers for Human Rights
ZPCS	Zimbabwe Prisons and Correctional Services
ZRP	Zimbabwe Republic Police
ZWLA	Zimbabwe Women Lawyers Association

Introduction and Background

According to the 2012 National Census Report for Zimbabwe, the country has a total population of 13,061,239 people.¹ The majority, 67.2%, live in rural areas, while the remaining 32.8% reside in the urban areas. Rural to urban migration continues to increase and rapidly changing, as more people are in search of better livelihoods. The National Census Report reveals that almost half of Zimbabwe's citizens, 47.8% or 6.26 million, are children below the age of 18 years.

The general HIV prevalence in Zimbabwe is 13.5%. There has been a sharp decrease in new HIV infections and AIDS-related deaths in recent years, however, key populations remain highly vulnerable to HIV and still face stigma and discrimination including whilst accessing health services. According to the Extended Zimbabwe National HIV and AIDS Strategic Plan, 2015-2020 statistics, HIV prevalence among sex workers is 57.1% and 28% among prisoners. *There is no data on HIV prevalence among transgender persons, people who use drugs, or men who have sex with men as well as young key populations.* Key populations face numerous barriers to accessing needed HIV and other sexual and reproductive health (SRH) services. These include stigma and discrimination; inadequate health services to meet their needs; a lack of information on how to access available services; violence; and a lack of a protective legal and policy environment.

The Constitution of Zimbabwe has strong provisions that seek to protect people from all forms of discrimination and promote access to adequate health services for all.² To realise the aspiration of the Constitution the Government has committed to and continues to make efforts that ensure access to health services based on international and regional obligations. However, there are still a number of areas that require attention and redress.

Civil Society Organisations (CSOs) in Zimbabwe are diverse in terms of constituencies, functions, size, resource levels, organizational forms, geographical scope, historical experiences, cultural contexts, agendas, ideologies, strategies, and approaches. They provide spaces for civic engagement and opportunities for collective community action on specific issues, mobilizing the society to articulate demands and voice concerns at local, national, regional, and international levels. Depending on their mandate, they have assumed various roles to champion specific interests across the broad spectrum of international human rights and humanitarian law. In some instances, they work independently. In other cases, CSOs have collaborated with each other and inter-governmental organisations to complement government efforts to comply with international obligations under different protocols and treaties and the Sustainable Development Goals (SDGs).

Currently, there are a number of types of CSOs in Zimbabwe. They include national non-governmental organisations (NGOs), international NGOs, community-based organisations (CBOs), faith-based organisations (FBOs), and networks/alliances. International and national NGOs focus on national issues and their geographic area of operations in most cases is national. CBOs are usually comprised of a group of individuals organised by and

1 Zimstat, Zimbabwe Population Census 2012 available at http://www.zimstat.co.zw/sites/default/files/img/National_Report.pdf (accessed 26 June 2018).

2 Constitution, ss 56 and 76(1).

for a particular community of people based on shared interests or attributes. CBOs focus generally on issues and concerns at the local level. FBOs have directed their efforts toward meeting the spiritual, social and cultural needs of their members and the community and are engaged in diverse sectors, including human rights. There are also networks or alliances, which are CSOs who have come together strategically behind a thematic issue.

CSOs register with the government primarily as Private Voluntary Organisations (PVOs) or Trusts. According to a National Association of NGOs Baseline Study of 2013,³ there were 993 CSOs registered as PVOs in Zimbabwe. There was no information on how many were registered as Trusts. The CSOs were unevenly distributed across the country with the highest concentration having offices in urban areas with satellites or smaller administrative offices in non-urban areas. Based on area of interest and *raison d'être* for establishment, some CSOs are localised at the community level, while others have a national regional and international affiliation.

3 National Association of Non-Governmental Organisations (NANGO), Baseline Study on Capacity Gaps in the Civil Society Organisation's Sector in Zimbabwe (June 2013); National Association of Youth Organisations, Enabling Environment Country Survey Findings: Enabling Environment Country Report for Zimbabwe.

Purpose of Engagement Scan

This Engagement Scan (ES) seeks to address barriers key populations face in accessing health care services, and in particular addressing legal and policy barriers. The purpose of the ES is to provide a tool for CSOs working on HIV and SRH rights to plan for and strategically engage and advocate for legal and policy reform and action where gaps and challenges have been identified while at the same providing opportunities for strengthening existing mutually-beneficial partnerships with government and other relevant key actors in the country in the formulation, adoption and implementation of appropriate action.

The ES is a living document and is comprised of two components: a timeline/calendar of events and a supporting document. The supporting document provides a legal and policy background; background on the various institutions relevant to legal and policy reform; and particular processes for relevant legal and policy reform. The timeline/calendar of events identifies specific and strategic key opportunities for which CSOs can plan.

The timeline/calendar of events should be regularly updated with new information on approaching advocacy opportunities. The supporting document should be reviewed and updated every five years to take into account possible realignment of government Ministries, government departments and quasi-government institutions and roles and mandates.

The ES is organized as follows:

Section 1: Provides a background on the legal framework in Zimbabwe, including the laws of Zimbabwe and the international and regional human rights treaties applicable in Zimbabwe.

Section 2: Outlines the relevant national institutions and processes for legal or policy reform. This includes the Executive, Legislative, Judicial, Administrative and traditional bodies.

Section 3: Discusses the various regional institutions and processes that can change law and policy.

Section 4: Discusses the relevant international institutions and processes that can change law and policy.

Section 5: Identifies other key influencers in Zimbabwe.

Section 6: Covers the key recommendations to address the gaps in the legal and policy environment.

Section 7: Lists the potential opportunities for advocacy to address some of the key recommendations identified in section 6. It outlines various advocacy strategies for addressing the gaps in the law and policy environment.

Section 8: Provides a timeline listing key dates for potential advocacy opportunities. The timeline needs to be regularly updated as more information on key dates is available.



1

Legal Framework

The laws of Zimbabwe consist of the following:

1. The Constitution (2013). The Constitution is the supreme law of the land.⁴ It is the principal legal instrument that guarantees and protects human rights in the country.
2. Laws and statutes enacted by Parliament
3. Common law
4. Customary law, which is consistent with the Constitution

Zimbabwe has ratified a number of global and regional human rights treaties relevant to HIV:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- Convention on the Rights of Persons with Disabilities (CRPD)
- Optional Protocol to the Convention on the Rights of Persons with Disabilities
- African Charter on Human and Peoples' Rights (ACHPR)
- African Charter on the Rights and Welfare of the Child
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)

However, there are still a number of global and regional treaties Zimbabwe has yet to ratify:

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- International Convention for the Protection of All Persons from Enforced Disappearance
- Optional Protocol to the International Covenant on Civil and Political Rights
- Second Optional Protocol to the International Covenant on Civil and Political Rights
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
- Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

⁴ Constitution, s 2.

- Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure

The Constitution provides that “all international treaties and agreements to which Zimbabwe is a party to are incorporated into domestic law”.⁵ Thus, Zimbabwe must take into account the obligations under the relevant treaty when drafting and interpreting laws and policies.⁶



Key Opportunity: Complaints to International Treaty Bodies

Individual complaints can be made to the following international bodies:

- ✓ Human Rights Committee for violations of the ICCPR
- ✓ Committee on the Rights of Persons with Disabilities for violations of the CRPD

How to file a complaint with these international bodies is covered in section 4.

5 Constitution, s 34.

6 Constitution, ss 326-327.



2

Key National Institutions and Processes Relevant to Law and Policy Reform

There are several key institutions/offices that are relevant to law and policy reform and will be discussed in relation to law and policy reform. They are as follows:

- Office of the President
- Attorney-General's Office
- National Prosecuting Authority
- Government Ministries
- Parliament
- Judiciary
- Zimbabwe Human Rights Commission
- Zimbabwe Gender Commission
- Zimbabwe Republic Police

The functions and contact for each institution/office, and ways CSOs can engage with each office are provided below.

Key Institutions in the Executive

The relevant institutions for policy and legal reform based in the Executive branch include:

- Office of the President;
- Attorney-General's Office; an
- Government Ministries

Legal and policy reform relevant to the Executive are the drafting and promulgation of legislation and policies. These processes are covered in section 2.2.

Office of the President (OPC)

The functions of the President are as follows:

- Assent to Bills;
- Referring a Bill to the Constitutional Court for an opinion or advice on constitutionality;
- Calling a special session of Parliament;
- Calling elections; and
- Calling referendums



How CSOs can engage with the Office of the President

Traditionally, CSOs have targeted the parent Ministries. However, more recently the Office of the President appears more open to engagement with stakeholders.

Departments within the OPC that could be of relevance are:

- Implementation, Monitoring and Evaluation;
- Policy Formulation, Coordination and Analysis;
- Office of the Advisor on Health; and Disability Advisor's Office



Contact Details

Munhumutapa Building, Corner Samora Avenue and Sam Mujoma, Harare
Email: info@opc.gov.zw, Tel: +263 4 707091/7, Website: <http://www.opc.gov.zw>

Attorney-General's Office

The Attorney-General is appointed by the President.⁷ S/he is the principal legal adviser to the Government, including the President. The Attorney-General can attend Cabinet meetings and sit and speak in Parliament but s/he cannot vote.⁸

The functions of the Attorney-General's Office are as follows:

- Representing the Government in civil and constitutional proceedings. This is in cases where the Government is cited as a respondent/defendant in cases brought about by individuals or companies
- Drafting of legislation on behalf of Government including provision of Technical expertise.
- Promoting, protecting and upholding the rule of law and defending the public interest.



How CSOs can engage with the Attorney General's Office

- Bring to the attention of the AG – cases related to misinterpretation of the Law including nonenforcement or compliance.
- Participate in public consultation on drafting and law reform initiatives
- Advance issues of public interest

7 Constitution, s 114(1).

8 Constitution, s 114(5).

Contact Details

New Government Complex, Corner Simon V. Muzenda Street & Samora Machel Avenue, 6th Floor Block C, Harare, The Permanent Secretary, Ministry of Justice, Legal and Parliamentary Affairs, Private Bag 7751, Causeway, Harare
Tel: +263 4 774560, 263 4 774620/7



National Prosecuting Authority

The National Prosecuting Authority undertakes criminal prosecutions on behalf of the State.⁹ The Prosecutor-General is the Head of the National Prosecuting Authority, and is appointed by the President following the recommendation of the Judicial Service Commission.¹⁰ The Prosecutor General is independent and not subject to the direction or control of anyone and exercise functions impartially and without fear, favour, prejudice or bias.¹¹

How CSOs can engage with the National Prosecuting Authority (NPA)

Key populations who are victims of human rights violations and CSOs may approach the NPA to advocate for particular prosecutions. For instance, CSOs working with sex workers may want to approach the NPA to discuss the need to prosecute for perpetrators systemic violations or in particular instances



Contact Details

6th Floor Corner House, Corner Samora Machel Avenue & Leopold Takawira Street, Harare



Government Ministries

The various Ministries established by the State are responsible for the development of specific sector legislation and policies. Each Ministry is responsible for engaging and consulting with stakeholders, including relevant CSOs, when developing policies, Bills or amendment to laws.

The general functions of Government Ministries include:

- the Administration of any Act of Parliament assigned to them by the President;
- attending Parliament and Parliamentary Committees in order to answer questions concerning matters for which they are responsible;

⁹ Constitution, s 258.

¹⁰ Constitution, s 259.

¹¹ Constitution, s 260.

- directing the operations of Government;
- conducting Government business in Parliament;
- preparing, initiating and implementing national legislation;
- developing and implementing national policy and national and subsidiary strategic plans; and
- advising the President.¹²

Some of the Ministries have a policy of engaging stakeholders, including CSOs, in matters that interest or affect them. For example, the Ministries of Justice, Legal and Parliamentary Affairs, Health and Child Care, Labour and Social Welfare and Women Affairs are known to engage stakeholders for their input when they develop policies and laws. Ministries like the Ministry of Justice, Legal and Parliamentary Affairs even encourage stakeholders to come up with shadow Bills for their consideration.

The relevant Ministries for HIV and AIDS-related legal and policy reform include:

- the Ministry of Health and Child Care;
- the Ministry of Justice, Legal and Parliamentary Affairs;
- the Ministry of Labour and Social Welfare; and
- the Ministry of Women and Youth Affairs.

Their specific mandate of each Ministry, the legislation administered by the Ministry and its contact details are listed below:

Ministry of Health and Child Care

- coordinating the assessment, identification and analysis of the priority health challenges and needs of the people of Zimbabwe;
- coordinating the development of national health policy, setting of national standards and guidelines, coordinating the planning and provision of affordable, accessible, acceptable and comprehensive range of health care services;
- coordinating the establishment and continuous improvement of a reliable national health information system to facilitate planning and evaluation as well as the implementation of policies, strategies and action plans; and
- consolidating and monitoring implementation of national health plans, compliance to national policies and guidelines;
- monitoring disease trends, quality of care and population health status;
- monitoring adherence to pharmaceuticals policies, medicines quality, availability and distribution of medicines;

¹² See for instance, Constitution, s 110.

- coordinating the training and development of adequate numbers of health managers to direct an efficient and high-quality health system; and
- creating a conducive regulatory environment through health legislation for both public and private providers.¹³

Examples of Legislation, Policies and Strategies Administered by the Ministry

Relevant legislation administered by the Ministry include the following:

- Public Health Act;
- the Medical, Dental and Allied Professions Act;
- the Mental Health Act;
- the Medical Services Act;
- the Zimbabwe Mental Health Policy;
- the Zimbabwe National Strategic Plan for Mental Health Services;
- the National Nutrition Communication Strategy,
- National Health Strategy for Zimbabwe 2016-2020; and
- the National Plan of Action for Orphans and Other Vulnerable Children III
- the National Family Planning Strategy 2016 -2020
- the National Adolescent and Youth Sexual and Reproductive Health (ASRH) 2016-2020

How CSOs can engage with the Ministry of Health and Child Care

- CSOs can approach the Ministry of Health and Child Care to provide evidence on barriers related to accessing health services by key populations;
- Participate as partners in the various committees established by the Ministry;
- Conduct specific analysis; and present position papers to the Ministry.
- CSOs can also discuss and raise concerns regarding specific gaps in the legal and policy framework including service delivery.



Contact Details

4th Floor, Kaguvi Building, Central Avenue (Between 4th and 5th Streets), Harare, Box CY 1122 Causeway, Harare
 Tel: +263 (24) 798537 560, Fax: +263 (24) 729154 or 793634, Website: www.mohcc.gov.zw



¹³ See <http://www.zim.gov.zw/government-ministries/ministry-health-and-child-care> (accessed 26 June 2018).

Ministry of Justice, Legal and Parliamentary Affairs

The functions of the Ministry of Justice, Legal and Parliamentary Affairs (MoJLPA) include:

- Formulation and amendment of laws and policies that fall within the mandate of the MoJLPA;
- Coordinating Government Ministries and other stakeholders, such as CSOs in reporting to the United Nations Human Rights Treaty Bodies;
- Research and identification of gaps in the law and considering complaints from stakeholders;
- Initiate research on relevant issues, generate white papers, and engage the public for comments in collaboration with stakeholders;
- Taking part in advocacy meetings and commemorative events in collaboration with the Zimbabwe Human Rights Commission;
- Ensuring legislation is aligned to the Constitution;
- Engagements and collaborations with the Law Development Commission,¹⁴ which has the functions of law development and reform but has been more engaged in updating all statutory legislation; and
- Collaborations with the Judicial Service Commission and National Prosecuting Authority. Though these are independent institutions, the line Ministry is the MoJLPA and the Ministry works through the Legal Research and Policy Division to present position papers, and policies on behalf of the National Prosecuting Authority.

Relevant committees

The MoJLPA coordinates the following committees, among others:

- The Inter-Ministerial Task Force on Alignment (IMT), which ensures that all legislation is aligned to the Constitution;¹⁵
- The Inter-Ministerial Committee on Human Rights and International Humanitarian Law (IMC), which coordinates all human rights and international humanitarian law issues at Inter-Ministerial level.
- The Justice, Law and Order Sector (JLOS) Coordinating Mechanism. The JLOS was established in 2012 to enhance the rule of law, to address resource and capacity constraints of the various actors and at the same time to optimize on available resources to ensure equal access to justice especially for women, children, people with disabilities and the mentally challenged.

Some of the Legislation administered by the MoJLPA

The Ministry administers the following legislation, among others:

14 The Law Development Commission sits in the MoJLPA and is responsible for reviewing legislations, initiating new legislation and compiling all statutes in the country.

15 See: <http://www.zim.gov.zw/government-Ministries/ministry-justice-legal-and-parliamentary-affairs>.(accessed 26 June 2018).

- the Patents Act and Trade Marks;
- the Prevention of Discrimination Act;
- the Legal Aid Act; and
- the Domestic Violence Act.

How CSOs can engage with the MoJLPA

- CSOs can approach the MoJLPA with specific concerns relating to gaps in the law or areas that require law reform.
- CSOs can engage the JLOS on relevant legislative and policy reform and policies.
- CSOs can draft shadow Bills and present to the Ministry of its consideration



Contact Details

New Government Complex, Cnr Simon V. Muzenda Street & Samora Machel Avenue, 6th Floor Block C, Harare, The Permanent Secretary, Ministry of Justice, Legal and Parliamentary Affairs, Post Bag 7751, Causeway, Harare
 Tel: +263 4 774560, 263 4 774620/7, Fax: +263 4 772999, E-mail: justice@justice.gov.zw



Advocacy Example: CSOs engaging with Ministries

- Advocacy groups representing the rights of the visually impaired are working closely with the MoJLPA to advocate for a voters' roll in Braille and to enable visually-impaired persons to exercise their right to vote without assistance.
- CSOs have also collaborated with the Ministry of Health and Child Care to draft a policy on ante-natal care

Ministry of Labour and Social Welfare

The functions of the Ministry of Labour and Social Welfare include:

- promoting fair labour practices;
- maintaining links with labour organizations or bodies like the International Labour Organisation (ILO) for maintenance of international labour standards;
- reducing poverty and enhance self-reliance through the provision of social protection services to vulnerable and disadvantaged groups in Zimbabwe; and

- administering the Basic Education Assistance Module (BEAM) and Child Protection.¹⁶

Legislation administered by the Ministry of Labour and Social Welfare

The Ministry administers the following legislation, among others:

- the Social Welfare Assistance Act;¹⁷
- the Labour Act;¹⁸ and the Disabled Persons Act.¹⁹



How CSOs can engage with the MLSW

- CSOs can provide evidence on relevant barriers facing key populations;
- Participate as partners in the various committees established by the Ministry;
- Conduct specific analysis; and present position papers to the Ministry.
- CSOs can also discuss and raise concerns regarding specific gaps in the legal and policy framework including the lack of implementation thereof



Contact Details

The Secretary, MLSW, 9th Floor Kaguvi Building, Harare, P. O. Box CY 17, Causeway, Harare

Tel: +263 4 704085, 263 4 703871, 263 4 251288, 263 4 251022, 263 4 251471

Ministry of Women and Youth Affairs

The functions of the Ministry of Women and Youth Affairs include:

- supporting women's groups through the Women's Development Fund and offering/facilitating other support for the promotion of women's economic empowerment;
- engaging communities to reduce domestic violence;
- facilitating equal distribution of resources among women and men;
- monitoring the 50/50 participation of men and women in development programmes; and

¹⁶ See: <http://www.zim.gov.zw/government-ministries/ministry-labour-and-social-welfare> (accessed 26 June 2018).

¹⁷ The Social Welfare Assistance Act, Chapter 17:06

¹⁸ The Labour Act, Chapter 28:01

¹⁹ Zimbabwe Disabled Persons Act, Chapter 17:06. The Act is likely to be repealed and replaced in the near future by a Persons with Disabilities Act (still in Bill form), which seeks to align the current law with the Constitution and the Convention on the Rights of Persons with Disabilities.

- formulating, executing, and reviewing policy on the development and empowerment of youth; and implementing economic empowerment and development initiatives for youth.²⁰

Legislation administered by the Ministry of Women and Youth Affairs

The Ministry of Women and Youth Affairs is responsible for administering the Zimbabwe Gender Commission Act, Gender Policy; Youth Policy among others.

How CSOs can engage with the Ministry of Women and Youth Affairs

- CSOs can provide evidence on relevant barriers facing key populations, especially young key populations;
- Participate as partners in the various committees established by the Ministry;
- Conduct specific analysis; and present position papers to the Ministry.
- CSOs can raise concerns regarding specific gaps in the legal and policy framework.



Contact Details

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Legal and Policy Reform Relevant to the Executive

The key reform processes relevant to the Executive are the drafting and promulgation of policies and the drafting of Bills.

Drafting and Promulgation of Policies

Policies outline the general principles by which a government is guided in its management of the issues covered by the policy. Policies are drafted within the relevant Ministries. The relevant Ministries may organize a number of meetings with stakeholders, including CSOs regarding the draft policy. Based on the input provided in the meetings and any written input, the Ministry will finalize the policy. However, the extent to which the Ministry seeks external inputs is dependent on the particular policy and ministry. Further, it is also based on with which CSOs the ministry has established relationships.

²⁰ See: <http://www.zim.gov.zw/government-Ministries/ministry-women-and-youth-affairs> (accessed 26 June 2018).



How CSOs can engage with drafting and amending policies

- Engage with and sensitize ministerial staff/committee on specific issues affecting that particular community.
- Strengthen capacity of the affected community to engage with policy makers
- Provide oral and written submissions to ministerial staff/committee when they call meetings to discuss specific policies or review of policy.
- Request meeting with ministerial staff to provide input on policies or proposed policies.
- Engage with relevant Ministers, ministerial officials and policy makers to discuss ongoing policy reform processes or the potential of drafting new policies.

Drafting of Bills

An Act of Parliament is a Bill which has been presented in both Houses of Parliament and has been assented to and signed by the President in accordance with the Constitution.

Draft Bills or legal amendments originate within the relevant Ministries. The relevant Ministry drafts a white paper on the draft Bill or amendment. The white paper is presented to the Cabinet Portfolio Committee. Once the paper is approved, the Attorney-General's Office Legal Drafting Division drafts the Bill or amendment and ensures it complies with existing laws. Ordinarily Ministries are required to consult relevant stakeholders after an initial draft has been prepared by the Attorney-General's Office and factor in stakeholder input before the Bill is referred to the relevant Committee of Cabinet for consideration. The Committee of Cabinet on Legislation takes over the draft and all Ministries, especially the Finance Ministry, receive the Memorandum of Principles. If Ministries do not have comments, the Bill is then published in the Government Gazette about 14 days before its introduction in Parliament. The Parliamentary process is detailed in section 2.4.1.



How CSOs can engage with the process of drafting of Bills

- Engage with and sensitize ministerial staff on policy issues.
- Submit position or issue paper to the relevant Ministry
- Engage with relevant ministerial officials to discuss ongoing law reform processes or the potential of drafting new laws.
- Submit shadow Bills or principles to relevant Ministries. Ministries such as the MoJLPA have indicated willingness to consider shadow Bills that would assist the Government in formulating new laws or amendments to existing ones.
- Provide input to the Ministry draft Bill after it has been drafted by the Attorney-General's Office.

Key Institutions in the Legislature: Parliament

The Parliament is comprised of the National Assembly (Lower House) and the House of Senate (Upper House).

The Parliament has legislative, oversight and representative functions. The legislative function of Parliament includes the ratification and domestication of human rights treaties, and the passing of laws. The oversight function empowers Parliament to monitor implementation of human rights by the government and to hold its Ministries, departments and other institutions and agencies to account. The representative role of Parliament places it in a position to facilitate consideration of the views, issues, and concerns of the people generally and different sections of the population in particular.

The National Assembly²¹

The National Assembly is comprised of 210 individuals elected by secret ballot from the 210 constituencies in the country. An additional sixty female members, six from each of the provinces are elected under a party-line system of proportional representation based on the votes cast for the political party in a general election.²²

The Senate²³

There are 80 Senators. Six are elected from each of the ten provinces; 16 are Chiefs of whom two are elected by the Provincial Assembly of Chiefs from each of the provinces; the President and Deputy President of the National Council of Chiefs; and two are elected to represent persons with disabilities.²⁴ The President of the Senate and in his absence the Deputy President preside over the Senate and are elected by the members of Senate at its first sitting before commencing business.²⁵

The relevant functions and powers of the National Assembly and Senate are as follows:²⁶

- to debate and pass legislation;
- to agree to the ratification of or accession to international agreements which have been negotiated and signed by the Executive;
- to uphold the Constitution and ensure the government acts in accordance with the Constitution and national interest; and
- empower other bodies to enact legislation in limited circumstances.

21 Constitution, s 124.

22 Ibid.

23 Constitution, s 120.

24 Constitution, s 120(1).

25 See Constitution, s 122.

26 Constitution, s 117.

Visiting Parliament

Generally, every citizen is free to visit the Parliament Building. Members of the public can either take guided tours or sit in the public galleries of either the National Assembly or the Senate (referred to as Presiding Officer's Galleries) when Parliament is in session.



The Parliament sitting times (in session) for each of the two chambers, are as follows:

Senate:

2:30 pm to 6:55 pm from Tuesday to Thursday 9:45 am to 1:25 pm on Friday

National Assembly:

2:15 pm to 6:55 pm from Tuesday to Thursday



Contact Details

4th Floor, Kaguvi Building, Central Avenue (Between 4th and 5th Streets), Harare, Box CY 1122, Causeway

Harare

Tel: +263 (24) 798537 560, Fax: +263 (24) 729154 or 793634, Website: www.mohcc.gov.zw

The Parliament is closed to the public during the official opening of a session, the national budget presentation and the State of the Nation Address

Portfolio and Thematic Committees

The Parliament has Portfolio and Thematic Committee. The Committees do the following:

- provide oversight to the relevant Ministry, including reviewing and monitoring of relevant government departments, programmes and policies; and
- conduct committee inquiries.²⁷

The Committees consider written submissions and correspondence.

The Committees of the National Assembly are designated according to government portfolios to examine the expenditure, administration and policy of government Ministries.²⁸

²⁷ See: <http://www.parlzim.gov.zw/about-parliament/committee-system/types-of-committees> (accessed 26 June 2018).

²⁸ Ibid.

Portfolio Committees

Most of the work of Parliament is generated and carried out in Portfolio Committees. Portfolio Committees generally debate on issues raised by citizens or Ministry and a report is provided per session in Parliament covering their activities. The Portfolio Committee can conduct specialized investigations on matters affecting citizens or otherwise.²⁹

Members of the public, including Zimbabweans in the diaspora, can at any time send written submissions to Parliamentary committees by email addressed to Clerk of Parliament P.O. Box CY 298, Causeway, Harare. email: clerk@parlzim.gov.zw

The following table indicates the current sittings and related information of the relevant Portfolio Committees.³⁰

Portfolio Committee	Meeting day	Time	Venue	Committee Clerk ³¹
Defence, Home Affairs and Security Services	Monday	10.00hrs	Committee Room No.2	
Public Service, Labour and Social Welfare	Monday	14.00hrs	Committee Room No.1	
Justice, Legal and Parliamentary Affairs	Monday	14.00hrs	Committee Room No.413	
Health and Child Care	Tuesday	10.00hrs	Committee Room No.1	
Women Affairs, Gender and Community Development	Tuesday	10.00hrs	Committee Room No.4	
Youth, Indigenisation and Economic Empowerment	Thursday	10.00hrs	Committee Room No.3	

Thematic Committees

Thematic Committees of the Senate are designed according to the theme or broad area/s they cover. They are mandated to examine government policies that fall under or relate to the designated thematic area, or any other matters falling under their jurisdiction. Relevant Thematic Committees and relevant information regarding each Committee are listed below.

²⁹ Ibid.

³⁰ See: <http://www.parlzim.gov.zw/about-parliament/committee-system/committees-schedules-reports> (accessed 26 June 2018).

³¹ The names have been removed as Committee Clerks can change from time to time. It is sufficient to understand there is such an office and their functions.

Thematic Committee	Meeting day	Time	Venue	Committee Clerk
Gender and Development	Monday	14.00hrs	Committee Room No.3	
HIV/AIDS Committee	Monday	14.00hrs	Government Caucus	
SDGs Committee	Tuesday	10.00hrs	Government Caucus	
Human Rights Committee	Wednesday	09.00hrs	Committee Room No.4	

Parliamentary Legal Committee

The Parliamentary Legal Committee (PLC) verifies the constitutionality of Bills and neither House can give final reading to a Bill unless a report from the PLC is presented to the House. If the PLC resolves that the Bill would contravene the Constitution, the House must not pass the Bill and negotiations can take place with the Minister to review the Bill. There is opportunity for such provisions to be referred to the Constitutional Court for determination by the relevant Minister.³²

Advocacy Example:

Public Hearings on Public Health Bill

Parliament published the notice reproduced below announcing public hearings countrywide giving the dates and venues of hearings on the Public Health Bill. The public hearings were conducted jointly by the National Assembly's Portfolio Committee on Health and Child Care and the Senate's Thematic Committee on HIV and AIDS.

There will be nineteen public hearings in all.

Parliament's Notice

PUBLIC HEARINGS ON PUBLIC HEALTH BILL

The Portfolio Committee on Health and Child Care and the Thematic Committee on HIV and AIDS will be holding Public Hearings on the Public Health Bill (H. B 7, 2017) from 05 March to 10 March 2018. The Committees will be split into two (2) groups and will cover all the provinces. All those who will be putting on military uniforms, badges of rank, flags and or political party regalia will not be allowed access to the public hearing.

The public, interested groups and organizations are invited to attend these consultations. Written submissions and correspondence are welcome and should be addressed to:

The Clerk of Parliament Attention: Portfolio Committee on Health and Child Care and Thematic Committee on HIV and AIDS; P.O. Box CY 298, Causeway, Harare.

³² Constitution, part 3 of the Fifth Schedule.

Submissions can also be made by email through email address clerk@parlzim.gov.zw.

For any further information or clarifications please call on the telephone numbers below and speak to the officers indicated.

Tel: +263 4 700181 – 8, 252936 – 50
Committee Clerks: Ext. 2253/2164/2051
Public Relations Officers: Ext 2171/2007

Legal and Policy Reform Relevant to the Parliament

The key reform processes relevant to the Parliament are as follows:

- law reform/review and enacting new legislation;
- constitutional reform;
- petitioning Parliament; and
- lobbying individual or selected Members of Parliament

Law Reform/Review and Enacting New Legislation³³

For a Bill to become a law, it must pass or be approved by the National Assembly and the House of Senate and be assented to by the President.

Who can introduce a Bill?

A Bill can be introduced into Parliament in three ways:

1. A **Member of Parliament** from the National Assembly or **Senate or the Vice-President** can introduce a Bill in Parliament. A Member of Parliament or the Vice-President can also move for a debate on a specific Bill or present a petition to the House.
2. A **Member of Parliament** can introduce a **Private Member's Bill**. A **Private Member's Bill** can address matters of public interest, and must be brought in by motion. If that motion is approved by the House then the Bill is printed and introduced in Parliament. No private Bills have been introduced into Parliament in Zimbabwe since 1971.
3. The relevant Minister or Deputy Minister can also introduce a Ministry / Sector-specific Bill in Parliament. i.e. Ministry of Health introduce Public Health Bill in Parliament.

³³ Constitution, Fifth Schedule and s 131; Se: <http://www.parlzim.gov.zw/bill-origination> (accessed 26 June 2018).

Passing the Bill in Parliament

Reading of the Bill in the House of Assembly / House of Senate.

First Reading

The responsible Minister gives a written notice to the House of his/her intention to present a Bill. On the approved day, the Minister introduces the Bill in the House by reading the long title of the Bill. No debate takes place during this stage, as it is a formal way of introducing the Bill in Parliament. Once the Clerk of Parliament has read the Bill for the first time the Bill is referred to the Parliamentary Legal Committee (PLC), which will determine whether the Bill, if enacted, will contravene the Constitution.



Second Reading

When a non-adverse report from the PLC has been received or the adverse report has been disposed of, the Bill is set for second reading. At this stage the responsible Minister explains the principles of the Bill. The Chairperson of the relevant Portfolio Committee presents the Committee's report on the Bill. MPs are given an opportunity to debate the general principles of the Bill and on conclusion of debate, the Bill is read a second time. If any amendments are to be made to the Bill, the amendments have to be placed on the Order Paper at this point prior to the Committee Stage.

Portfolio Committee Level

Committee Stage

At this stage the Bill is reviewed clause by clause by the Members. Any proposed amendments made by the Minister, relevant Portfolio Committee or individual MPs are considered during debate on the relevant clause.



Report Stage

The Bill is reported with or without amendments. If a Bill is reported with amendments, it is referred to the PLC which considers the amendments and reports back to the House. Once a non-adverse report is received from the PLC, the Bill is then set for consideration to formally adopt the recommendations. If a Bill is reported from the Committee of the whole House without amendments, it is set for third reading.



Third Reading Stage

For an ordinary Bill, a simple majority of the members present and voting is sufficient to pass the Bill. After this stage, the Bill is transmitted to the other House.

Transmission to and Passage in the House

Once a Bill has been passed in the House in which is originated, it is transmitted to the other House and is set for second reading. The Bill then goes through all the other stages described above. If the other House adopts amendments to the Bill, the Bill is then referred back to the House of origin for concurrence. The House of origin can reject, agree to, or change any of the amendments. If the amendments have been rejected or amended by the House of origin, the originating House can through *a resolution* agree to the rejection or amendment.

Disagreement between the Senate and the House of Assembly

Where within 90 days, there is no resolution between the Senate and the National Assembly on the text of the Bill, the Bill can be presented to the President for assent in the form in which it was passed in the National Assembly.

This process applies to all Bills except Constitutional Bills

Presidential Assent

Once the Bill has passed both the National Assembly and the House of Senate, the President of the Senate or the Speaker of the House of Assembly presents the Bill to the President for assent and signature and also give public notice on the date the Bill was sent to the President. The President is required to assent to the Bill within twenty-one days or if s/he withholds his or her assent, the Bill is returned to Parliament with detailed reasons for his or her concern with the Bill.

If the President has assented to the Bill, it is published in the gazette without delay. If he or she has returned the Bill to Parliament, Parliament can either fully accommodate the President's reservations or pass the Bill with two-thirds of the total membership of the National Assembly. If it is passed by two-thirds support from the National Assembly, the Bill is a law.

If the President has concerns about the Bill, he or she can either still assent despite the reservations or refer it to the Constitutional Court to ascertain its constitutionality. If the Constitutional Court finds the Bill to be constitutional, the President must assent to the Bill and it becomes a law.

Enrollment of the Act

After the Presidential assent, the Clerk of Parliament shall cause the authenticated copy of the Act to be enrolled on the record in the office of the registrar of the High Court. Such copy shall be conclusive evidence of the provisions of such Act.



How CSOs can engage with the Parliamentary reform process

- Providing oral and written submissions to the National Assembly or Senate when a Bill is at the Cabinet Portfolio Committee stage, including suggestions for amendments.
- Participate in any public hearings by making an oral or written submission.
- Engage with and sensitize parliamentarians regarding relevant issues.
- Work with a particular member of the National Assembly or Senate to introduce a private member's Bill. It would be advisable here for the CSOs concerned to prepare the Bill in advance.
- Monitor closely the work and sessions of relevant Committees, especially those that monitor the government Ministries that implement laws, policies and programmes that directly affect them.

Constitutional Reform

Amendments to the Constitution need to be introduced into either House as a Bill. Prior to their introduction as a Bill, the leader of either House has to have given at least 90 days' notice in the Gazette of the precise terms of the Bill. Parliament must also immediately convene public hearings and processes for written submissions to obtain the public's input on the proposed constitutional Bill.

For a constitutional Bill to pass, it needs the approval of two-thirds of the membership of each House.

For an amendment to the fundamental rights provided in the Constitution, the Bill once passed by Parliament must be submitted to a national referendum. If it is approved by a majority of the votes cast then it is presented to the President for his assent.



How CSOs can engage with the Constitutional reform process

- Participate in any public hearings by making an oral or written submission.
- Engage with and sensitise parliamentarians regarding relevant issues.
- Engage in raising awareness of the national referendum and encourage voting among key constituencies.

Petitioning Parliament

Every citizen and permanent resident of Zimbabwe has a right to petition Parliament to consider any matter within its authority, including the enactment, amendment or repeal of

legislation.³⁴ Thus, Parliament could be petitioned to make relevant changes to laws or to exercise its oversight function over the Executive to ensure, for instance, that the Executive acts in a manner that is consistent with the Constitution and with international obligations.

Petitioning of Parliament by CSOs

CSOs can petition Parliament on specific legal changes or lobby for specific oversight over the Executive



Lobbying Individual Members of Parliament

Individual Members of Parliament (MPs) can also raise questions or move motions that relate to government policies and programs.

How CSOs can engage with individual MPs

Reach out to specific MPs seeking the MP to raise particular issues in Parliament through questions to the relevant Government Ministers or through moving motions for discussion of the issue/s by Parliament.



Independent Commissions

Chapter 12 of the Constitution establishes “Independent Commissions Supporting Democracy” whose general objectives include:

- supporting and entrenching human rights and democracy;
- promoting constitutionalism; and
- ensuring that injustices are remedied.³⁵

Two Independent Commissions relevant for the protection and promotion of the rights of key populations are the Zimbabwe Human Rights Commission (ZHRC) and the Zimbabwe Gender Commission (ZGC).

Zimbabwe Human Rights Commission

The ZHRC has the constitutional mandate to, among others:

- promote awareness of and respect for human rights and freedoms at all levels of society;
- promote the protection, development and attainment of human rights and freedoms;

³⁴ Constitution, s 149. The manner in which petitions are to be presented to Parliament, and the action that Parliament is to take on presentation of a petition, must be prescribed in Standing Orders.

³⁵ Established by Chapter 10:31 of Gender Commission Act No 7/2015.

- monitor, assess and ensure observance of human rights and freedoms;
- receive and consider complaints from the public and to take such action in regard to the complaints as the Commission considers appropriate;
- investigate the conduct of any authority or person, where it is alleged that any of the human rights and freedoms set out in the Constitution (as provided in the Declaration of Rights) has been violated by that authority or person;
- secure appropriate redress, including recommending the prosecution of offenders, where human rights or freedoms have been violated;
- direct the Commissioner-General of Police to investigate cases of suspected criminal violations of human rights or freedoms and to report to it on the results of any such investigation; and
- recommend to Parliament effective measures to promote human rights and freedoms.³⁶

The ZHRC either may on its own initiative investigate any action or omission of any authority or person that constitutes or may constitute a violation of a constitutionally-protected right or may act on the basis of a complaint received from any person affected by any such action or omission.

Filing a Complaint to Zimbabwe Human Rights Commission

An individual or organisation can file a complaint with the ZHRC. A complaint form can be found online here: <http://www.zhrc.org.zw/wp-content/uploads/2017/07/ZHRC-Complaint-Form.pdf>.

The form requests the following information:

- Identification information, including name of person making the complaint, sex, date of birth, address, and contact information.
- Information regarding the violation, including all relevant details and dates, the person or institution responsible, any corroborating evidence including witnesses, any steps taken thus far, and what remedy is sought.

The ZHRC cannot handle violations that occurred before 13 February 2009 or that occurred 3 years before the complaint was filed.

Once a complaint is submitted, the ZHRC will conduct an initial investigation to determine whether a human rights violation has occurred. If the ZHRC finds that there has been a human rights violation, it can make the following types of recommendations: payment of compensation to the victim, or their family, release from prison, victim seek redress from courts of law, and prosecution of the offenders. The recommendations are sent to the Minister of Justice, Legal and Parliamentary Affairs.

³⁶ Constitution, s 246.



How CSOs can engage with the ZHRC

- File a complaint with the ZHRC.
- Assist communities to file a complaint to ZHRC.
- Conduct preliminary investigations on Human Rights Violations.
- Collaborate with the Commissioners in raising awareness of human rights violations and protection of citizens.
- Collaborate with ZHRC in the promotion of International Human Rights Conventions
- Establish relationships with members of the NICHR to discuss human rights violations, practices and legislation in conflict with international human rights protocol

Contact Details

144 Samora Machel Avenue, Harare
Tel: +263 4 705268/426 or 703596/616 or 701811, WhatsApp: 0771838654-6,
Website: <http://www.zhrc.org.zw/report-human-rights-violation/>



Zimbabwe Gender Commission³⁷

The Zimbabwe Gender Commission's relevant functions are as follows:³⁸

- Monitor issues related to gender equality;
- Investigate violations of rights pertaining to gender equality;
- Receive and investigate complaints from the public regarding potential violations of rights related to gender equality;
- Conduct research into gender discrimination and social justice and recommend necessary changes to laws and practices which contribute to gender discrimination;
- Advise public and private institutions on the steps needed to ensure gender equality;
- To recommend prosecution for criminal violations related to gender;
- Secure appropriate redress where rights related to gender have been violated; and
- Influence policy and legislation either directly through its own initiation of investigations or through individual lobby groups.

Investigations by the ZGC

The Gender Commission's mandate is to initiate investigations to any systemic barrier

³⁷ Established by Chapter 10:31 of Gender Commission Act No 7/2015.

³⁸ Constitution, s 246.

prejudicial to gender equality, gender equity, gender mainstreaming in a specific named sphere of activity or named sector of the society or the economy. The investigations can be in the form of public hearings or closed hearing and can issue summons for a person to appear before the Commission to give evidence and further to collaborate with the police in investigations. However, it is unclear how the ZGC chooses to initiate an investigation.



How CSOs can engage with the ZHRC

- File a complaint with the ZHRC.
- Assist communities to file a complaint to ZHRC
- Collaborate with ZHRC on capacity building interventions on International Human Rights Conventions
- Preliminary investigations on Human Rights Violations
- Establish relationships with members of the ZHRC to discuss human rights violations.



Contact Details

Pax House, 89 Kwame Nkrumah Avenue, Harare
Email: info@zgc.org.zw, Tel: +263 4 250296/603

Key Institutions in the Judiciary

The primary institution in the judiciary are the courts.³⁹ The courts, have the responsibility to dispense justice and provide remedies to aggrieved persons. The courts must apply the Constitution and the law impartially, expeditiously and without fear, favour or prejudice.⁴⁰ They must comply with principles which guide the judiciary as including that justice must be done to all, *irrespective of status*, justice must not be delayed and that the role of the courts is paramount in safeguarding human rights and freedoms and the rule of law.⁴¹

Listed below are the relevant courts:

- Constitutional Court
- Supreme Court
- High Court
- Labour Court
- Other Courts

39 Constitution, ss 162 to 172 provide for establishment and jurisdiction of the Courts.

40 Constitution, s 164.

41 Constitution, s 165.

Constitutional Court

The Constitutional Court is the highest national court with respect to constitutional matters. Its decisions bind all courts. The Constitutional Court addresses the constitutionality of any proposed legislation but may only do so in instances where a case has been referred to it in terms of the Constitution. The Constitutional Court can also decide on whether Parliament or the President has failed to fulfil a Constitutional obligation.

Supreme Court

The Supreme Court is the final court of appeal in all non-constitutional matters.⁴²

High Court

The High Court has original jurisdiction to hear all civil and criminal cases in the country. It can also hear constitutional cases in most circumstances. It can hear appeals from lower courts, including the Magistrates Courts.

Labour Court

The Labour Court hears matters related to Labour and employment.

Other Courts

Other courts include **Magistrates Courts** for both civil and criminal matters, **Customary Laws Courts** for application of customary law, and other tribunals for **Arbitration, mediation** and alternative dispute resolution.

Contact Details

The judicial court calendar is available at the Judicial Services Commission located at: 2nd Floor, Causeway Building, Corner, 3rd Street and Central Avenue, Harare, Website: www.jsc.org.zw



⁴² Constitution, s 169(1).

The term calendars for the Supreme Court, High Court and Labour Court

Supreme Court, High Court	Annual Calendar	
	First Term	January to April
	Second Term	May to August
	Third Term	September to November
Labour Court	First Term	January to April
	Second Term	May to August
	Third Term	September to November

Legal and Policy Reform Relevant to the Judiciary

The primary legal and policy reform relevant to the judiciary is litigation.

Litigation

The particular details of how to file litigation and what is required differs from court to court and is dependent on the type of challenge that is being filed. Thus, consulting a lawyer is necessary for filing litigation. However, generally, litigation can be initiated in the court of first instance through a petition or a complaint. The complaint or petition should include *the petitioners' or complainants' name and address, the facts in the case, the laws which have been allegedly violated, and the relief sought. It should be signed and be accompanied with an affidavit which verifies the facts.* Once a lawyer files the complaint with the court and serves the other parties with the complaint, the other parties have to respond to the allegations in the complaint. The applicants have the opportunity to respond to the respondents' response. Once the initial papers are filed the parties agree with the court on the relevant dates for filing their legal argument. The petitioners/applicants will file their legal argument first. The respondents will then file their legal argument. Any amicus curiae whose application is approved by the court can then file their legal argument. The case will then be heard, either through a trial or an oral hearing, after which the court will issue a ruling.

Any decision of the High Court can be appealed to the Supreme Court. Any decision of the Supreme Court which is relevant to the Constitution can be appealed to the Constitutional Court. The decision of the Supreme Court is final in non-constitutional matters and the decision of the Constitutional Court is final in constitutional matters. The only other legal option is to lodge a communication with the African Commission on Human Rights or an international treaty body, such as the Human Rights Committee.

Advocacy example: Litigation

- In *Mudzuru and Anor v Minister of Justice, Legal & Parliamentary Affairs N.O and Ors* two young women (aged 18 and 19) challenged in the Constitutional Court the law permitting the marriage of persons under 18 years of age arguing that the law violated their rights under the Constitution. The Constitutional Court struck down the law as unconstitutional.
- In another landmark ruling in May 2015, the Constitutional Court held that the prosecution of nine women for publicly soliciting another person for purposes of prostitution violated their rights to freedom of movement guaranteed under the Constitution as the government had provided no evidence of public solicitation.

Other Institutions

Other relevant institutions for legal and policy reform are as follows:

- Zimbabwe Republic Police
- Zimbabwe Prisons and Correctional Services
- Legal Aid Directorate

Zimbabwe Republic Police

The Constitution provides for a police service that is charged with the responsibility to, among others, detect, investigate and prevent crime, *protect and secure the lives and property of the people*, and maintain law and order.⁴³ The Zimbabwe Republic Police (ZRP) are required to uphold the Constitution and enforce the law without fear or favour, and to be non-partisan and national in character, patriotic and professional.⁴⁴ The ZRP therefore has a clear role respect and protect human rights. They cannot themselves be violators of human rights nor fail to protect the people against the abuse of their rights by fellow citizens.

The ZRP also has a Victim Friendly Unit (VFU) whose primary responsibility is to proactively and reactively police crimes of a sexual nature committed against women and children in a manner sensitive to the victim. The VFU aims to be “supportive of victims and to make the environment conducive, private and friendly” and to be “empathetic, meticulous, professional, expeditious, and maintain confidentiality when handling victims of sexual abuse”.⁴⁵ The VFU works with other stakeholders in the multi-sectoral management of child abuse and in offering counselling to victims of sexual abuse.

43 Constitution, s 219.

44 Ibid.

45 See: http://www.zrp.gov.zw/index.php?option=com_content&view=article&id=86&Itemid=741 (accessed 26 June 2018).



How CSOs can engage with the ZRPAn individual or CSOs are entitled to access police services, in the following manner:

- An individual can walk into a police station or Public Enquiry Counter (PEC) and make a report if s/he feels his or her rights have been infringed upon by some other person. The report shall be recorded by the police and the complainant will be given a reference number.
- Members of the public can contact the police via telephone, or the local community relations offices. Contact information for the community relations offices are provided below.
- Report any grievances to the Officer-In-Charge of the local police station and if not satisfied, report to the Officer Commanding Police District, then to the Officer Commanding Police Province and ultimately to the Commissioner General of Police at Police General Headquarters if the concern is not adequately addressed.
- Work with the VFU to raise awareness of sexual crimes and the work of the VFU.
- Bring relevant cases to the attention of the VFU.

The table below provides contact numbers for ZRP Community Relations Offices around the country.⁴⁶

Province	Telephone Numbers	WhatsApp Numbers
Harare Province	04- 771874	0782 475 000
Masvingo Province	039-264421	0775 996 945
Bulawayo Province	09-60358	0776 097 122
Midlands Province	054-221073	0782 722 722
Matabeleland North Province	0281-32739	-
Mashonaland Central Province	0271-7276	0778 682 035
Matabeleland South Province	0284-22810	0771 443 373
Manicaland Province	020-66637	0783 410 710

46 See: http://www.zrp.gov.zw/index.php?option=com_content&view=article&id=123&Itemid=859 (accessed 26 June 2018).

Mashonaland East Province	0279-23306 / 0271-7727	083 189 906
Mashonaland West Province	067-25505	0777 480 585

Contact Details

Police General Headquarters, Cnr 7th Street & Josiah Chinamano Avenue, Harare
Tel: +263 4 700171, WhatsApp: 0712 800 197, Email: feedback@zrp.gov.zw



Zimbabwe Prisons and Correctional Services

As a key player in the JLOS, the Zimbabwe Prisons and Correctional Services (ZPCS) is mandated to conduct functions and responsibilities in a non-partisan and non-discriminatory manner and in compliance with international human rights norms and standards especially the UN Standard Minimum Rules for the Treatment of Prisoners. The ZPCS has an HIV and AIDS Committee that engages with the National AIDS Council on issues of access to treatment, care, stigma and discrimination.

How CSOs can engage with the ZPCS

Advocate for the review of existing policies to enhance access to quality health services for prisoners.
Work with ZPCS to raise awareness on the rights and health needs of prisoners.



Contact Details

Contact with the ZPCS is best done initially through the parent Ministry: the MoJLPA.
Contact details for the MoJLPA can be found in section 2.1.4.2



Legal Aid Directorate

The Legal Aid Directorate provides free legal services to vulnerable persons. It falls under the MoJLPA. Eight of the ten of the provinces of the country have available legal aid.

How CSOs can engage with the LAD

Work with the LAD to raise awareness of the work of the LAD and increase access to LAD for vulnerable groups.



Advocacy example: Engaging with LAD

There are ongoing initiatives to provide relevant information and access by the visually impaired through translation of key materials on legal aid into Braille.



Contact Details

CSOs can contact the LAD through the MoJLPA, whose contact details can be found in section 2.1.4.2. Additionally, the LAD is located on the sixth floor at the Deeds Office Building Corner Angwa and Nelson Mandela Avenues, Harare.

Key Traditional Institutions

The relevant traditional institutions are as follows:

- National Council of Chiefs
- Traditional Leaders
- Integrity and Ethics Committee

National Council of Chiefs

Section 285 of the Constitution establishes the National Council of Chiefs. The relevant functions of the National Council of Chiefs are as follows:⁴⁷

- To protect, promote and develop Zimbabwe culture and traditions; and
- To facilitate the settlement of disputes among traditional leaders.



Contact details

Email: gbenyu7@gmail.com, genyug@parlzim.gov.zw

Traditional Leaders

Traditional leadership is recognized in section 280 of the Constitution. The relevant functions of traditional leaders are as follows:⁴⁸

- Facilitate development and resolve disputes amongst people in their community in accordance with customary law.

⁴⁷ Constitution, s 286.

⁴⁸ Constitution, s 282.

Integrity and Ethics Committee

Section 287 of the Constitution establishes the Integrity and Ethics Committee. Its relevant functions are as follows:⁴⁹

- To develop and enforce ethical conduct by traditional leaders; and
- To deal with complaints against traditional leaders and between traditional leaders.

How CSOs can engage with traditional institutions

- CSOs that have mandate to work in communities in the ten provinces of the country must seek audience and with the traditional authorities to access community members, and thus should build relationships with traditional leaders.
- Work with traditional institutions to strengthen capacity for cultural and traditional structural reform



⁴⁹ Constitution, s 287.



3

Regional Institutions and Processes

The regional institutions covered in section 3.1 are as follows:

- African Commission on Human and Peoples' Rights
- African Commission Sessions
- NGO Forum
- Special Mechanisms

The regional processes covered in section 3.2 are as follows:

- Monitoring country compliance with regional treaties
- Communications to the African Commission
- Engaging Special Mechanisms

Regional Institutions

The relevant regional institutions are as follows:

- African Commission on Human and Peoples' Rights
- African Commission Sessions
- NGO Forum
- Special Mechanisms

African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights (African Commission) established under the ACHPR consists of eleven experts who serve in their personal capacity. They are nominated by parties to the ACHPR. The African Commission is responsible for monitoring state compliance with the ACHPR, interpreting and applying the rights and obligations outlined under the ACHPR, and promoting and ensuring the rights outlined in the ACHPR.

African Commission Sessions

The African Commission holds its “ordinary sessions” in March or April and in October or November. The sessions usually last 15 days. One of the sessions is held at headquarters in Banjul, The Gambia. The Chairperson may also decide to hold additional “extraordinary sessions” at the request of the African Union (AU) Chairperson or a majority of Commission members.

To participate in the activities of the African Commission, CSOs need to apply for observer status before the African Commission or work with an organisations that already has observer status.

Currently, 6 civil society organizations in Zimbabwe have observer status:⁵⁰

- Zimbabwean Human Rights Association (ZIMRIGHTS)
- Zimbabwe Human Rights NGO Forum
- Zimbabwe Lawyers for Human Rights (ZLHR)
- Zimbabwe Association of Doctors for Human Rights (ZADHR)
- Zimbabwe Women Lawyers Association (ZWLA)
- Zimbabwe Election Support Network (ZESN)



Key Opportunity: Obtaining Observer Status

To participate in the activities of the African Commission, CSOs need to apply for observer status before the African Commission or work with an organisation that already has observer status.

To apply for observer status, CSOs must provide information on how their objectives and activities aim to promote or protect ACHPR principles, their human rights work, and their financial resources. CSOs must apply (at no cost) at least three months before a session.

With observer status, CSOs can make a public statement in African Commission public sessions and file complaints with the African Commission.

NGO Forum

Prior to the ordinary sessions of the African Commission, there is an NGO Forum. The NGO Forum brings together NGOs to share information, meet the Commissioners, and adopt resolutions on issues that will be discussed by the African Commission. These resolutions are then submitted to the African Commission, who can use them when considering the adoption of resolutions by the African Commission.⁵¹

The NGO Forum is coordinated by the African Centre for Democracy and Human Rights Studies, an NGO, based in the Gambia. Their contact details are available on their website: <https://www.acdhhrs.org/>.

Special Mechanisms

Under Article 23 of the Rules and Procedures of the African Commission, the African Commission has established special mechanisms for addressing the protection of rights in a number of thematic areas. Some of the mechanisms relevant to HIV include:

⁵⁰ See: <http://www.achpr.org/network/ngo/> (accessed 26 June 2018).

⁵¹ See: <http://www.ishr.ch/news/ngo-forum> (accessed 26 June 2018).

- The Committee on the Protection of the Rights of People Living with HIV and Those at Risk, Vulnerable to and Affected by HIV
- The Special Rapporteur on Prisons Conditions of Detention and Policing in Africa
- The Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons
- The Special Rapporteur on Rights of Women
- The Special Rapporteur on Freedom of Expression and Access to Information
- Committee for the Prevention of Torture in Africa
- The Working Group on Economic, Social and Cultural Rights

The special mechanisms can conduct country missions and hold convenings and meetings to promote issues in their mandate and investigate particular rights violations, if agreed to by the country. They can also promulgate resolutions and guidelines on issues within their mandate.⁵²

What Special Mechanisms Can Do

- ✓ Conduct country missions
- ✓ Hold convenings and meetings to promote relevant issues
- ✓ Investigate particular human rights violations, if agreed to by the country.
- ✓ Issue resolutions and guidelines on relevant issues.



Regional Processes

The relevant processes at the level processes are as follows:

- Monitoring country compliance with regional treaties
- Communications to the African Commission
- Engaging Special Mechanisms

Monitoring country compliance with regional treaties

Under the ACHPR, all state parties are required to submit periodic activity reports outlining the country's compliance with the rights and obligations guaranteed under the ACHPR. Once a country has submitted their report, the African Commission considers the report at one of the three sessions it holds in the year.

⁵² For more information regarding the special mechanisms: <http://www.achpr.org/mechanisms/> (accessed 26 June 2018).

CSOs can submit “shadow reports” providing the African Commission with information regarding the human rights situation in the country. The shadow report is a written document outlining how the country is abiding by or violating the rights guaranteed in the international treaty.

In a public session, the African Commission considers the country’s report, including discussing issues and asking questions of particular concern and permitting CSOs to make statements from the floor. In addition, CSOs can draft shadow reports on the country’s compliance with the ACHPR. A template prepared by the Advocates for Human Rights is available at http://www.theadvocatesforhumanrights.org/uploads/app_p.pdf.

The African Commission then issues concluding observation providing recommendations to the country for ensuring compliance with the ACHPR.

Communications to the African Commission⁵³

Individuals, NGOs, who have observer status at the African Commission, and other state parties can lodge communications with the African Commission in cases where state action violates the ACHPR.

The following are requirements for submissions of communications. Guidelines on how to file a complaint to the African Commission are provided in Appendix D.

- include the author’s name even if the author wants to remain anonymous;
- include the name(s) of the complainant or complainants, their nationalities, occupation or profession, addresses and signatures. If the communication emanates from an NGO, it should include the address of the institution and the names and signatures of its legal representatives. If the communication is from a State Party, the names and signature of the State representative, together with the national seal would be required.
- the communication must be in writing, and addressed to the Secretary or Chairman of the African Commission;
- should describe the violation of human and/or peoples’ rights that took place, indicate the date, time (if possible), and place where it occurred. It should also identify the State concerned.
- the complainant must have exhausted all available domestic legal remedies or indicate the reasons exhausting domestic legal remedies was not possible;
- the communication must not be written in insulting language directed against the state or the African Union;
- the communication must not be based exclusively on news from the media;
- the communication must be submitted within a reasonable time from the date of exhaustion of domestic remedies; and

⁵³ African Commission on Human and Peoples’ Rights. Information Sheet No. 2: Guidelines for the Submission of Communications Organisation of African Unity; African Commission on Human and Peoples’ Rights. Information Sheet No. 3: Communication Procedure.

- the communication must not deal with a matter which has already been settled by some other international human rights body.

Communications should be sent to the Secretariat of the Commission which is based in Banjul, The Gambia. Once a communication is received, it is registered under a file number in the Commission's Official Register of Communications kept at the Secretariat of the African Commission. The Secretariat will acknowledge receipt of the author's letter of complaint. If more information is required, the author will be informed accordingly.

As soon as the communication is registered, a summary is made and distributed to all the commissioners. A letter is written to the complainant acknowledging receipt of the communication. No letter is sent to the State party concerned at this stage. The Secretariat has to wait for a response from at least seven of the eleven members to indicate that they have received the communication and approved seizure. Alternatively, if the Secretariat does not receive minimum number of seven responses, the communication shall be presented to all the commissioners at the Commission's next session.

The African Commission initially determines whether the communication is admissible. Once it is determined that it is, the African Commission considers the merits of the communications, the parties are able to make written or oral presentations to the African Commission. Some States send representatives to the Commission's sessions to refute allegations made against them. NGOs and individuals are also granted audience to make oral presentations before the Commission. After the session, the African Commission will issue its decision and recommendations.

Engaging Special Mechanisms

CSOs can engage with Special Mechanisms through written communications outlining concerns regarding human rights violations and requesting investigation of such violations, country visits, and potential resolutions or guidelines. Detailed information regarding the contact information and mandate of the Special Mechanisms can be found at <http://www.achpr.org/mechanisms/>.

How CSOs can engage with regional processes

- CSOs can engage with regional mechanisms and their processes in a variety of ways:
- Obtain observer status.
- Draft shadow reports. A template for a shadow report is available at http://www.theadvocatesforhumanrights.org/uploads/app_p.pdf.
- File a communication with the African Commission.
- Engage with relevant Special Mechanism through writing a letter outlining relevant human rights concerns in country.





4

International Institutions and Processes

The relevant international institutions covered in this section are as follows:

- Treaty bodies
- Special Procedures
- Human Rights Council

The relevant international processes covered in this section are as follows:

- Complaint to treaty body
- Monitoring state compliance with treaties
- Universal Periodic Review
- Special Procedures

International Institutions

Treaty bodies⁵⁴

The human rights treaty bodies are committees of independent experts that monitor implementation of the core international human rights treaties. There are ten human rights treaty bodies composed of independent experts of recognized competence in human rights, who are nominated and elected for fixed renewable terms of four years by State parties. The treaty bodies relevant to HIV are as follows:

- Human Rights Committee
- Committee on the Elimination of Discrimination Against Women
- Committee on the Rights of the Child
- Committee against Torture
- Committee on Migrant Workers
- Committee on Economic, Social and Cultural Rights
- Committee on the Rights of Persons with Disabilities

Special Procedures⁵⁵

The special procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. As of 30 September 2016, there are 43 thematic and 14 country mandates.

Special procedures undertake country visits; act on individual cases and concerns of a broader, structural nature by sending communications to States and others in which they

54 United Nations Human Rights Office of the High Commissioner. Monitoring the Core International Human Rights Treaties available at <http://ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx> (accessed 26 June 2018).

55 United Nations Human Rights Office of the High Commissioner. Special Procedures of the Human Rights Council available at <http://ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx> (accessed 26 June 2018).

bring alleged violations or abuses to their attention; conduct thematic studies and convene expert consultations; contribute to the development of international human rights standards; engage in advocacy; raise public awareness; and provide advice for technical cooperation. Their tasks are defined in the resolutions creating or extending their mandates.

Special Procedures relevant to HIV include:

- Special Rapporteur on the rights of persons with disabilities;
- Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
- Special Rapporteur on the human rights of migrants;
- Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; and
- Special Rapporteur on violence against women, its causes and consequences.



What Special Procedures Can Do

- ✓ Undertake country visits to assess the human rights situation.
- ✓ Investigate individual complaints of rights violations
- ✓ Conduct thematic studies
- ✓ Convene expert consultations on relevant human rights issues

Human Rights Council⁵⁶

The Human Rights Council is an inter-governmental body within the United Nations (UN) system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year.

The Human Rights Council is made up of 47 UN Member States which are elected by the UN General Assembly.

International Processes

The relevant processes at the international level are as follows:

- Complaint to treaty body
- Monitoring state compliance with treaties

56 United Nations Human Rights Office of the High Commissioner. United Nations Human Rights Council available at <http://ohchr.org/EN/HRBodies/HRC/Pages/HRCIndex.aspx> (accessed 26 June 2018).

- Universal Periodic Review
- Special Procedures

Complaint to Treaty Body⁵⁷

A number of the treaty bodies are empowered to hear individual complaints. In Zimbabwe, the Human Rights Committee and Committee on the Rights of Persons with Disabilities can hear complaints of violations of the rights of the respective treaties. A template for filing a complaint with these bodies is available at Appendix A.

Individuals, countries and CSOs can file complaints against state parties. The complaint should be in writing and contain the following information:

- Details of the complainants, including name, nationality, date and place of birth, and address;
- The country against whom the allegations is being made;
- The treaty articles being violated;
- Whether domestic remedies have been exhausted and if not, why domestic remedies have not been exhausted;
- Facts of the complaint;
- Complainant's signature; and
- Any corroborating evidence, such as domestic court decisions and evidence confirming the facts alleged.

Information on where complaints should be sent can be found: <http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#contact>

Monitoring State Compliance with International Treaties

Countries submit periodic reports to the relevant treaty bodies on how the rights are being implemented under each international human rights treaty. The periodic reports provide information on the legislative, administrative and other measures the government has undertaken to give effect to provisions of the treaty under review and the progress made and problems encountered in implementing treaty obligations. The government reports to the treaty bodies are drafted by the IMC. The IMC engages with stakeholders, including CSOs in its preparation of the national report.

In addition to the country report, CSOs can submit “shadow reports” providing the treaty body with information regarding the human rights situation in the country. The shadow report is a written document outlining how the country is abiding by or violating the rights guaranteed in the international treaty. CSOs can also make oral submissions when the country is questioned about its report. A template for a shadow report to an international

⁵⁷ United Nations Human Rights Office of the High Commissioner. Human Rights Bodies - Complaints Procedures available at <http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx> (accessed 26 June 2018).

body prepared by the United States Human Rights Network is available at https://www.ushrnetwork.org/sites/ushrnetwork.org/files/shadow_report_template_final.pdf.

In the light of all the information available, the relevant treaty body examines the report in the presence of a State Party's delegation. It outlines a list of questions based on the country's report and shadow reports. Based on this constructive dialogue, the treaty body publishes its concerns and recommendations, referred to as "concluding observations".

Treaty bodies will generally follow three main stages in the consideration of State reports:

- pre-session working group stage, which is used to prepare for the full session/plenary of the treaty body. Issues for discussion with the reporting State will be identified;
- full session/plenary stage where the State report is reviewed by the treaty body;
- concluding observations stage where the treaty body consider the outcomes of the review.

Although the concluding observations stage is a closed session, the plenary stage is open to CSOs. Some treaty bodies will also interact with CSOs during the pre-session working group stage. Treaty bodies put up information on their websites relating to, inter alia, reports that are due and/or overdue and schedules relating to sitting dates. CSOs should monitor the treaties bodies' websites for such information available here: <https://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>.



How CSOs can engage with the state monitoring processes

There are a few ways that CSOs can engage with this process:

- Input in the national report through engaging with the IMC Draft a shadow report
- Use the concluding observations and recommendations of the human rights treaty monitoring bodies to advocate for domestic changes.
- Engage with members of treaty bodies during the pre-session to raise concerns.

Universal Periodic Review⁵⁸

The Universal Periodic Review (UPR) is a unique process which involves a review of the human rights records of all UN Member States. The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in its country and to fulfil its human rights obligations. The UPR is designed to ensure equal treatment for every country when its human rights situation is assessed.

The UPR is similar to State reporting in that it requires States to submit human rights reports for consideration by the Human Rights Council, and stakeholders have an opportunity to

⁵⁸ United Nations Human Rights Office of the High Commissioner. Universal Periodic Review available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx> (accessed 26 June 2018).

participate. All UN Member States are subject to peer review by fellow States once every four years. Other than the national report, the UPR is also informed by a stakeholder report, based on information provided by NGOs and national human rights institutions, and a report based on information provided by the UN Country Team operating on the ground, human rights treaty monitoring bodies and other UN sources.

CSOs can participate in the national process of developing the government report and also draft their own stakeholder report. While there is no scope for direct participation by CSOs in the Working Group sessions where the interactive dialogue/review takes place, they may make representations to the full Human Rights Council when the outcome of the review is being debated and discussed. They can also lobby other governments to raise in the Working Group issues of concern to them and to make appropriate recommendations for consideration by their own government.

The State under review will indicate which recommendations it accepts and it is expected to implement these recommendations. The accepted recommendations, like the treaty body recommendations present an opportunity for CSOs to further engage their government. These can be used as reference points and lobby/advocacy tools. It is advisable for CSOs to keep track of the reporting cycles of the Human Rights Council, which countries are being reviewed, and the accepted recommendations, etc. This information is available on the website of the UN Office of the High Commissioner for Human Rights.⁵⁹

Zimbabwe underwent the first cycle review in October in 2011 and March 2012, where it accepted 130 recommendations cutting across various human rights thematic areas. It underwent the second cycle review in November 2016 and March 2017 and accepted 151 recommendations and partially accepted 6. Zimbabwe has made a commitment not only to implement the second cycle recommendations but also those that it carried forward from the first cycle. Zimbabwe will be reviewed in the third cycle in 2021-2022.

The practice so far, after the review process the government brings together all stakeholders, including CSOs, to develop and adopt a national plan of action (NPA) on the implementation of the accepted UPR recommendations. There is in place an NPA for implementation (2017-2022) developed in coordination with all national players from Government Ministries and Independent Commissions, UN country offices and CSOs.

This offers another opportunity for CSOs to engage government in the implementation phase of the accepted recommendations and to lobby for reconsideration of rejected recommendations which could be of particular concern or interest to them. The NPA has a number of thematic clusters relevant to the engagement scan, such as the clusters on economic, social and cultural rights, health rights, women's rights, children's rights, rights of persons with disabilities and the administration of justice.

Another opportunity to engage government comes by way of the UPR Steering Committee, which was established by government and stakeholders to monitor implementation of the NPA. CSOs are represented on the Steering Committee by the National Association of Non-Governmental Organisations (NANGO), ZLHR and the Zimbabwe Human Rights NGOs Forum. CSOs can follow developments through their representatives on the Steering Committee and by participating in all stakeholder and review meetings when they are

⁵⁹ See: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx> (accessed 26 June 2018).

convened by government. This entails that they familiarise themselves with the following roadmap for the implementation of the NPA:

- Implementation of the UPR NPA is on-going;
- UPR National Steering Committee Meetings, to review and monitor progress of the implementation of the NPA, are to be convened quarterly;
- Annual review of implementation of the NPA will be conducted in 2018, 2019 and 2020;
- Preparation of the UPR Mid-Term Progress Report will be undertaken during the period 2018 -2019;
- The UPR the Mid-Term Report will be submitted to the Human Rights Council in October 2019;
- Preparation of the third cycle UPR National Report will commence from 2020 – 2021;
- The UPR National Report will be submitted in July 2021.

CSOs may obtain the NPA on the implementation of the UPR recommendations from the secretariat of the UPR National Steering Committee in the Ministry of Justice, Legal and Parliamentary Affairs or through their representatives on the Steering Committee.



How CSOs can engage with the UPR process

- Provide input in the national process of developing the government report for the UPR process.
- Draft stakeholder report during UPR process.
- Engage other governments to raise questions in the Working Group sessions.
- Get familiar with the NPA and recommendations from the UPR process.
- Engage with the Steering Committee to implement the NPA and recommendations from the UPR process.

Special Procedures

Individuals, state parties, and CSOs can engage with Special Procedures through written communications outlining concerns regarding human rights violations and requesting investigation of such violations and country visits.

How CSOs can engage with Special Procedures

Write a letter to the relevant Special Procedure(s) outlining human rights concerns in country and requesting investigation or a country visit.





5

Other Influential Actors

Due to the polarization of Zimbabwean society, it is difficult to come up with a list of nationally or broadly accepted or impartial other influential actors. However, media remains influential in Zimbabwe. Below are relevant media and their contact information.

Zimpapers Group

This is the oldest and largest newspaper publisher in the country. It publishes 13 newspaper titles that include The Herald, The Chronicle, The Sunday Mail, The Sunday News, The Manica Post, Kwayedza (a Shona weekly paper), Umthunywa (a Ndebele weekly paper). They also run a Broadcasting Division that includes Star FM and Diamond FM.

Contact details

Herald House. Corner of George Silundika and Sam Nujoma Avenues, Harare
Tel: +263 23 795771



Alpha Media Holdings

An independent media house which runs The Zimbabwe Independent and the Standard, both weekly newspapers and News Day and Southern Eye, both daily newspapers.

Contact details

1 Kwame Nkrumah Avenue, Harare
Tel: +263-24- 770932/33-38 or 773930/31



Associated Newspapers of Zimbabwe/ Modus Publications

An independent media house which runs the Daily News and the Financial Gazette, a weekly newspaper, among other publications.

Contact details

Fingaz House, 2nd Floor, Green Bridge South. Eastgate Complex, Harare, P.O. Box 66070, Kopje, Harare
Email: editor@dailynews.co.zw; news@dailynews.co.zw



Zimbabwe Broadcasting Corporation

ZBC is the national broadcaster. It operates five radio stations and one television station (ZBCTV), which provide a mix of news, current affairs, and educational programming in English, Shona, Ndebele and other local languages.



Contact details

1 Northend Road, Pockets Hill, Highlands, Harare
Tel: +263 24 498605/498644, Email: news@zbc.co.zw

Sky Metro FM

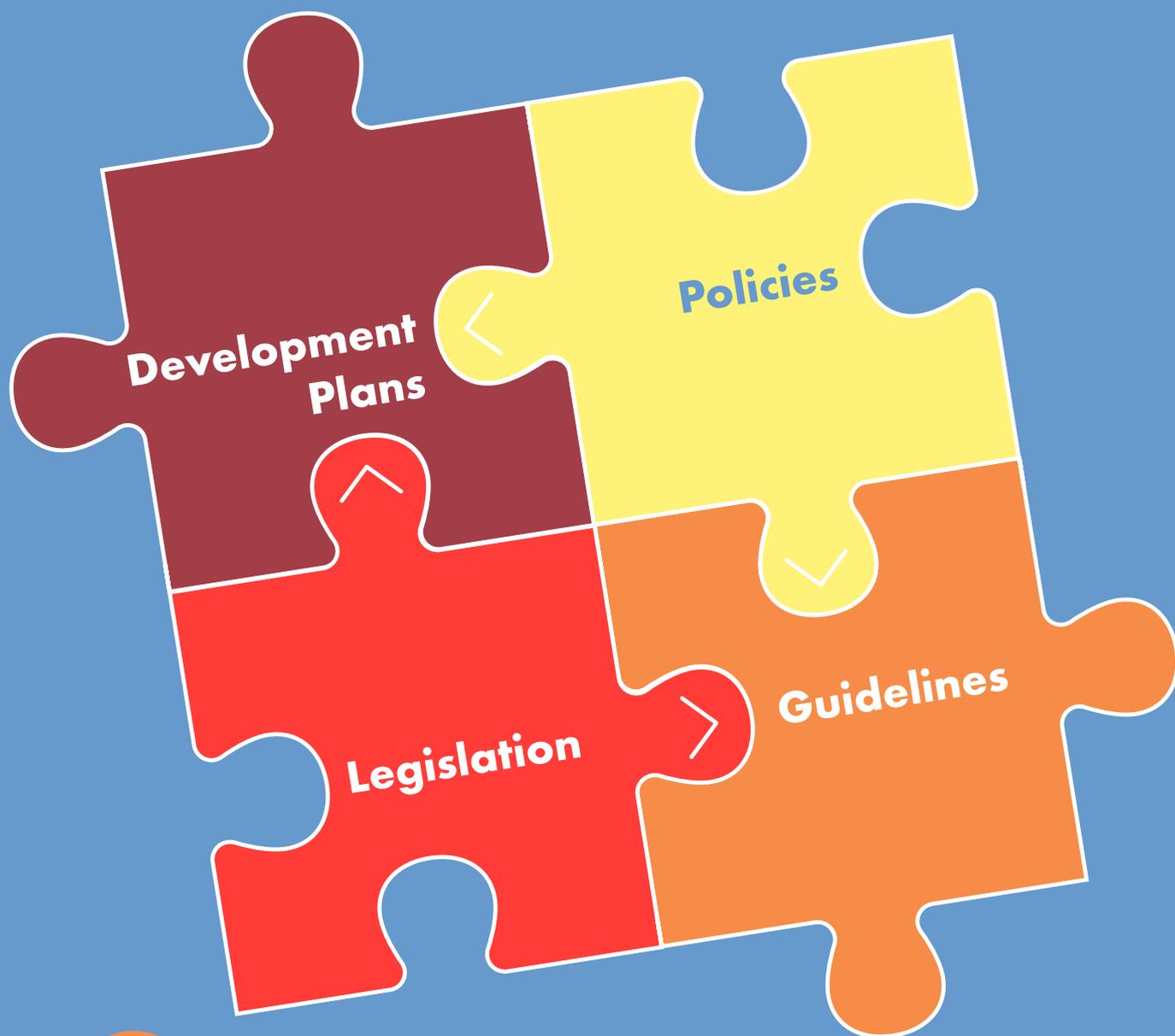
A commercial radio station for the city of Bulawayo, which offers educational and informative programmes as well as news and current affairs.⁶⁰



Contact details

902 Pioneer House, Corner of 8th Avenue and Fife Street, Bulawayo
Tel: +263 29 62868

60 See: <http://skyzmetroradio.co.zw/about-us/> (accessed 25 June 2018).



6

Key Recommendations to Address Gaps in the Legal and Policy Environment

The key recommendations to address the gaps in the legal and policy environment in this section are identified based on a May 2018 draft of the Legal Environment Assessment (LEA). The recommendations fall under the following categories: equality and anti-discrimination; health laws and policies; criminal law and law enforcement; women and gender-based violence; employment; education and information; social security and social insurance; and access to justice and law enforcement.

Equality and Anti-Discrimination

The relevant recommendations from the LEA are as follows:

- a. Review and amend Part II of the Prevention of Discrimination Act to include people living with HIV, women, pregnant women, children, people with disabilities. Also review Section 5 of the Prevention of Discrimination Act to explicitly mention HIV as a ground for non-discrimination in access to finance.
- b. Consider an amendment to the Constitution to explicitly include HIV as a prohibited ground of non-discrimination.
- c. The Immigration Act should be reviewed in order to align it with the National HIV and AIDS Policy, particularly to explicitly prohibit mandatory HIV testing of visitors or immigrants to Zimbabwe.
- d. Ensure existing human rights and constitutional guarantees are enforced.

Health Laws and Policies

The relevant recommendations from the LEA are as follows:

- a. Review the Public Health Act [Chapter 15:09] to provide provisions on prevention, care and treatment of HIV and to ensure that patients subjected to involuntary detention for tuberculosis (TB) are accorded due process, so that detention does not take place without appropriate justification.
- b. Review the Patents Act and/or the Medicines and Allied Substances Control Act to utilize the flexibilities provided under the Agreement on Trade-Related Aspects of Intellectual Property Rights.
- c. Escalate awareness-raising efforts in order to increase access to information, testing services and counselling for pregnant women to prevent mother-to-child transmission of HIV.
- d. Review health laws and policies to ensure the inclusion of specific provisions for the rights of people with disabilities and to accessible and appropriate health information and health care services, including HIV-related prevention, treatment, care and support, access to sexual and reproductive health care without discrimination, and participation in the design, development and implementation of programmes.
- e. Adopt an integrated approach to HIV services at all health centres, to prevent stigma and indirect disclosure of the health status of people living with HIV.

- f. To provide sufficient resources to fully support Access to Medical Treatment Orders for enhanced access to health services by vulnerable groups, and key populations especially people with disabilities, young key populations and women.

Criminal Law and Law Enforcement

The relevant recommendations from the LEA are as follows:

- a. Targeted measures should be taken to strengthen access to justice and law enforcement, including dissemination of information on existing and new laws and human rights targeting key service providers such as health workers and law enforcement officials, and strengthening legal support services and mechanisms for enforcing HIV-related human rights complaints.
- b. Review section 79 of the Criminal Law (Codification and Reform) Act to allow for prosecutions of wilful HIV transmission only where evidence of such exists, in line with the recommendation by the Global Commission on HIV and the Law that prosecution for HIV transmission be available in very limited circumstances (when transmission is actual and intentional and prosecutions are pursued with high levels of evidence). Additional safeguards should be implemented to ensure that prosecution does not infringe on the right to privacy and other human rights, such as disclosure of HIV status.
- c. Review criminal provisions of the Public Health Act relating to disease transmission and develop prosecutorial guidance to ensure they are not inappropriately applied to HIV.

Women and Gender-Based Violence

The relevant recommendations from the LEA are as follows:

- a. Strengthen and broaden the scope of criminal laws relating to violence, including gender-based violence and sexual violence, as well as measures to enhance advocacy of treatment and management of victims of such violence and especially at health facilities by health personnel and the police.
- b. Develop and/or strengthen policies on economic empowerment of women, to promote women's economic independence and thus to reduce women's vulnerability to HIV.
- c. Ensure meaningful involvement of women living with HIV in the drafting of laws, policies and guidelines concerning sexual and reproductive health and rights.
- d. Integrate Maternal Child Health and Prevention of Mother-to-Child Transmission Programmes.

Employment

The relevant recommendations from the LEA are as follows:

- a. Ensure the development and monitor the implementation of rights-based HIV workplace policies, developing the capacity of managers, supervisors, workplace peer educators

and counsellors to provide accurate and adequate HIV information to their peers in the workplace, to protect workplace rights and to prohibit HIV-related discrimination.

- b. Ensure that all employees, and in particular health care workers and law enforcement officials, receive comprehensive training on universal precautions, and that the necessary procedures are in place and equipment is accessible and available to enable implementation of universal precautions at all times.
- c. Ensure that post exposure prophylaxis is available for all health care workers and other employees who may be at risk of occupational exposure to HIV and ensure that procedures are in place for access to support, counselling and assistance outside working hours.

Education and Information

The relevant recommendations from the LEA are as follows:

- a. Review the Access to Information and Protection of Privacy Act and align it with the right to information provisions in the Constitution and also ensure provision for the right of all people to information on HIV, AIDS and other sexually transmitted illnesses, in accordance with Guiding Principle 39 of the National HIV and AIDS Policy.
- b. Provide resources for and establish systematic, visible HIV strategies within schools, so teachers are better guided on how to address HIV within schools.
- c. Develop community and media awareness, advocacy programmes and education campaigns on HIV, law and human rights that also specifically target and include information on issues and laws relevant to all vulnerable and key populations and on new, protective laws and policies (e.g. the proposed Persons with Disabilities Bill).
- d. Ensure that tertiary institutions have continually updated HIV policies and programmes, including access to prevention, treatment, care and support, to respond to the ever-changing nature of HIV in the country and globally.

Social Security and Social Insurance

The relevant recommendations from the LEA are as follows:

- a. Enforce section 30 of the Constitution on social security. Particular attention should be paid to social protection for women, children and persons with disabilities living with and affected by HIV.⁶¹
- b. Review the Social Welfare Assistance Act to take into consideration the needs of people living with HIV, in particular people with disabilities and disadvantaged children.
- c. Mobilise resources to implement social protection programmes for orphan and vulnerable children as provided in national HIV policies.

⁶¹ The provision states that the state must take all practical measures, within the limits of resources available to it, to provide social security and social care to those who are in need.

Access to Justice and Law Enforcement

The relevant recommendations from the LEA are as follows:

- a. Develop guidelines to support law enforcement agencies, the judiciary and other members of the JLOS to ensure that criminal sanctions are applied reasonably.
- b. Provide training on HIV for law and policy makers as well as the JLOS.
- c. Strengthen access to legal aid and support services for people living with HIV and vulnerable and marginalised, key populations at higher risk of HIV exposure.
- d. Take appropriate steps to ensure that all security sector personnel and other JLOS institutions perform their duties professionally and in a non-discriminatory and non-partisan manner.



7

Potential Opportunities

Based on the recommendations identified above, this section identifies potential opportunities for CSOs seeking to amend the legal and policy framework.

Equality and Anti-Discrimination

Legal Reform

Work with members of the Senate and National Assembly to do the following:

- review and amend Part II of the Prevention of Discrimination Act to include people living with HIV; women; pregnant women; children; people with disabilities and key populations from discrimination and section 5 to explicitly mention HIV as a ground for non-discrimination to access finance.
- Amend the Constitution to explicitly include HIV as a prohibited ground.
- Amend the Immigration Act to explicitly prohibit HIV testing of visitors or immigrants to Zimbabwe.
- The Persons with Disabilities Bill is under consideration by a government committee following consultations with stakeholders that were conducted by the Ministry. The next opportunity for stakeholders to input in the Bill is when it is presented in Parliament by the Ministry. CSOs and other stakeholders may in the meantime engage on specific areas of concern with relevant Parliamentary Select Committee as this opportunity is still available for issues to be presented on their behalf.

Litigation

Institute a legal action in the High Court on behalf of a person living with HIV who has been discriminated against to make clear that the Constitution prohibits discrimination on the basis of an individual's HIV status.

Engagement with Relevant Ministries

Engage with relevant Ministries to discuss strategies for enforcing human rights and constitutional guarantees. This could include working with the National Prosecuting Authority or Ministry of Justice to discuss enforcement of human and constitutional rights violations.

Health Laws and Policies

Legal Reform

Work with members of the Senate and National Assembly to do the following:

- Amend the Patents Act and the Medicines and Allied Substances Control Act to utilise the flexibilities under the Agreement on Trade-Related Aspects of Intellectual Property Rights.

- Review the Public Health Act to provide provisions on prevention, care and treatment of HIV and to prohibit involuntary detention for TB without due process.

Litigation

Institute a legal action in the High Court on behalf of a person living with TB who has been involuntarily detained without due process to make clear that the Constitution prohibits such detention.

Engagement with Relevant Ministries

- Engage with relevant Ministries, such as the Ministry of Health to ensure HIV-related laws and policies include specific provision for the rights of people with disabilities and key populations to accessible and appropriate health information and health care services, including HIV-related prevention, treatment, care and support, access to sexual and reproductive health care without discrimination, and participation in the design, development and implementation of programmes.
- Engage with relevant Ministries to increase awareness efforts on HIV services and counselling for pregnant women and others.

Criminal Law and Law Enforcement

Legal Reform

Work with members of the Senate and National Assembly to repeal or amend section 79 of the Criminal Law Code (Codification and Reform Act), which currently broadly criminalises HIV transmission.

Litigation

Institute a legal action in the High Court seeking to have the court assess the constitutionality of section 79 of the Criminal Law Code (Codification and Reform Act).

Engagement with Prosecutors

Work with prosecutors to develop prosecutorial guidance on the various provisions seeking to criminalise HIV transmission, including section 79 of the Criminal Law Code and the Public Health Act.

Engagement with Relevant Ministries

Engage with relevant Ministries to increase awareness efforts on strengthening access to justice and law enforcement, including dissemination of information on existing and new laws and human rights targeting key service providers, including health workers and law enforcement officials.

Women and Gender-Based Violence

Legal Reform

Work with members of the Senate and National Assembly to strengthen and broaden the scope of criminal laws relating to violence, including sexual violence and gender-based violence.

The MoJLPA is in the process of amending the Marriages Act to ensure that it does not provide for early marriages. CSOs should work with the MoJLPA and provide input on the amendments to the Marriages Act.

Engagement with Relevant Ministries

Engage with the relevant Ministries to ensure the meaningful involvement of women living with HIV in the drafting of policies and guidelines concerning sexual and reproductive health and rights and to develop policies on economic empowerment of women and to promote women's economic independence.

Employment

Engagement with Relevant Ministries

- Engage with the relevant Ministries to develop HIV-related workplace policies.
- Engage with relevant Ministries to convene training of health care workers and law enforcement on HIV-related workplace issues.

Education and Information

Legal Reform

Work with members of the Senate and National Assembly to include provisions of Guiding Principle 39 into the Access to Information and Protection of Privacy Act.

Engagement with Relevant Ministries

Work with relevant Ministries to develop an HIV and AIDS education programme curriculum, which includes age-appropriate information about HIV prevention, including safer sex, as well as information on stigma, discrimination and human rights, and to develop community and media awareness and education campaigns on HIV, law and human rights programmes that also specifically target and include information on issues and laws relevant to all vulnerable and key populations and on new, protective laws and policies.

Social Security and Social Insurance

Legal Reform

Work with members of the Senate and National Assembly to amend the Social Welfare Assistance Act [Chapter 17:06] to take into consideration the needs of people living with HIV, in particular people with disabilities and disadvantaged children.

Engagement with Relevant Ministries

Engage with relevant Ministries to increase resources to implement social protection programmes for orphan and vulnerable children and to effectively enforce section 30 of the Constitution.

Access to Justice and Law Enforcement

Engagement with Relevant Ministries

Work with relevant Ministries to develop guidelines to support law enforcement agencies, the judiciary and other members of the JLOS to ensure that criminal sanctions are applied reasonably and to provide training on HIV for law and policy makers, including JLOS.

Engagement with Lawyers

Identify and reach out to lawyers to increase their awareness regarding rights violation and encourage them to support such cases pro bono.



8

Timeline

Date ⁶²	Event
1 March	Zero Discrimination Day
8 March	International Women's Day
April	African Commission session
1 May	Worker's Day
16 June	Day of African Child
11 October	International Day of the Girl Child
October/November	African Commission session
1 December	World AIDS Day
3 December	International Day of Persons with Disabilities
10 December	International Human Rights Day

62 This is an initial draft timeline. Additional information should be included as it comes available.

Appendices

Appendix A: Model Complaint Form for International Treaty Bodies

For communications under:

- Optional Protocol to the International Covenant on Civil and Political Rights
- Convention against Torture, or
- International Convention on the Elimination of Racial Discrimination

Please indicate which of the above procedures you are invoking:

Date:

I. Information on the complainant:

Name: First name(s):

Nationality: Date and place of birth:

Address for correspondence on this complaint:

Submitting the communication:

on his/her own behalf:

on behalf of another person:

If the complaint is being submitted on behalf of another person:

Please provide the following personal details of that other person

Name: First name(s):

Nationality: Date and place of birth:

Address or current whereabouts:

If you are acting with the knowledge and consent of that person, please provide that person's authorization for you to bring this complaint

Or

If you are not so authorized, please explain the nature of your relationship with that person: and detail why you consider it appropriate to bring this complaint on his or her behalf:

II. State concerned/ Articles violated

Name of the State against which the complaint is directed:

.....

Articles of the Covenant or Convention alleged to have been violated:

.....

III. Exhaustion of domestic remedies/ Application to other international procedures

Steps taken by or on behalf of the alleged victims to obtain redress within the State concerned for the alleged violation – detail which procedures have been pursued, including recourse to the courts and other public authorities, which claims you have made, at which times, and with which outcomes:

If you have not exhausted these remedies on the basis that their application would be unduly prolonged, that they would not be effective, that they are not available to you, or for any other reason, please explain your reasons in detail:

Have you submitted the same matter for examination under another procedure of international investigation or settlement (e.g. the Inter-American Commission on Human Rights, the European Court of Human Rights, or the African Commission on Human and Peoples' Rights)?

If so, detail which procedure(s) have been, or are being, pursued, which claims you have made, at which times, and with which outcomes:

IV. Facts of the complaint

Detail, in chronological order, the facts and circumstances of the alleged violations. Include all matters which may be relevant to the assessment and consideration of the particular case. Please explain how you consider that the facts and circumstances described violate your rights.

.....

.....

.....

Author's signature:

[The blanks under the various sections of this model communication simply indicate where your responses are required. You should take as much space as you need to set out your responses.]

V. Checklist of supporting documentation (copies, not originals, to be enclosed with your complaint):

- Written authorization to act (if you are bringing the complaint on behalf of another person and are not otherwise justifying the absence of specific authorization):
- Decisions of domestic courts and authorities on your claim (a copy of the relevant national legislation is also helpful):
- Complaints to and decisions by any other procedure of international investigation or settlement:
- Any documentation or other corroborating evidence you possess that substantiates your description in Part IV of the facts of your claim and/or your argument that the facts described amount to a violation of your rights:
- Please include, if necessary, an indication in a UN language (Arabic, Chinese, English, Spanish, French and Russian) of the contents of the accompanying documentation.
- Your communication should not exceed 50 pages (excluding annexes). In case your application exceeds twenty pages, you must also file a short summary.

Appendix B: Guidelines for submitting complaint to the African Commission⁶³

1. *Complainant(s)* (please indicate whether you are acting on your behalf or on behalf of someone else. Also indicate in your communication whether you are an NGO and whether you wish to remain anonymous).
2. Name
3. Age
4. Nationality
5. Occupation and/or Profession
6. Address
7. Telephone/Fax no
8. *Government accused of the Violation* (please make sure it is a State Party to the African charter).
9. *Facts constituting alleged violation* (Explain in as much a factual detail as possible what happened, specifying place, time and dates of the violation).
10. *Urgency of the case* (Is it a case which could result in loss of life/lives or serious bodily harm if not addressed immediately? State the nature of the case and why you think it deserves immediate action from the Commission).
11. *Provisions of the Charter alleged to have been violated* (if you are unsure of the specific articles, please do not mention any).
12. *Names and titles of government authorities who committed the violation* (if it is a government institution please give the name of the institution as well as that of the head).
13. *Witness to the violation* (include addresses and if possible telephone numbers of witnesses).
14. *Documentary proofs of the violation* (attach for example, letters, legal documents, photos, autopsies, tape recordings etc., to show proof of the violation).
15. *Domestic legal remedies pursued* (Also indicate for example, the courts you've been to, attach copies of court judgments, writs of habeas corpus etc.
16. *Other international avenues* (Please state whether the case has already been decided or is being heard by some other international human rights body; specify this body and indicate the stage at which the case has reached).

63 Adapted from African Commission on Human and Peoples Rights. Information Sheet No. 2. Guidelines for the Submission of Communications. Organisation of African Unity



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Resilient nations.*

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