

# The Functions of Selected Human Rights Institutions and Related Role-Players in the Protection of Human Rights in Zimbabwe

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## Abstract

Various violations of the human rights of ordinary people and human rights defenders have been reported in Zimbabwe since the late 1980s. It is widely acknowledged that such violations have been perpetrated mostly by the government through its different organs for political and other related reasons. Human rights violations were also easily committed against ordinary people and human rights defenders because there was no *Constitution* that adequately protected such people's fundamental human rights (including their civil and political rights and their socio-economic rights) in Zimbabwe. Given this background, the article discusses the protection of human rights in Zimbabwe, in the light of the *Zimbabwe Constitution Amendment Act 20 of 2013 (Zimbabwe Constitution 2013)*. This is done in order to investigate whether the promotion, protection, enforcement and respect for human rights in Zimbabwe has now improved. To this end, the functions of selected national human rights institutions and other related role-players, namely civil society, the judiciary, the law enforcement organs and the Zimbabwe Human Rights Commission, are briefly discussed first. Secondly, the functions of selected regional and international institutions, namely the Southern African Development Community, the African Union and the United Nations are discussed in relation to the protection of human rights in Zimbabwe. Thereafter, concluding remarks and possible recommendations that could be utilised to combat human rights violations and enhance the protection of human rights in Zimbabwe are provided.

## Keywords

Human rights; judiciary; protection; enforcement; violations.

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## 1 Introduction

Several violations of the human rights of ordinary people and of defenders of human rights have been perpetrated by government officials and other related unscrupulous persons in Zimbabwe since the late 1980s.<sup>1</sup> It is widely acknowledged that such violations were perpetrated mostly by the government through its different organs for political and other related reasons.<sup>2</sup> A number of human rights violations were also easily committed against ordinary people and human rights defenders because there was no specific *Constitution* that adequately protected such people's fundamental human rights<sup>3</sup> in Zimbabwe.<sup>4</sup> Given this background, the article discusses the protection of human rights in Zimbabwe in the light of the *Zimbabwe Constitution Amendment Act 20 of 2013*.<sup>5</sup> This is done in order to investigate whether the promotion, protection, enforcement and

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\*\* Pontsho Mokone. LLB, LLM (NWU). E-mail: pontshophila@gmail.com. This article was influenced in part by Mokone's LLB mini-dissertation entitled *An Analysis of Torture as a Human Rights Violation in Zimbabwe*. In this regard, she wishes to acknowledge the expert input of Prof H Chitimira.

<sup>1</sup> See Kersting *Constitution in Transition* 7-309, on the promotion and protection of fundamental human rights in Zimbabwe; Mhodi 2013 *SAPR/PL* 383, 384-397; International Crisis Group *Zimbabwe: Waiting for the Future* 2-19; Amnesty International 2013 *Zimbabwe: Human Rights Agenda* 5, 6-22; De Bourbon 2003 *AHRLJ* 195, 196-221.

<sup>2</sup> Dziva, Dube and Manatsa 2013 *IJHSSI* 83-91; also see related comments by Amnesty International 2006 <http://www.amnesty.org/en/library/asset/AFR46/005/2006/en/dom-AFR460052006en.html>; Zimbabwe Human Rights NGO Forum *Zimbabwe Human Rights* 1, 2-67; Amnesty International 2013 *Walk the Talk* 6-30; Anon 2006 [http://www.kubatana.net/html/archive/urbdev/060601reuters.asp?sector=URBDEV&year=0&range\\_start=1](http://www.kubatana.net/html/archive/urbdev/060601reuters.asp?sector=URBDEV&year=0&range_start=1); Gwenhamo, Fedderke and de Kadt 2012 *Journal of Peace Research* 593, 594-601.

<sup>3</sup> These also include their civil and political rights as well as their socio-economic rights.

<sup>4</sup> Dzinesa *Zimbabwe's Constitutional Reform Process* 1, 2-13; Manyatera and Fombad 2014 *CILSA* 89, 90-108; Chiduza 2014 *PELJ* 368, 369-409; Mavedzenge and Coltart 2014 <https://constitutionallythinking.files.wordpress.com/2014/10/a-constitutional-law-guide-towards-understanding-zimbabwes-fundamental-socio-economic-and-cultural-human-rights.pdf> 5-57.

<sup>5</sup> *Zimbabwe Constitution Amendment Act 20 of 2013*, hereinafter referred to as the *Zimbabwe Constitution 2013*. Notably, this article is mainly focused on the role of selected human rights institutions and related role-players in the protection of human rights in Zimbabwe under the *Zimbabwe Constitution 2013*. Consequently, a detailed comparative analysis of such human rights protection under the *Lancaster House Constitution of Zimbabwe Order 1979* (SI 1979/1600) as amended by *Amendment Act 1 of 2009* which introduced amendment 19 of 2009 on 13 February 2009 (*Lancaster House Constitution 1979*) and the *Zimbabwe Constitution 2013* is beyond the scope of this article.

respect for human rights in Zimbabwe has now improved.<sup>6</sup> To this end, the functions of selected national human rights institutions and other related role-players, namely civil society, the judiciary, the law enforcement organs and the Zimbabwe Human Rights Commission (ZHRC) are briefly discussed first. Secondly, the functions of selected regional and international institutions, namely the Southern African Development Community (SADC),<sup>7</sup> the African Union (AU) and the United Nations (UN) are discussed in relation to the protection of human rights in Zimbabwe.

The authors concur with Reif that independent human rights institutions are established, promoted and protected through the *Constitutions*, laws and other relevant regulations in several jurisdictions.<sup>8</sup> Accordingly, the main functions of independent human rights institutions are *inter alia* to promote and protect the fundamental human rights of all the people in their respective countries.<sup>9</sup> These institutions can promote good governance in any country in a number of ways. For instance, independent human rights institutions and/or human rights ombudsman bodies can investigate human rights violations in order to improve the legality, fairness and accountability of any governmental administration.<sup>10</sup> Furthermore, national human rights institutions can enhance the protection of human rights in any state by acting as catalysts for the domestic implementation of its international human rights treaties and obligations.<sup>11</sup> In relation to this, the authors submit that although human rights institutions in Zimbabwe, as in many other countries, do not have the power to make binding decisions in matters involving human rights violations and maladministration by the government or other persons, they could still play a pivotal role in the promotion and protection of human rights in Zimbabwe.<sup>12</sup> Thereafter, concluding remarks and possible recommendations that could be utilised to combat human rights violations and enhance the protection of human rights in Zimbabwe are provided.

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<sup>6</sup> Robertson *Judicial Independence* 3, 4-5; Gwenhamo, Fedderke and de Kadt 2012 *Journal of Peace Research* 594-601; Reif 2000 *Harv Hum Rts J* 1-69.

<sup>7</sup> Malan and Cilliers *SADC Organ on Politics, Defence and Security* 1-11.

<sup>8</sup> Reif 2000 *Harv Hum Rts J* 3-7.

<sup>9</sup> Reif 2000 *Harv Hum Rts J* 1-7.

<sup>10</sup> Reif 2000 *Harv Hum Rts J* 1-3.

<sup>11</sup> Reif 2000 *Harv Hum Rts J* 1-3.

<sup>12</sup> Sections 232-237 of the *Zimbabwe Constitution 2013*.

## 2 The role of national human rights institutions and related role-players in Zimbabwe

### 2.1 *The role of the judiciary*

It is submitted that the judiciary plays a key role in the protection, promotion and fulfilling of human rights in any democratic country.<sup>13</sup> Accordingly, the independence of the judiciary does not only guarantee the protection of human rights but it also upholds the rule of law in any country.<sup>14</sup> Be that as it may, it is submitted that the judiciary has in some instances failed to protect the people's fundamental human rights, especially before the enactment of the *Zimbabwe Constitution 2013*.<sup>15</sup> Notably, the executive and its organs have in some instances refused to enforce binding court orders and decisions that were seemingly unfavourable and detrimental to the aspirations of the Zimbabwe African National Union – Patriotic Front (ZANU-PF).<sup>16</sup> For instance, it is reported that the army and police agencies refused to obey an order of the Supreme Court to release journalists Mark Chavunduka and Raymond Choto, who were allegedly illegally abducted and held by military security officers in connection with a story they had published about a failed coup in Zimbabwe.<sup>17</sup> Similarly, Justice James Devittie ruled that the murder case involving the Movement for Democratic Change (MDC) activists Blessing Chiminya and Talent Mabika, who were allegedly executed by being burnt alive by some ZANU-PF activists during the 2000 elections, should be investigated by the relevant authorities.<sup>18</sup> Nevertheless, no such investigations were successfully conducted by law enforcement authorities and the perpetrators of the aforesaid murders have not been prosecuted to date.<sup>19</sup> Furthermore, the executive has sometimes manipulated,

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<sup>13</sup> Asmal and James *Spirit of the Nation* 21.

<sup>14</sup> Chiduzza *Significance of Judicial Independence* 57-59.

<sup>15</sup> Zimbabwe Human Rights Non-Governmental Organisation Forum 2005 <http://hrforumzim.org/wp-content/uploads/2010/06/SR23-Zimbabwe-Facts-and-Fictions-An-Audit-of-the-Recommendations-of-the-Fact-Finding-Mission-of-the-ACHPR1.pdf> 1, 23-31; Madhuku 2002 *J Afr L* 232-258, for further related discussion.

<sup>16</sup> Zimbabwe Human Rights Non-Governmental Organisation Forum 2005 <http://hrforumzim.org/wp-content/uploads/2010/06/SR23-Zimbabwe-Facts-and-Fictions-An-Audit-of-the-Recommendations-of-the-Fact-Finding-Mission-of-the-ACHPR1.pdf> 24.

<sup>17</sup> *Mark Chavunduka and Raymond Choto v Ministry of Defence* (2000) ZLR (SC).

<sup>18</sup> Zimbabwe Human Rights Non-Governmental Organisation Forum 2005 <http://hrforumzim.org/wp-content/uploads/2010/06/SR23-Zimbabwe-Facts-and-Fictions-An-Audit-of-the-Recommendations-of-the-Fact-Finding-Mission-of-the-ACHPR1.pdf> 27.

<sup>19</sup> Zimbabwe Human Rights Non-Governmental Organisation Forum 2005 <http://hrforumzim.org/wp-content/uploads/2010/06/SR23-Zimbabwe-Facts-and-Fictions-An-Audit-of-the-Recommendations-of-the-Fact-Finding-Mission-of-the-ACHPR1.pdf>

intimidated and issued unwarranted attacks on the judiciary and the legal profession as a whole in order to negatively influence the role of the judges<sup>20</sup> and lawyers in relation to the protection of human rights in Zimbabwe.<sup>21</sup> In this regard, the executive's negative influence on the Zimbabwe Electoral Commission (ZEC) to oppose the initial ruling of the Electoral Court judge, Justice Tendai Uchena,<sup>22</sup> who had correctly decided that Roy Bennett (MDC candidate) was eligible to contest for the Member of Parliament seat in Chimanimani constituency in March 2005, is a case in point.<sup>23</sup>

As indicated above, the executive's direct and indirect interference with the independence of the judiciary could have caused the Zimbabwean judiciary to lose the respect, confidence and trust of the nation's citizens. For instance, some aggrieved persons in Zimbabwe have sought their remedies in the courts of other countries. The *National Commissioner of the South African Police Service v Southern African Human Rights Litigation Centre*<sup>24</sup> is a case in point. Moreover, due to the increase in the number of cases of human rights violations in Zimbabwe, many such cases have been brought before the African Commission (AC) to date.<sup>25</sup> In

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Fictions-An-Audit-of-the-Recommendations-of-the-Fact-Finding-Mission-of-the-ACHPR1.pdf 27.

<sup>20</sup> Madhuku 2006 *SAPR/PL* 345, 346-369, for related comments.

<sup>21</sup> Zimbabwe Human Rights Non-Governmental Organisation Forum 2005 <http://hrforumzim.org/wp-content/uploads/2010/06/SR23-Zimbabwe-Facts-and-Fictions-An-Audit-of-the-Recommendations-of-the-Fact-Finding-Mission-of-the-ACHPR1.pdf> 25-30.

<sup>22</sup> Anon 2005 [http://www.zimbabwesituation.com/old/mar18\\_2005.html#link10](http://www.zimbabwesituation.com/old/mar18_2005.html#link10) page number unknown.

<sup>23</sup> *Roy Leslie Bennett v The Constituency Election Officer, Chimanimani Constituency* EP1/05; Zimbabwe Human Rights Non-Governmental Organisation Forum 2005 <http://hrforumzim.org/wp-content/uploads/2010/06/SR23-Zimbabwe-Facts-and-Fictions-An-Audit-of-the-Recommendations-of-the-Fact-Finding-Mission-of-the-ACHPR1.pdf> 28.

<sup>24</sup> *National Commissioner of the South African Police Service v Southern Africa Human Rights Litigation Centre* 2013 ZASCA 168 (27 November 2013) were it was held *inter alia* that the South African Police Service (SAPS) was obliged to investigate the crimes against humanity of torture that were allegedly committed against the members of the MDC by the members of the Zimbabwe Republic Police (ZRP), in terms of the *Constitution of the Republic of South Africa, 1996 (Constitution of South Africa)*, the *International Criminal Court Act 27 of 2002* and the international law obligations of South Africa; also see *Mike Campbell (Pty) Ltd v Minister of National Security Responsible for Land Reform and Resettlement* (124/06) [2008] ZWSC 1; *Government of the Republic of Zimbabwe v Fick* 2013 5 SA 325 (CC), were it was held *inter alia* that the government of Zimbabwe was obliged to compensate the evicted farmers in terms of the initial order of the Southern African Development Community Tribunal (SADCT).

<sup>25</sup> Such cases are usually filed in accordance with art 56 of the *African Charter on Human and Peoples' Rights* (1981) (*African Charter*); see further Chiduzza *Significance of Judicial Independence* 57.

this regard the AC has on several occasions submitted that there were no effective domestic remedies for the victims of alleged human rights violations in Zimbabwe.<sup>26</sup> This could imply that both the executive and the judiciary have sometimes failed to adequately and consistently protect the fundamental human rights of all the people in Zimbabwe.<sup>27</sup>

It is encouraging, however, to note that the *Zimbabwe Constitution 2013* has brought about several changes that are generally aimed at revamping the promotion and protection of all the people's human rights in Zimbabwe.<sup>28</sup> For instance, the independence of the judiciary is adequately entrenched under the *Zimbabwe Constitution 2013*, since all the relevant courts are expressly required to be independent and subject only to the *Constitution* and the law.<sup>29</sup> In the same light, all the courts are obliged to promote the rule of law and democratic governance by applying the law impartially, expeditiously and without fear, favour or prejudice.<sup>30</sup> Furthermore, a number of guidelines are provided to enable members of the judiciary to exercise their duties ethically and professionally.<sup>31</sup> For example, members of the judiciary are required to: recuse themselves from any political activities; timeously carry out their duties to ensure justice for all affected persons, and to safeguard human rights and the rule of law.<sup>32</sup> Another change introduced by the *Zimbabwe Constitution 2013* is that the Constitutional Court is now the highest court in relation to all

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<sup>26</sup> For instance, see *Zimbabwe Lawyers for Human Rights v The Government of Zimbabwe Muzerengwa Buhera* ACHPR Communication No 306/05; *Zimbabwe Lawyers for Human Rights, SADC Lawyers Association, Law Association of Zambia, Tanzania Law Society v the Government of Zimbabwe* ACHPR/LPROT/COMM/ZIM/321; *Zimbabwe Lawyers for Human Rights, Human Rights Trust of Southern Africa v The Government of Zimbabwe Forced Evictions Hopley – Porta Farm and Hatcliffe Communities* ACHPR Communication No 314/05. See further Chiduzwa *Significance of Judicial Independence* 57.

<sup>27</sup> Chiduzwa *Significance of Judicial Independence* 57.

<sup>28</sup> Sections 162-193 of the *Zimbabwe Constitution 2013*.

<sup>29</sup> Section 164(1) of the *Zimbabwe Constitution 2013*. Notably, despite the fact that s 79B of the *Lancaster House Constitution 1979* also promoted the independence of the judiciary, its provisions were narrower than those contained in s 164 of the *Zimbabwe Constitution 2013*. For instance, s 79B of the *Lancaster House Constitution 1979* did not emphasise the importance of the impartiality and effectiveness of the courts for the purposes of promoting the rule of law and democratic governance in Zimbabwe. Thus, unlike s 164 of the *Zimbabwe Constitution 2013*, s 79B of the *Lancaster House Constitution 1979* did not expressly provide any possible measures on how the state could assist the courts to promote and protect the impartiality, dignity, accessibility, effectiveness and independence of the judiciary in Zimbabwe.

<sup>30</sup> Sections 164(1) and (2) of the *Zimbabwe Constitution 2013*.

<sup>31</sup> Section 165 of the *Zimbabwe Constitution 2013*.

<sup>32</sup> Section 165 of the *Zimbabwe Constitution 2013*.

constitutional matters in Zimbabwe.<sup>33</sup> Moreover, unlike the former position under the *Lancaster House Constitution 1979*,<sup>34</sup> the *Zimbabwe Constitution 2013* provides that the appointment of judges must be fair and transparent to ensure that relevantly qualified persons are appointed.<sup>35</sup> The *Zimbabwe Constitution 2013* also provides for the establishment of an independent and impartial Judicial Service Commission (JSC).<sup>36</sup>

Nonetheless, it remains to be seen whether the provisions of the *Zimbabwe Constitution 2013* will be consistently and effectively enforced to promote the independence of the judiciary and the protection of human rights in Zimbabwe.<sup>37</sup> For instance, members of the executive are still negatively interfering with the independence of the judiciary.<sup>38</sup> Put differently, despite the enactment of the relevant provisions of the *Zimbabwe Constitution 2013*, members of the executive are still having some direct and/or indirect interference with the independence of the judiciary in Zimbabwe. For instance, due to such interference from the executive there are still some incidents of human rights violations which the courts are either reluctant or unwilling to adjudicate upon to date. The unlawful delays that were associated with Linda Masarira (a human rights activist)'s trial and the recent criticism by some government officials of the High Court judgement by David Mangota J, who eventually ordered her release from prison after she had been incarcerated for about three months, is a case in point.<sup>39</sup> In this regard, despite the fact that regional and international laws are usually functional at state level only after their provisions have been incorporated into the relevant domestic or national laws, it is submitted that the independence of the judiciary should be protected in accordance with the relevant regional and international laws.<sup>40</sup>

<sup>33</sup> Section 167 read with ss 166 and 163 of the *Zimbabwe Constitution 2013*.

<sup>34</sup> Section 79B read with ss 84 to 87 of the *Zimbabwe Constitution 2013*.

<sup>35</sup> Section 180(2) of the *Zimbabwe Constitution 2013*; see further Chiduzwa *Significance of Judicial Independence* 274.

<sup>36</sup> Sections 189-191 of the *Zimbabwe Constitution 2013*; Chiduzwa *Significance of Judicial Independence* 274-275.

<sup>37</sup> Chiduzwa *Significance of Judicial Independence* 273-275.

<sup>38</sup> Anon 2015 <http://www.newzimbabwe.com/news-20865-Mugabe+bullies+judges+on+Mutasa,+MDC-T/news.aspx> page number unknown; Anon 2015 <http://www.newzimbabwe.com/news-21072-Moyo+defends+Mugabe+over+judges+threat/news.aspx> page number unknown;

Robertson *Judicial Independence* 4-5.

<sup>39</sup> Ncube 2016 <https://www.newsday.co.zw/2016/09/27/high-court-frees-pro-democracy-activist-masarira/> page number unknown.

<sup>40</sup> See Principle 1 of the *United Nations Basic Principles on the Independence of the Judiciary* (1985); the *International Bar Association Minimum Standards of Judicial Independence* (1982); the *Montreal Universal Declaration on the Independence of Justice* (1983); art 10 of the *Universal Declaration of Human Rights* (1948) (UDHR); art 7 of the *African Charter*; the *United Nations Basic Principles on the*

Furthermore, the powers of the executive, especially the president, in the appointment,<sup>41</sup> removal<sup>42</sup> and the remuneration of judges<sup>43</sup> still pose a threat to the independence of the judiciary and the protection of human rights in Zimbabwe. In other words, the fact that the president still has the power to initiate and unilaterally appoint a tribunal to investigate concerns relating to the removal of a judge<sup>44</sup> as well as the power to approve the salaries of judges<sup>45</sup> could give him an opportunity to directly interfere with the independence of the judiciary. For example, the president can reduce or increase the salary of judges, especially where the decisions of the judiciary could be detrimental to him or his government, in order to influence the decisions of the courts.<sup>46</sup> Moreover, notwithstanding the fact that the JSC is obliged to conduct public interviews of prospective judges,<sup>47</sup> the fact that the president still has a huge grip on the appointment of judges could continue to give rise to biased and/or politically-related appointments<sup>48</sup> that negatively affect the protection of human rights for all the people of Zimbabwe in the future.

## 2.2 *The role of the ZHRC*

The ZHRC was initially established in 2009 under the *Lancaster House Constitution 1979*,<sup>49</sup> as an independent body that *inter alia* promotes the protection, awareness, development and attainment of fundamental human rights and related freedoms in Zimbabwe.<sup>50</sup> This indicates that prior to 2009 no such watchdog and/or oversight body for the promotion

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*Independence of the Judiciary* (1985); the *Latimer House Guidelines on the Independence of the Judiciary* (1998); and the *Universal Principles of Judicial Independence for the SADC* (2004). See further Slinn "Latimer House Guidelines for the Commonwealth" 17-29.

<sup>41</sup> Section 180 of the *Zimbabwe Constitution 2013*.

<sup>42</sup> Sections 187(2)-(8), (10) of the *Zimbabwe Constitution 2013*.

<sup>43</sup> Section 188(1) of the *Zimbabwe Constitution 2013*.

<sup>44</sup> Sections 187(2)-(8), (10) of the *Zimbabwe Constitution 2013*.

<sup>45</sup> Section 188(1) of the *Zimbabwe Constitution 2013*; Chiduzwa *Significance of Judicial Independence* 271-275.

<sup>46</sup> See related comments by Anon 2014 <http://www.newzimbabwe.com/news-13854-chidyausiku+attacks+govt+over+salaries/news.aspx> page number unknown.

<sup>47</sup> Section 180(2)(c) of the *Zimbabwe Constitution 2013*.

<sup>48</sup> For instance, it has remained questionable why Godfrey Guwa Chidyausiku was appointed the Chief Justice in Zimbabwe although he is directly affiliated to the ZANU-PF, where he was a Member of Parliament and later appointed the deputy Minister of Local Government and Housing and the deputy Minister of Justice. See Anon 2001 <http://allafrica.com/stories/200108100274.html> 1; Machipisa 2001 <http://www.ipsnews.net/2001/03/politics-zimbabwe-a-top-judge-appointed-new-chief-justice/> 2.

<sup>49</sup> See s 100R of the *Lancaster House Constitution 1979*.

<sup>50</sup> Maveneka 2015 <https://erc.undp.org/evaluation/documents/download/8775> 5.



and protection of human rights existed in Zimbabwe.<sup>51</sup> Moreover, at the time of the establishment of the ZHRC there was no enabling legislation for it to perform its functions effectively.<sup>52</sup> Consequently, the ZHRC commenced its duties only in March 2010<sup>53</sup> and became fully operational in 2012 after the enabling legislation was enacted.<sup>54</sup> Accordingly, the ZHRC now performs its functions in terms of the *Zimbabwe Constitution 2013*<sup>55</sup> and the *Zimbabwe Human Rights Commission Act*. The ZHRC now has relatively broad functions and powers that are enshrined in the *Zimbabwe Constitution 2013*.<sup>56</sup> For example, the ZHRC now has the powers to: (a) promote the protection, development, attainment, awareness of and respect for human rights and related freedoms at all levels of society; (b) receive complaints from the public and take relevant action, monitor, assess and ensure the observance of human rights and freedoms; (c) protect the public against the abuse of power and maladministration by the government and officers of public institutions; (d) investigate itself or direct the Commissioner General of Police to investigate the conduct of any authority or person accused of violating other people's human rights and freedoms; and (e) encourage the Parliament and other relevant authorities to take effective measures for redress and/or the prosecution of offenders.<sup>57</sup> This could be *prima facie* proof that the government is now more committed to putting an end to human rights violations in Zimbabwe.<sup>58</sup>

Nevertheless, despite the positive developments stated above, it is submitted that the mere fact that the ZHRC is now fully functional does not by itself guarantee the adequate promotion, realisation and protection of human rights in Zimbabwe.<sup>59</sup> In this regard it is submitted that several factors such as the independence, appointment of the chairperson and other members of the ZHRC, prevailing working conditions, accessibility, accountability and the actual mandate of the ZHRC must be carefully

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<sup>51</sup> Chiduzza *Significance of Judicial Independence* 293.

<sup>52</sup> Maveneka 2015 <https://erc.undp.org/evaluation/documents/download/8775> 5.

<sup>53</sup> Maveneka 2015 <https://erc.undp.org/evaluation/documents/download/8775> 5.

<sup>54</sup> *Zimbabwe Human Rights Commission Act* [Chapter 10:30] 2 of 2012, hereinafter referred to as *Zimbabwe Human Rights Commission Act*; see further Chiduzza *Significance of Judicial Independence* 293.

<sup>55</sup> Sections 242-244 of the *Zimbabwe Constitution 2013*.

<sup>56</sup> Section 243 of the *Zimbabwe Constitution 2013*.

<sup>57</sup> Section 243 of the *Zimbabwe Constitution 2013*.

<sup>58</sup> Chiduzza 2015 *LDD* 148-174; Zimbabwe Human Rights Non-Governmental Organisation Forum 2011 <http://hrforumzim.org/wp-content/uploads/2011.pdf> 1.

<sup>59</sup> Chiduzza 2015 *LDD* 151-171; Chiduzza *Significance of Judicial Independence* 293-294; Reif 2000 *Harv Hum Rts J* 23.

defined and provided to enable it to execute its functions effectively.<sup>60</sup> In this light and to promote the legitimacy and credibility of the ZHRC,<sup>61</sup> the government and all the relevant stakeholders in Zimbabwe should consider putting adequate practical measures in place to ensure that the ZHRC is fully independent so that it can perform its functions without fear, favour or prejudice.<sup>62</sup> The government and all the relevant stakeholders in Zimbabwe should also ensure that the members of the ZHRC are not involved in political activities.<sup>63</sup> In addition, the government and all the relevant stakeholders must ensure that the appointment and removal of members of the ZHRC are transparently and impartially done to avoid any biased removal of such members and/or the appointment of members that do not have the relevant expertise.<sup>64</sup> This transparency and impartiality is unlikely to be achieved in the near future, because the president is constitutionally empowered to appoint the chairperson and other members of the ZHRC without being expressly bound by the advice of the JSC and the Committee on Standing Rules and Orders (CSRO).<sup>65</sup> It is submitted that this flaw could give rise to biased and politically-related appointments to the ZHRC by the president. For instance, the appointment of the former chairperson of the ZHRC (Mr Jacob Mudenda, a former ZANU-PF Governor of Matabeleland North) was reportedly biased and unfairly conducted.<sup>66</sup> Mr Jacob Mudenda's political connections with ZANU-PF enabled him to be controversially elected as a ZANU-PF Member of Parliament in 2013 and as the speaker of Parliament while he was still the chairperson of the ZHRC.<sup>67</sup> In this light, the authors concur with Reif, who argues that individuals who have not been actively and/or previously involved in politics should be appointed to head or become members of national human rights institutions in any country.<sup>68</sup> Accordingly, individuals who were not previously or currently active members of any political

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<sup>60</sup> Chiduzza 2015 *LDD* 151-171; Chiduzza *Significance of Judicial Independence* 292-302; Reif 2000 *Harv Hum Rts J* 2.

<sup>61</sup> UN Centre for Human Rights *National Human Rights Institutions* 37.

<sup>62</sup> Section 235 of the *Zimbabwe Constitution 2013*.

<sup>63</sup> Section 236 of the *Zimbabwe Constitution 2013*.

<sup>64</sup> Section 242 read with ss 232-237 of the *Zimbabwe Constitution 2013*.

<sup>65</sup> Section 242 of the *Zimbabwe Constitution 2013*.

<sup>66</sup> Mushava 2013 <http://www.newsday.co.zw/2013/02/20/mugabe-tsvangirai-misfire/>; Chiduzza *Significance of Judicial Independence* 295.

<sup>67</sup> Chiduzza *Significance of Judicial Independence* 295-297; Mushava 2013 <http://www.newsday.co.zw/2013/02/20/mugabe-tsvangirai-misfire/>; also see related comments by Anon 2013 <http://www.newzimbabwe.com/news-12173-MDC-T+to+boycott+parliament+opening/news.aspx> 2.

<sup>68</sup> Reif 2000 *Harv Hum Rts J* 27; also see *Guiding Principles Relating to the Status of National Institutions* (1993), hereinafter referred to as the *Paris Principles*, for further discussion on the *Paris Principles* and the standards that govern independent human rights institutions.

party<sup>69</sup> and who have the relevant qualifications must be appointed to head or become members of the ZHRC.

It is further submitted that the government and all the relevant persons should provide conducive working conditions for the members of the ZHRC to enable them to execute their duties without any undue interference from the executive and/or without the fear of reprisals and dismissals.<sup>70</sup> Such conditions include adequate security of tenure,<sup>71</sup> protection from arbitrary removal from office,<sup>72</sup> adequate resources and remuneration of members, and absolute financial independence of the ZHRC.<sup>73</sup> However, it remains to be seen whether these conditions will be adequately and consistently provided in Zimbabwe. For instance, the president solely is empowered to appoint members of the tribunal that hears any matter regarding the removal of the members of the ZHRC.<sup>74</sup> Consequently, it is possible for the president to circumvent the relevant provisions of the *Constitution*<sup>75</sup> and arbitrarily remove any member of the ZHRC from office by constituting the aforesaid tribunal on a political and/or partisan basis. Moreover, given the prevailing economic challenges in Zimbabwe, it is highly unlikely that the government will consistently promote the financial independence of the ZHRC and provide adequate resources and remuneration for the members of the ZHRC in the near future.<sup>76</sup>

Furthermore, the ZHRC must be accessible<sup>77</sup> to all persons to enable them to enable them to timeously report human rights violations and/or seek redress for such violations. Put differently, the ZHRC should have offices in all the provinces (including rural towns and rural villages) of Zimbabwe to increase the awareness of the existence of legally protected

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<sup>69</sup> Reif 2000 *Harv Hum Rts J* 27.

<sup>70</sup> Section 235 of the *Zimbabwe Constitution 2013*; also see s 7 of the *Zimbabwe Human Rights Commission Act* for further analysis of the independence and impartiality of the ZHRC.

<sup>71</sup> For instance, members of the ZHRC may hold office for a term of five years and are eligible for reappointment for another term of office not exceeding five years. S 3(1) of First Schedule of the *Zimbabwe Human Rights Commission Act*; Chiduzo *Significance of Judicial Independence* 298-299.

<sup>72</sup> Section 237 of the *Zimbabwe Constitution 2013*; also see s 20 of the *Zimbabwe Human Rights Commission Act*.

<sup>73</sup> Section 17 of the *Zimbabwe Human Rights Commission Act*.

<sup>74</sup> See s 20(4) of the *Zimbabwe Human Rights Commission Act*.

<sup>75</sup> Section 237 of the *Zimbabwe Constitution 2013*.

<sup>76</sup> Anon 2013 <http://m.news24.com/news24/Africa/Zimbabwe/Zim-appoints-new-rights-election-chiefs-20130218>; Chiduzo 2015 *LDD* 161-164.

<sup>77</sup> Reif 2000 *Harv Hum Rts J* 26.

human rights across the country.<sup>78</sup> In this regard, the government should provide adequate resources<sup>79</sup> to the ZHRC to enable it to conduct some human rights-related awareness and educational programmes for the benefit of all persons in Zimbabwe. In the same vein, the government should ensure that the ZHRC has a clearly defined and uncompromised broader mandate<sup>80</sup> for the protection and promotion of human rights in Zimbabwe. This could help the ZHRC to timeously investigate all the complaints of human rights violations from aggrieved persons in accordance with the *Zimbabwe Constitution 2013*<sup>81</sup> and the relevant law.<sup>82</sup> Be that as it may, it is interesting to note that the ZHRC is accountable for all its actions (omissions and commissions) to the Parliament, while the Parliament is legally obliged to consider any report from the ZHRC.<sup>83</sup> In this regard, it is submitted that such accountability and reporting duties on the part of the ZHRC could improve the protection of human rights in Zimbabwe if they are consistently enforced. Nonetheless, the fact that the ZHRC may submit its reports to Parliament only through the relevant Minister could give rise to obstructive bureaucracy and negative interference from the Minister. For instance, the Minister might reject a report from the ZHRC, especially if it criticises and/or exposes human rights violations by the government or its organs.

### **2.3 The role of civil society**

Civil society includes families, academics, defenders of human rights,<sup>84</sup> non-profit organisations (NPOs), trade unions, private voluntary organisations (PVOs), religious organisations, non-governmental organisations (NGOs) and other related civil society organisations (CSOs) that voluntarily promote the socio-economic and political interests of all the individuals in and citizens of a country.<sup>85</sup> All members of civil society have

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<sup>78</sup> Chiduzza *Significance of Judicial Independence* 299-300.

<sup>79</sup> Reif 2000 *Harv Hum Rts J* 26; the UNDP 2014 [http://www.zw.undp.org/content/zimbabwe/en/home/operations/projects/democratic\\_governance/capacity-building-support-to-the-zimbabwe-human-rights-commissio.html](http://www.zw.undp.org/content/zimbabwe/en/home/operations/projects/democratic_governance/capacity-building-support-to-the-zimbabwe-human-rights-commissio.html) 1.

<sup>80</sup> Reif 2000 *Harv Hum Rts J* 25, related comments on the mandate of independent human rights institutions.

<sup>81</sup> See s 243 of the *Zimbabwe Constitution 2013*.

<sup>82</sup> See the relevant provisions of the *Zimbabwe Human Rights Commission Act*.

<sup>83</sup> Section 244(2) read with s 323 of the *Zimbabwe Constitution 2013*; Chiduzza *Significance of Judicial Independence* 301-302.

<sup>84</sup> In Zimbabwe, the defenders of human rights usually include human rights activists and members of opposition political parties. See the Zimbabwe Human Rights Non-Governmental Organisation Forum 2013 <http://reliefweb.int/sites/reliefweb.int/files/resources/Who-will-defend-the-human-rights-defenders.pdf> 3.

<sup>85</sup> Maseng *State, Civil Society and Underdevelopment* 1.

a key role in the promotion and protection of human rights<sup>86</sup> in many democratic countries, especially in developed jurisdictions. Put differently, civil society complements the role of national human rights institutions in the promotion, protection and realisation of human rights in most democratic countries.<sup>87</sup> Similar views are echoed by Maseng, who argues that the role and mandate of civil society is usually manifested in the following two ways:

One is democratic consolidation and the other is democratic transitions. In democratic consolidation civil society plays a role through the support and maintenance of democratic principles and institutions. Equally, in democratic transitions civil society plays a major role in mobilising pressure for political change.<sup>88</sup>

In this light, some regional and international instruments have been agreed to globally to promote the role of civil society in the protection of human rights globally.<sup>89</sup> For example, the Declaration on Human Rights Defenders protects the rights of human rights defenders and CSOs globally. Such rights include *inter alia* the right to discuss and develop human rights ideas and advocate their acceptance,<sup>90</sup> the right to criticise state institutions and their agencies and/or to make proposals to improve their functioning,<sup>91</sup> and the right to provide legal assistance or other relevant assistance to promote human rights globally.<sup>92</sup> Nonetheless, despite these international efforts to entrench the significance of the defenders of human rights and other members of civil society in the promotion and protection of human rights, their work has been severely undermined and limited in Zimbabwe, especially from the 1990s to date.<sup>93</sup> In other words, although both the state and civil society working together contributed significantly to the attainment of independence and the development of Zimbabwe in the late 1970s and early 1980s,<sup>94</sup> very little

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<sup>86</sup> Maseng *State, Civil Society and Underdevelopment* 1.

<sup>87</sup> See the Zimbabwe Human Rights Non-Governmental Organisation Forum 2013 <http://reliefweb.int/sites/reliefweb.int/files/resources/Who-will-defend-the-human-rights-defenders.pdf> 3.

<sup>88</sup> Maseng *State, Civil Society and Underdevelopment* 21.

<sup>89</sup> *United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms* (1999), hereinafter referred to as the *Declaration on Human Rights Defenders*; *Resolution on the Protection of Human Rights Defenders* GA Res UN Doc A/HRC/22/L.13 (2013).

<sup>90</sup> Article 7 of the *Declaration on Human Rights Defenders*.

<sup>91</sup> Article 9(3)(c) of the *Declaration on Human Rights Defenders*.

<sup>92</sup> Article 8(2) of the *Declaration on Human Rights Defenders*; see further Chidzuza *Significance of Judicial Independence* 303.

<sup>93</sup> Mapuva and Muyengwa 2012 *PELJ* 125, 134; Chidzuza *Significance of Judicial Independence* 303-310.

<sup>94</sup> Maseng *State, Civil Society and Underdevelopment* 1-2.

or no such co-operation and contribution were achieved by the state and civil society in Zimbabwe from the 1990s to date. For instance, in its attempt to promote and protect human rights in Zimbabwe, civil society has had several obstacles placed in its way, such as intimidation and detention by the police, violent disruption of its assemblies and protests by the police and members of the ZANU-PF, propaganda, threats of closure of its organisations, frivolous court charges, and deterrence from participating in international and regional meetings from the 1990s to date.<sup>95</sup> It is submitted that these obstacles were imposed on all members of civil society by the government in order to discourage them from exposing human rights violations in Zimbabwe.<sup>96</sup>

Furthermore, the government has impeded the work of human rights defenders and other members of civil society by enacting repressive legislation and regulations such as the *Private Voluntary Organisations Act* (PVOA),<sup>97</sup> the *Public Order and Security Act* (POSA),<sup>98</sup> the *Broadcasting Services Act*,<sup>99</sup> the *Access to Information and Protection of Privacy Act* (AIPPA)<sup>100</sup> and the *Criminal Law (Law Reform and Codification) Act*.<sup>101</sup> This legislation has been effectively employed by the government to threaten, harass and intimidate all members of civil society in Zimbabwe.<sup>102</sup> For instance, the POSA is constantly utilised by the police and other law enforcement agencies to ban *bona fide* public meetings and activities of members of civil society in Zimbabwe.<sup>103</sup> Likewise, the work of the NGOs and the PVOs has been negatively restricted by the PVOA, which *inter alia* obliges all the NGOs, the PVOs and related welfare services organisations (WSOs) to register with the government.<sup>104</sup> This

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<sup>95</sup> See the Zimbabwe Human Rights Non-Governmental Organisation Forum 2013 <http://reliefweb.int/sites/reliefweb.int/files/resources/Who-will-defend-the-human-rights-defenders.pdf> 3-8; Chiduzwa *Significance of Judicial Independence* 302-310.

<sup>96</sup> See the Zimbabwe Human Rights Non-Governmental Organisation Forum 2013 <http://reliefweb.int/sites/reliefweb.int/files/resources/Who-will-defend-the-human-rights-defenders.pdf> 3-8.

<sup>97</sup> *Private Voluntary Organisations Act* [Chapter 17:05] 22 of 2001 (PVOA).

<sup>98</sup> *Public Order and Security Act* 5 of 2002 (POSA) as amended by the *Public Order and Security Amendment Act* 18 of 2007.

<sup>99</sup> *Broadcasting Services Act* 3 of 2001 as amended by the *Broadcasting Services Amendment Act* 19 of 2007.

<sup>100</sup> *Access to Information and Protection of Privacy Act* [Chapter 10:27] 1 of 2002 (AIPPA) as amended by the *Access to Information and Protection of Privacy Amendment Act* 20 of 2007.

<sup>101</sup> *Criminal Law (Law Reform and Codification) Act* [Chapter 9:23] 23 of 2004 as amended; see further the *Criminal Procedure and Evidence Act* [Chapter 9:07], hereinafter referred to as the *Criminal Procedure and Evidence Act*.

<sup>102</sup> Maseng *State, Civil Society and Underdevelopment* 2.

<sup>103</sup> Maseng *State, Civil Society and Underdevelopment* 2.

<sup>104</sup> Mapuva and Muyengwa 2012 *PELJ* 130-131.

presents the government with a chance to arbitrarily reject *bona fide* registration applications for certain NGOs, PVOs and/or WSOs, especially those that are allegedly linked to opposition political parties.<sup>105</sup> Moreover, in order to control the activities of NGOs, PVOs and WSOs, the PVOA restricts funding or donations to all CSOs (including NGOs, PVOs and WSOs) by foreign organisations.<sup>106</sup> This has severely impeded the protection of human rights and other related operations of many NGOs, PVOs and WSOs in Zimbabwe, and as a result, some of the NGOs have been forced to close down due to financial problems.<sup>107</sup> In this regard, it is submitted that the government should consider ratifying the Declaration on Human Rights Defenders<sup>108</sup> in order to protect human rights defenders and other members of the CSOs against intimidation, reprisals and violence in Zimbabwe.<sup>109</sup> In the same vein, the government should adopt practical measures that: (a) create a conducive environment for all defenders of human rights, and other members of the CSOs; (b) promote and respect all the national human rights institutions that were established in accordance with the *Zimbabwe Constitution 2013*.<sup>110</sup>

## **2.4 The role of law enforcement organs**

### *2.4.1 The duty to protect and uphold the law*

Members of the security services and/or law enforcement agencies<sup>111</sup> play a crucial role in the implementation of the law to protect all people against human rights violations.<sup>112</sup> Accordingly, all law enforcement agencies and

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<sup>105</sup> Mapuva and Muyengwa 2012 *PELJ* 130-131; also see the PVOA General Notice 99 of 2007 – Code of Procedure for the Registration and Operations of Non-Governmental Organisations in Zimbabwe.

<sup>106</sup> PVOA General Notice 99 of 2007 – Code of Procedure for the Registration and Operations of Non-Governmental Organisations in Zimbabwe; see further Chiduzza *Significance of Judicial Independence* 308.

<sup>107</sup> Chamboko 2012 <http://nehandaradio.com/2012/02/19/zanu-pf-ban-of-ngos-in-zimbabwe-self-defeating/>; Chiduzza *Significance of Judicial* 308-310.

<sup>108</sup> Article 2, for related comments on the countries' responsibility to respect and fulfil the provisions on the *Declaration on Human Rights Defenders*.

<sup>109</sup> Chiduzza *Significance of Judicial Independence* 303-304, for related comments.

<sup>110</sup> Sections 232-263; Chiduzza *Significance of Judicial Independence* 302-310.

<sup>111</sup> For the purposes of article, such agencies and/or organs include the defence forces (soldiers); the police services (ZRP); the intelligence services or the Central Intelligence Organisation (CIO); the prisons and correctional services; and other related security organisations.

<sup>112</sup> Article 1 of the *United Nations Code of Conduct for Law Enforcement Officials* (1979) was adopted by General Assembly Resolution 34/169 of 17 December 1979. This Code provides that law enforcement officials should at all times fulfil the duties that are imposed upon them by the law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

other relevant authorities should consistently strive to protect all the people, especially vulnerable individuals, against human rights violations.<sup>113</sup> All the law enforcement agencies in Zimbabwe are obliged to carefully and consistently execute their duties in terms of the *Zimbabwe Constitution 2013*, the relevant law, and international standards.<sup>114</sup> For instance, the ZRP is obliged to perform its duties without fear or favour and in accordance with regional and international bodies.<sup>115</sup> The *Zimbabwe Constitution 2013* also provides that the ZRP is responsible for detecting, investigating, protecting and securing the lives and property of people against crime.<sup>116</sup> The ZRP is further obliged to preserve and maintain internal security as well as law and order in Zimbabwe.<sup>117</sup> Similar functions are also bestowed upon the ZRP in terms of the *Police Act*.<sup>118</sup> Likewise, all the members of the intelligence services must perform their duties in a non-partisan manner and in accordance with the *Zimbabwe Constitution 2013*.<sup>119</sup> Prisons and correctional services members are also required to be non-partisan in order for them to treat all the offenders and/or accused persons in a fair and lawful manner, in accordance with the *Zimbabwe Constitution 2013*.<sup>120</sup> Moreover, the *Zimbabwe Constitution 2013* stipulates that all the members of the defence forces are obliged to respect the fundamental rights and freedoms of all persons in a non-partisan and professional manner.<sup>121</sup> Despite these constitutional efforts to enhance human rights protection, members of the opposition political parties, civil society activists and other defenders of human rights have allegedly sometimes been subjected to violence, abduction and physical torture by the ZRP, the CIO and soldiers in Zimbabwe.<sup>122</sup>

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<sup>113</sup> Chiduzo *Significance of Judicial Independence* 280-291.

<sup>114</sup> Sections 206-231 of the *Zimbabwe Constitution 2013*; also see the human rights standards, guidelines, principles and/or codes of conduct for law enforcement agencies that are enshrined in international instruments such as the *United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984) (*UN Convention against Torture*), the *UN Code of Conduct for Law Enforcement Officials*; and the *International Convention on the Elimination of All Forms of Racial Discrimination* (1965).

<sup>115</sup> Sections 219(1)-(3) of the *Zimbabwe Constitution 2013*; also see Chiduzo *Significance of Judicial Independence* 281.

<sup>116</sup> Section 219(1) of the *Zimbabwe Constitution 2013*.

<sup>117</sup> Sections 219(1)(b) and (d) read with ss 208 and 223 of the *Zimbabwe Constitution 2013*.

<sup>118</sup> *Police Act* [Chapter 11:10] 2 of 1995, hereinafter referred to as the *Police Act*, see the relevant provisions on preservation of law and order by the police.

<sup>119</sup> Section 224(2) read with s 208 of the *Zimbabwe Constitution 2013*.

<sup>120</sup> Sections 227(1) and (2) read with s 208 of the *Zimbabwe Constitution 2013*.

<sup>121</sup> Sections 211(3) read with ss 212, 218 and 208 of the *Zimbabwe Constitution 2013*.

<sup>122</sup> The mysterious disappearance of Paul Chizuze in February 2012 and of Itai Dzamara in 2015 as well as the abduction of Jestina Mukoko are cases in point. See



#### 2.4.2 *The duty not to use excessive force*

In Zimbabwe, the use of force in effecting arrest by all law enforcement agencies is governed by the *Criminal Procedure and Evidence Act*.<sup>123</sup> For instance, all law enforcement officers, especially police officers, are required to use only a degree of force that is reasonably justifiable in the circumstances of a case for overcoming any resistance by the perpetrator.<sup>124</sup> Where a person is killed as a result of the use of reasonably justifiable force, then the killing is lawful.<sup>125</sup> In other words, the police and other law enforcement officials may use force only when it is strictly necessary and reasonable in the circumstances in order to prevent crime and/or effect an arrest in accordance with the relevant legislation and practice.<sup>126</sup> Despite this, the law enforcement officers, especially the police officers, have sometimes overstepped their powers and arbitrarily used excessive force against defenders of human rights and/or activists, members of the opposition political parties, and lawyers for human rights.<sup>127</sup> For instance, in 2011 Amnesty International reported that the ZRP was associated with the arbitrary use of excessive force and numerous cases of torture, assault and violence against human rights activists and defenders, members of opposition political parties, and those who criticised government policies.<sup>128</sup> In addition, it is submitted that the ZRP's arbitrary use of excessive force, such as using live ammunition to disperse peaceful demonstrations, has culminated in the death of many human rights activists, such as Gift Tandare, who was an MDC supporter.<sup>129</sup> Furthermore, in 2011 the ZRP violently disrupted a peaceful prayer meeting in Harare with teargas and canisters when they stormed a

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*Mukoko v Attorney-General* [2012] ZWSC 11; Cross 2015 <http://nehandaradio.com/2015/08/16/160-days-the-disappearance-of-itai-dzamara/>; also see the Zimbabwe Human Rights Non-Governmental Organisation Forum 2013 <http://reliefweb.int/sites/reliefweb.int/files/resources/Who-will-defend-the-human-rights-defenders.pdf> 3-6; and related comments by Makwerere, Chinzete and Musorowegomo 2012 *IJHSS* 129, 133-134; the Redress Trust 2005 <http://www.redress.org/downloads/publications/Amani2005.pdf> 21-24.

<sup>123</sup> Section 42 of the *Criminal Procedure and Evidence Act*.

<sup>124</sup> Section 42(1)(a) of the *Criminal Procedure and Evidence Act*.

<sup>125</sup> Section 42(2) of the *Criminal Procedure and Evidence Act*.

<sup>126</sup> Section 42(1)(b) of the *Criminal Procedure and Evidence Act*.

<sup>127</sup> Makwerere, Chinzete and Musorowegomo 2012 *IJHSS* 131-133.

<sup>128</sup> Makwerere, Chinzete and Musorowegomo 2012 *IJHSS* 132.

<sup>129</sup> Dissel and Frank *Policing and Human Rights* 186; such excessive force was also employed by the ZRP during the forced evictions which were part of the Murambatsvina (Operation Restore Order) campaign in 2005.

church hall during prayer for peace and dispersed the congregation, which included several church members and community leaders.<sup>130</sup>

### 2.4.3 *The duty to respect and uphold the rule of law*

The rule of law could be defined as the observed body of international accords and treaties, state constitutions and written laws which embody the human rights traditions accepted virtually universally, and which protect individuals and order society in the nations of the world.<sup>131</sup> The rule of law is important for the strengthening of democracy in any country, and all the law enforcement agencies in Zimbabwe should therefore carefully exercise their duties<sup>132</sup> with due regard to the relevant human rights standards and the rule of law.<sup>133</sup> In this light it is submitted that all the law enforcement agencies in Zimbabwe should carefully protect all the human rights that are provided in the *Zimbabwe Constitution 2013*,<sup>134</sup> especially, the rights to life; freedom from torture or cruel, inhuman or degrading treatment or punishment; liberty; privacy; human dignity; the freedom to demonstrate and petition; the freedom of expression, assembly and association; and the freedom to demonstrate and petition.<sup>135</sup> It is also submitted that all the law enforcement agencies should consistently co-operate with the members of the public to enhance the protection of human rights in Zimbabwe.<sup>136</sup> For instance, it is reported that the law enforcement agencies, especially the ZRP, have to date failed to consistently uphold the rule of law in politically-related matters involving members of the opposition political parties and other human rights defenders in Zimbabwe.<sup>137</sup> Moreover, it is reported that the law enforcement agencies, especially the ZRP, have sometimes disregarded the law and acted with contempt for the judiciary and court decisions in Zimbabwe.<sup>138</sup> This has undermined the role of the judiciary and the rule of law in Zimbabwe. For instance, the ZRP and the CIO have sometimes

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<sup>130</sup> Anon 2011 [http://www.zimbabwesituation.com/apr12\\_2011.html](http://www.zimbabwesituation.com/apr12_2011.html); Atwood 2011 <http://www.kubatanablogs.net/kubatana/police-violently-suppress-prayer-for-peace/>.

<sup>131</sup> Maseng *State, Civil Society and Underdevelopment* 17.

<sup>132</sup> Sections 212, 219, 224 and 231 of the *Zimbabwe Constitution 2013*.

<sup>133</sup> Makwerere, Chinzete and Musorowegomo 2012 *IJHSS* 131-133.

<sup>134</sup> Sections 44-87 of the *Zimbabwe Constitution 2013*.

<sup>135</sup> Makwerere, Chinzete and Musorowegomo 2012 *IJHSS* 131-134.

<sup>136</sup> Rowe *Introduction to Policing* 18.

<sup>137</sup> See related comments by the International Bar Association 2007 <http://www.ibanet.org/Document/Default.aspx?DocumentUid=e4d35d9f42>.

<sup>138</sup> Makwerere, Chinzete and Musorowegomo 2012 *IJHSS* 131-134; also see the International Bar Association 2007 <http://www.ibanet.org/Document/Default.aspx?DocumentUid=e4d35d9f7>.

allegedly conducted unlawful or arbitrary arrests<sup>139</sup> and have tortured the defenders of human rights and members of the opposition political parties.<sup>140</sup> Consequently, the protection and promotion of human rights has been severely compromised and negatively affected in Zimbabwe. In this regard, it is submitted that all the law enforcement agencies should execute their duties in accordance with the *Zimbabwe Constitution 2013* and without any interference from the government.<sup>141</sup> It is also submitted that all the law enforcement agencies should not be directly or indirectly affiliated to any political party to combat the biased application of the law. In addition, any such law enforcement officials that contravene the *Zimbabwe Constitution 2013* by their unlawful and biased application of the law should be tried in the relevant courts and punished without fear or favour.

### **3 The role of regional and international human rights institutions and related role-players in Zimbabwe**

#### **3.1 The role of the UN**

It is submitted that independent human rights institutions (HRIs) play an important role in the protection and promotion of human rights globally.<sup>142</sup> The significance of the HRIs has been recognised by the UN and its relevant organs since 1946.<sup>143</sup> For instance, the UN Commission on Human Rights introduced the *Guiding Principles Relating to the Status of National Institutions (Paris Principles)* in 1992, and they were adopted by the General Assembly in 1993.<sup>144</sup> These *Paris Principles* provide useful guidelines on the formation of human rights institutions as well as the standards and principles that must be employed by such institutions in order for them to perform their functions effectively.<sup>145</sup> The *Paris Principles*

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<sup>139</sup> See *Fidelis Charamba v The Minister of Home Affairs* (High Court) (unreported) case number 6420/08 where the High Court declared the abduction and secret detention of several abductees as unlawful and ordered their release, but they continued to be detained for two months.

<sup>140</sup> See *Jestina Mukoko v The Commissioner General of Police* (High Court) (unreported) case number 7166/08, where the police defied the order of the High Court to release abducted persons who were in police custody; see the International Bar Association 2007 <http://www.ibanet.org/Document/Default.aspx?DocumentUid=e4d35d9f35>.

<sup>141</sup> Chiduzo *Significance of Judicial Independence* 280-288.

<sup>142</sup> Reif 2000 *Harv Hum Rts J* 2; Chiduzo 2015 *LDD* 149-151.

<sup>143</sup> UN Centre for Human Rights *National Human Rights Institutions* 4-6; see further Reif 2000 *Harv Hum Rts J* 3.

<sup>144</sup> See the *Paris Principles* of 1993.

<sup>145</sup> Chiduzo *Significance of Judicial Independence* 291-292; Chiduzo 2015 *LDD* 149-151.

also provide the assessment and accreditation criteria for any new or existing HRIs, which are usually employed by the International Coordinating Committee's Sub-Committee on Accreditation (ICC SCA).<sup>146</sup> The ICC SCA is empowered to review, analyse and make recommendations regarding any accreditation application in order to ensure that all the HRIs in the member countries comply with the *Paris Principles*.<sup>147</sup> The ICC of HRIs develops and co-ordinates the joint programmes and/or activities of HRIs globally.<sup>148</sup> Moreover, the ICC of HRIs supports the creation of HRIs and it works hand in glove with international human rights organisations such as the OHCHR.<sup>149</sup>

Furthermore, the UN General Assembly adopted the *Basic Principles on the Independence of the Judiciary* in 1985<sup>150</sup> in order to enhance the protection of the independence of the judiciary in all jurisdictions globally. These Principles provide *inter alia* that the independence of the judiciary shall be constitutionally guaranteed by states. The same Principles stipulate that all governments and other institutions must respect and observe the independence of the judiciary in order to ensure that the judiciary executes its duties in accordance with the law, without any undue interference from the executive or any other person.<sup>151</sup> Furthermore, the UN Centre for Human Rights has adopted criteria that must be employed by all relevant persons in order to determine the independence of HRIs.<sup>152</sup>

Nonetheless, despite these UN efforts and the importance of the universal protection of human rights as recognised by the *Vienna Declaration and Programme of Action*<sup>153</sup> and the UDHR, very little progress has been achieved in this regard in Zimbabwe to date.<sup>154</sup> For instance, as earlier stated,<sup>155</sup> various human rights activists, members of the opposition political parties and human rights defenders have been assaulted, abducted, tortured, arbitrarily detained and charged with frivolous cases in Zimbabwe since the late 1980s. This could have been worsened by the fact that Zimbabwe, despite prohibiting torture in the *Zimbabwe*

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<sup>146</sup> OHCHR *National Human Rights Institutions* 31.

<sup>147</sup> Chiduzo 2015 *LDD* 150.

<sup>148</sup> UN Centre for Human Rights *National Human Rights Institutions* 66.

<sup>149</sup> Pohjolainen *Evolution of National Human Rights Institutions* 24.

<sup>150</sup> *United Nations Basic Principles on the Independence of the Judiciary* (1985).

<sup>151</sup> Principles 1 to 7 of the *UN Basic Principles on the Independence of the Judiciary*; also see Chiduzo *Significance of Judicial Independence* 41-43.

<sup>152</sup> Chiduzo 2015 *LDD* 152-153.

<sup>153</sup> *Vienna Declaration and Program of Action* (1993).

<sup>154</sup> See paras 2.1; 2.2; 2.3 and 2.4.1-2.4.3 above.

<sup>155</sup> See paras 2.1; 2.2; 2.3 and 2.4.1-2.4.3 above.

*Constitution 2013*,<sup>156</sup> has to date not ratified the *UN Convention against Torture*. Moreover, the offering of most UN programmes to promote, protect and ensure the realisation of human rights, such as the UN election observers and humanitarian aid, have been severely restricted in Zimbabwe to date.

### 3.2 *The role of the AU*

In spite of its shortcomings, the AU has made considerable efforts to condemn the violation of the people's rights in Zimbabwe, especially from the late 1990s to date. For instance, the AC has on several occasions held that the ZANU-PF government was in violation of several provisions of the *African Charter on Human and Peoples' Rights (ACHPR)*,<sup>157</sup> particularly during the general elections.<sup>158</sup> The AC has to date received several communications and complaints relating to human rights violations perpetrated by the ZANU-PF government.<sup>159</sup> In relation to this, the AC has sometimes ruled that the ZANU-PF government was violating the relevant provisions of the ACHPR through repressive law, violence and torture against human rights activists, political activists and other defenders of human rights.<sup>160</sup> The ZANU-PF government was also violating the relevant provisions of the ACHPR,<sup>161</sup> that oblige all member states to respect and protect the independence of the judiciary.<sup>162</sup>

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<sup>156</sup> Section 53 of the *Zimbabwe Constitution 2013*.

<sup>157</sup> The *African Charter on Human and Peoples' Rights* (1981), adopted in Nairobi, Kenya on 27 June 1981 and entered into force on 21 October 1986.

<sup>158</sup> For example, it was held that the ZANU-PF government violated arts 1 and 7 of the *African Charter* through numerous human rights abuses such as voter intimidation, violence and torture that occurred during the 2000, 2002 and 2008 elections. See Chiduzo *Significance of Judicial Independence* 58.

<sup>159</sup> For example, see *Zimbabwe Human Rights NGO Forum v Zimbabwe* ACHPR Communication No 245/02; *Zimbabwe Lawyers for Human Rights, Human Rights Trust of Southern Africa v The Government of Zimbabwe Forced Evictions Hopley – Porta Farm and Hatcliffe Communities* ACHPR Communication No 314/05; *Zimbabwe Lawyers for Human Rights v The Government of Zimbabwe Muzerengwa Buhera* ACHPR Communication No 306/05.

<sup>160</sup> For instance, it was held that the detention and deportation of Andrew Barclay Meldrum (a citizen of the United States of America who was permanently resident in Zimbabwe between 1980 and 2003) for allegedly publishing false information and contravening s 80(1)(b) of the AIPPA violated arts 7 and 26 of the ACHPR; *Zimbabwe Lawyers for Human Rights and Institute for Human Rights and Development in Africa (obo Andrew Barclay Meldrum v Zimbabwe)* ACHPR Communication No 294/04.

<sup>161</sup> Article 26 of the ACHPR; Chiduzo *Significance of Judicial Independence* 58-59; also see related remarks in para 2.1 above.

<sup>162</sup> Madebwe 2014 *Midlands State U L Rev* 6-19, for related comments on constitutionalism in Zimbabwe.

Furthermore, although the ACHPR provides for the establishment of independent HRIs to protect and promote human rights in Africa,<sup>163</sup> the role of HRIs has been severely compromised and negatively impacted by the ZANU-PF government in Zimbabwe to date.<sup>164</sup> The ACHPR also obliges all HRIs to assist the AC in the implementation of its provisions and the promotion of human rights in Africa.<sup>165</sup> Be that as it may, the ZHRC has found it difficult to consistently comply with the provisions of the ACHPR, in part due to interference from the executive and lack of adequate funding for its programmes.<sup>166</sup> This has also negatively affected the co-operation of ZHRC and other related regional and international human rights institutions such as the International Coordinating Committee of National Human Rights Institutions (ICCNHRI) and the Network of African National Human Rights Institutions (NANHRI).<sup>167</sup> More may still need to be done on the part of the AU in order to effectively discourage human rights violations in Zimbabwe. This follows the fact that the AU failed to condemn the election-related violence, rigging and other human rights abuses that were allegedly committed by the ZANU-PF government in 2008 and 2013. In this regard, it is submitted that the ZANU-PF government should abide by the *Zimbabwe Constitution 2013* and other relevant regional and international instruments in order to enhance the protection of human rights in Zimbabwe.<sup>168</sup>

### **3.3 The role of the SADC**

#### *3.3.1 The role of the SADC Tribunal*

The SADC is the Southern African economic community. It promotes *inter alia* the creation of a free and common trade market amongst its members.<sup>169</sup> In a bid to achieve this, the SADC established the SADC tribunal on 18 August 2005 in accordance with the *SADC Treaty* of 1992, and the court commenced its duties on 18 November 2005.<sup>170</sup> The SADC

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<sup>163</sup> Article 26 of the ACHPR; also see Viljoen *International Human Rights Law* 389.

<sup>164</sup> See related remarks in para 2.2 above.

<sup>165</sup> Article 45 of the ACHPR; see further the ACHPR date unknown <http://www.achpr.org/network/nhri/>; Chiduza 2015 *LDD* 150.

<sup>166</sup> See related remarks in para 2.2 above; Chiduza 2015 *LDD* 172-173.

<sup>167</sup> ZHRC date unknown <http://www.zhrc.org.zw/index.php/2014-07-02-07-41-38/speeches/59-media-engagement-workshop-overview-of-the-mandate-and-work-of-the-zimbabwe-human-rights-commission-zhrc>; Chiduza 2015 *LDD* 172-173.

<sup>168</sup> Chiduza 2015 *LDD* 172-173.

<sup>169</sup> See the *relevant provisions of the SADC Treaty that was adopted by the member states through the Windhoek Declaration* of 1992; see further Cowell 2013 *HR L Rev* 153-154.

<sup>170</sup> The SADC tribunal was adjudicated by judges appointed by the member states. See further art 9 of the *SADC Treaty* (1992); also see Moyo 2009 *AHRLJ* 590-614.

tribunal was empowered to ensure the proper implementation of the *SADC Treaty* and its subsidiary instruments by all member states.<sup>171</sup> Moreover, the SADC tribunal was authorised to hear any disputes that arose from the member states. The *SADC Treaty* does not, though, expressly provide for the jurisdiction of the SADC Tribunal in relation to human rights disputes.<sup>172</sup> Consequently, the SADC Tribunal relied on the related provisions in the *SADC Treaty*<sup>173</sup> and the *SADC Protocol of the Tribunal and Rules of Procedure of 2000 (SADC Protocol 2000)*<sup>174</sup> to hear matters involving human rights violations. However, the affected persons could bring an action against a state only when they had exhausted all available domestic remedies in their jurisdictions.<sup>175</sup>

Notwithstanding the fact that the *SADC Treaty* does not expressly refer to any specific human rights instruments and/or the protection of human rights except in its article 4, the SADC has to date made considerable efforts to ensure the protection of civil, political and other human rights in Zimbabwe.<sup>176</sup> In this regard it is submitted that the SADC should consistently mandate its member states to promote and protect human rights.<sup>177</sup> Zimbabwe, like any other member of the SADC, must be bound by the relevant provisions of the *SADC Treaty*, which promote the protection of human rights, democracy and the rule of law.<sup>178</sup> The SADC Tribunal's efforts to hear and resolve human rights-related disputes were impeded in Zimbabwe. Thus, Mike Campbell and other affected farm owners filed cases with the SADC Tribunal alleging that their rights had been negatively affected by the Land Reform Programme and land invasions which culminated in their farms being forcefully taken by the government of Zimbabwe.<sup>179</sup> The SADC Tribunal granted judgment in

<sup>171</sup> Article 9 of the *SADC Treaty*.

<sup>172</sup> Chiduzo *Significance of Judicial Independence* 315.

<sup>173</sup> See art 4(c) of the *SADC Treaty*.

<sup>174</sup> This Protocol does not provide for the jurisdiction of the SADC Tribunal in human rights cases. Nevertheless, related matters are dealt with in its provisions such as arts 15(2), 17-20 of the *SADC Protocol of the Tribunal and Rules of Procedure (2000) (SADC Protocol 2000)*; see further Chiduzo *Significance of Judicial Independence* 315-316.

<sup>175</sup> Article 15(2) of the *SADC Protocol 2000*.

<sup>176</sup> Open Society Initiative for Southern Africa date unknown <http://www.osisa.org/openspace/zimbabwe/sadcs-role-zimbabwe>; Chiduzo *Significance of Judicial Independence* 314.

<sup>177</sup> See art 4(c) of the *SADC Treaty*, which obliges all member states to promote the protection of human rights, democracy and the rule of law.

<sup>178</sup> See art 4(c) of the *SADC Treaty*.

<sup>179</sup> *Mike Campbell (Pty) Limited v The Republic of Zimbabwe (2/07)* [2007] SADCT 1 (13 December 2007); *Mike Campbell (Pty) Limited v The Republic of Zimbabwe (2/2007)* [2008] SADCT (28 November 2008); also see Chiduzo *Significance of Judicial Independence* 317.

favour of Campbell and 77 other farm owners and stated that the government of Zimbabwe had violated articles 4(c) and 6(2) of the *SADC Treaty*. However, the government of Zimbabwe failed to comply with the judgment of the SADC Tribunal as well as its subsequent orders.<sup>180</sup> Subsequently the Zimbabwean government announced its intention to withdraw from the *SADC Protocol 2000* in November 2009, arguing that it did not bind them, although they had agreed to both the *SADC Protocol 2000* and the amended *SADC Treaty*.<sup>181</sup> Eventually the SADC Tribunal was suspended at the 2010 SADC Summit. On 17 August 2012 the Maputo SADC Summit resolved that a new SADC Tribunal should be established, but that its mandate relative to human rights would be confined to the interpretation of the *SADC Treaty* and its relevant Protocols in cases of disputes between member states.<sup>182</sup>

It is submitted that the removal of the human rights jurisdiction of the SADC Tribunal could give rise to more human rights abuses and the weakening of the rule of law in the SADC member states.<sup>183</sup> Moreover, it is submitted that the suspension of the SADC Tribunal has left SADC citizens with few or no regional remedies for any human rights violations by their governments.<sup>184</sup> In this regard the authors concur with Mogoeng J, who correctly argues that the SADC Tribunal was established *inter alia* to ensure that the SADC member states did not undermine the objectives of the *SADC Treaty* by violating people's human rights with impunity.<sup>185</sup> Accordingly, a new SADC Tribunal that has the legal jurisdiction to hear human rights disputes should be speedily established to effectively enhance the protection of human rights in the SADC member states.

### 3.3.2 *The role of the SADC Organ on Politics, Defence and Security*

The SADC established the Organ on Politics, Defence and Security in 1996 (SADC Organ on Politics)<sup>186</sup> as an institutional framework for coordinating policies and related aspects on politics, defence, and

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<sup>180</sup> *Campbell v Republic of Zimbabwe* (SADC (T) 03/2009) [2009] SADCT 1 (5 June 2009).

<sup>181</sup> Cowell 2013 *HR L Rev* 159.

<sup>182</sup> Cowell 2013 *HR L Rev* 154; 165; SADC 2012 <http://www.sadc.int/about-sadc/sadc-institutions/tribun/>; arts 6 and 16 of the *SADC Treaty*.

<sup>183</sup> Cowell 2013 *HR L Rev* 153-154; Nathan 2011 *Development Dialogue* 123, 124-136; and Ndlovu 2011 *SADC Law Journal* 63, 78.

<sup>184</sup> Chiduza *Significance of Judicial Independence* 320-321.

<sup>185</sup> *Government of the Republic of Zimbabwe v Fick* 2013 5 SA 325 (CC) para 1.

<sup>186</sup> *Gaborone Communiqué of the Southern African Development Community Secretariat* (1996); Malan and Cilliers *SADC Organ on Politics, Defence and Security* 1-11.



security. Consequently, the SADC enacted the *Protocol on Politics, Defence and Security Co-operation* on 14 August 2001 (*SADC Protocol on Politics*) in order to provide a legal framework and objectives for the SADC Organ on Politics. The *SADC Protocol on Politics* enumerates various objectives for the SADC Organ on Politics such as: (a) promoting peace and security across Southern Africa; (b) protecting the SADC region from instability due to the breakdown of law and order; (c) developing a common foreign policy throughout the region; (d) cooperating on matters related to security and defence; (e) encouraging the observance of international human rights conventions and treaties; (f) developing democratic institutions and practices; and (g) encouraging the observance of universal human rights.<sup>187</sup> In order to implement these objectives, the *SADC Protocol on Politics* provides a clear jurisdiction of the SADC Organ on Politics as well as an operating structure consisting of the Organ, the chairperson, the Troika and various committees.<sup>188</sup> Accordingly, the SADC Organ on Politics is operated on a Troika basis in the SADC region. The *SADC Protocol on Politics* also provides guidelines for the enforcement of and co-operation with international agreements.<sup>189</sup> In relation to this, the *SADC Protocol on Politics* was amended on 8 September 2009 to incorporate regional policing co-operation structures through the Southern African Regional Police Chiefs Co-operation Organisation (SARPCCO).<sup>190</sup>

Despite these positive efforts to ensure peace, democracy and the protection of human rights in the SADC, the SADC Organ on Politics has to date struggled to consistently enforce the *SADC Protocol on Politics* in a number of member countries such as Zimbabwe, Lesotho, the Democratic Republic of Congo, Swaziland and Angola.<sup>191</sup> For instance, despite numerous complaints and reports of civil, political and other human rights violations in Zimbabwe<sup>192</sup> being filed with the SADC Organ on Politics by the opposition political parties and other defenders of human rights, the SADC Organ on Politics is yet to take any meaningful action to effectively discourage such violations in Zimbabwe.<sup>193</sup>

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<sup>187</sup> Article 2 read with arts 6, 7, 10, 11, 13 and 15 of the *SADC Protocol on Politics, Defence and Security Co-operation* (2001) (*SADC Protocol on Politics*).

<sup>188</sup> Articles 3 and 11 of the *SADC Protocol on Politics*.

<sup>189</sup> Article 15 read with arts 3, 6, 7, 10, 11 and 13 of the *SADC Protocol on Politics*.

<sup>190</sup> See para 3.4 below.

<sup>191</sup> Cowell 2013 *HR L Rev* 153-165; Malan and Cilliers *SADC Organ on Politics, Defence and Security* 1-11.

<sup>192</sup> Such politically related violence and human rights abuses were mostly committed during the 2002, 2008 and 2013 elections.

<sup>193</sup> Chiduzza *Significance of Judicial Independence* 314-322, for related discussion.

### 3.4 *The role of the SARPCCO*

Zimbabwe is a member of the SARPCCO. The SARPCCO<sup>194</sup> was incorporated into the SADC Protocol on Politics to enhance regional policing and human rights norms in the SADC.<sup>195</sup> The SARPCCO provides principles, guidelines and codes of conduct that are generally aimed at promoting human rights and effective law enforcement in the SADC.<sup>196</sup> Although some of the SARPCCO guidelines are not binding, they are generally enforced in accordance with the international law and related bodies that promote human rights and democracy in society.<sup>197</sup> The SARPCCO Code of Conduct outlines police officers' duties and how such duties may be executed to protect people's human rights in the SADC.<sup>198</sup> For instance, police officers are prohibited from using excessive force, torture and any other inhuman and degrading treatment or punishment against accused persons.<sup>199</sup>

Despite the existence of these SARPCCO guidelines and the *Code of Conduct*, the ZRP has sometimes failed to abide by its constitutional obligations and violated people's human rights, especially during elections, peaceful demonstrations and petitions.<sup>200</sup> It remains to be seen whether the ZRP will in future consistently abide by the *SARPCCO Code of Conduct*, principles and guidelines to promote and protect human rights in Zimbabwe.<sup>201</sup>

## 4 *Concluding remarks*

As indicated above,<sup>202</sup> the *Zimbabwe Constitution 2013* brought about some key changes, such as the protection of the judiciary and the rule of

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<sup>194</sup> The SARPCCO was established in 1995.

<sup>195</sup> See the preamble of the *SARPCCO Code of Conduct*, which was adopted at the 6th General Meeting of SARPCCO in Mauritius in August 2001.

<sup>196</sup> Chiduzza *Significance of Judicial Independence* 282.

<sup>197</sup> See OHCHR *Human Rights Standards and Practice 1*; *UN Code of Conduct for Law Enforcement Officials*.

<sup>198</sup> Chiduzza *Significance of Judicial Independence* 282.

<sup>199</sup> Articles 3 and 4 of the *SARPCCO Code of Conduct*; Makwerere, Chinzete and Musorowegomo 2012 *IJHSS* 133-134; the SARPCCO 2001 [http://www.apr.ch/content/files\\_res/SARPCCO](http://www.apr.ch/content/files_res/SARPCCO) 3.

<sup>200</sup> For example, the ZRP and other law enforcement agencies violated the people's human rights during the Operation Murambatsvina campaign of 2005 (Operation Restore Order); *Jestina Mukoko v The Commissioner-General of Police* (SC) (unreported) case number 293/08; *Kenneth Simon Marimba v the Commissioner General of Police* (High Court) (unreported) case number 6903/08; also see Makwerere, Chinzete and Musorowegomo 2012 *IJHSS* 132-135.

<sup>201</sup> Makwerere, Chinzete and Musorowegomo 2012 *IJHSS* 129-138.

<sup>202</sup> Para 2.1 above.

law as well as the establishment of the Constitutional Court, in order to revamp the promotion and protection of all people's human rights in Zimbabwe. Nonetheless, members of the executive are still deleteriously interfering with the independence of the judiciary. In this regard, it is submitted that the independence of the judiciary should be protected in accordance with relevant regional and international law.<sup>203</sup> It is further suggested that several factors such as the independence of the ZHRC, the appointment of its chairperson and other members, the prevailing working conditions, accessibility, accountability and the actual mandate of the ZHRC must be carefully defined to enable it to execute its functions effectively.<sup>204</sup> Moreover, the government should consider adopting practical measures that promote the functions of all defenders of human rights, national human rights institutions and other members of CSOs in accordance with the *Zimbabwe Constitution 2013*.<sup>205</sup> Likewise, all law enforcement agencies should execute their duties in accordance with the *Zimbabwe Constitution 2013* and without any negative interference from the executive.<sup>206</sup> Lastly, it is recommended that the ZANU-PF government should abide by other relevant regional and international instruments in order to enhance the protection of human rights in Zimbabwe.<sup>207</sup>

## Bibliography

### Literature

Amnesty International 2013 *Walk the Talk*

Amnesty International *Walk the Talk: Zimbabwe must Respect and Protect Fundamental Freedoms During the 2013 Harmonised Elections* (Amnesty International London 2013)

Amnesty International 2013 *Zimbabwe: Human Rights Agenda*

Amnesty International *Zimbabwe: Human Rights Agenda for the Government 2013-2018* (Amnesty International London 2013)

Asmal and James *Spirit of the Nation*

Asmal K and James W *Spirit of the Nation: Reflections on South Africa's Educational Ethos* (New Africa Books Claremont 2002)

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<sup>203</sup> See para 2.1 above.

<sup>204</sup> See para 2.2 above.

<sup>205</sup> See para 2.3 above.

<sup>206</sup> See paras 2.4.1-2.4.3 above.

<sup>207</sup> See para 3.1, 3.2, 3.3.1-3.3.2 and 3.4 above.

Chiduzza *Significance of Judicial Independence*

Chiduzza L *The Significance of Judicial Independence in Human Rights Protection: A Critical Analysis of the Constitutional Reforms in Zimbabwe* (LLD-thesis UWC 2013)

Chiduzza 2014 *PELJ*

Chiduzza L "Towards the Protection of Human Rights: Do the New Zimbabwean Constitutional Provisions on Judicial Independence Suffice?" 2014 17(1) *PELJ* 368-418

Chiduzza 2015 *LDD*

Chiduzza L "The Zimbabwe Human Rights Commission: Prospects and Challenges for the Protection of Human Rights" 2015 *LDD* 148-174

Cowell 2013 *HR L Rev*

Cowell F "The Death of the Southern African Development Community Tribunal's Human Rights Jurisdiction" 2013 13(1) *HR L Rev* 153-165

De Bourbon 2003 *AHRLJ*

De Bourbon A "Human Rights Litigation in Zimbabwe: Past, Present and Future" 2003 *AHRLJ* 195-221

Dissel and Frank *Policing and Human Rights*

Dissel A and Frank C (eds) *Policing and Human Rights: Assessing Southern African Countries' Compliance with the SARPPCO Code of Conduct for Police Officials* (African Minds Cape Town 2012)

Dzinesa *Zimbabwe's Constitutional Reform Process*

Dzinesa GA *Zimbabwe's Constitutional Reform Process: Challenges and Prospects* (Institute for Justice and Reconciliation Wynberg 2012)

Dziva, Dube and Manatsa 2013 *IJHSSI*

Dziva C, Dube B and Manatsa P "A Critique of the 2008 Government of National Unity and Human Rights Protection in Zimbabwe" 2013 *IJHSSI* 83-91

Gwenhamo, Fedderke and de Kadt 2012 *Journal of Peace Research*

Gwenhamo F, Fedderke JW and de Kadt R "Measuring Institutions: Indicators of Political Rights, Property Rights and Political Instability in Zimbabwe" 2012 *Journal of Peace Research* 593-601

International Crisis Group *Zimbabwe: Waiting for the Future*  
International Crisis Group *Zimbabwe: Waiting for the Future - Africa Briefing No 103* (International Crisis Group Brussels 2014)

Kersting *Constitution in Transition*

Kersting N (ed) *Constitution in Transition: Academic Inputs for a New Constitution in Zimbabwe* (Friedrich-Ebert-Stiftung Harare 2009)

Madebwe 2014 *Midlands State U L Rev*

Madebwe T "Constitutionalism and the New Zimbabwean Constitution" 2014 *Midlands State U L Rev* 6-19

Madhuku 2006 *SAPR/PL*

Madhuku L "The Appointment Process of Judges in Zimbabwe and Its Implications for the Administration of Justice" 2006 *SAPR/PL* 345-369

Madhuku 2002 *J Afr L*

Madhuku L "Constitutional Protection of the Independence of the Judiciary: A Survey of the Position in Southern Africa" 2002 *J Afr L* 232-258

Makwerere, Chinzete and Musorowegomo 2012 *IJHSS*

Makwerere D, Chinzete GT and Musorowegomo C "Human Rights and Policing: A Case Study of Zimbabwe" 2012 *IJHSS* 129-138

Malan and Cilliers *SADC Organ on Politics, Defence and Security*

Malan M and Cilliers J *SADC Organ on Politics, Defence and Security: Future Development* (Institute for Security Studies Halfway House 1997)

Manyatera and Fombad 2014 *CILSA*

Manyatera G and Fombad CM "An Assessment of the Judicial Service Commission in Zimbabwe's New Constitution" 2014 *CILSA* 89-108

Mapuva and Muyengwa 2012 *PELJ*

Mapuva J and Muyengwa L "A Critique of the Key Legislative Framework Guiding Civil Liberties in Zimbabwe" 2012 15(4) *PELJ* 125-164

Maseng *State, Civil Society and Underdevelopment*

Maseng JO *The State, Civil Society and Underdevelopment: The Case of Zimbabwe* (Masters-dissertation NWU 2010)

Mhodi 2013 *SAPR/PL*

Mhodi PT "An Analysis of the Doctrine of Constitutionalism in the Zimbabwean Constitution of 2013" 2013 *SAPR/PL* 383-397

Moyo 2009 *AHRLJ*

Moyo A "Defending Human Rights and the Rule of Law by the SADC Tribunal: Campbell and Beyond" 2009 *AHRLJ* 590-614

Nathan 2011 *Development Dialogue*

Nathan L "Solidarity Triumphs over Democracy: The Dissolution of the SADC Tribunal" 2011 *Development Dialogue* 123-136

Ndlovu 2011 *SADC Law Journal*

Ndlovu P "Campbell v Republic of Zimbabwe: A Moment of Truth for SADC Tribunal" 2011 *SADC Law Journal* 63-78

OHCHR *Human Rights Standards and Practice*

Office of the High Commissioner for Human Rights *Human Rights Standards and Practice for the Police: Expanded Pocket Book on Human Rights for the Police* (United Nations New York 2004)

OHCHR *National Human Rights Institutions*

Office of the High Commissioner for Human Rights *National Human Rights Institutions: History, Principles, Roles, and Responsibilities* (United Nations New York 2010)

Pohjolainen *Evolution of National Human Rights Institutions*

Pohjolainen AE *The Evolution of National Human Rights Institutions: The Role of the United Nations* (Danish Institute for Human Rights Copenhagen 2006)

Reif 2000 *Harv Hum Rts J*

Reif LC "Building Democratic Institutions: The Role of National Human Rights Institutions in Good Governance and Human Rights Protection" 2000 *Harv Hum Rts J* 1-69

Robertson *Judicial Independence*

Robertson GQC *Judicial Independence: Some Recent Problems* (International Bar Association London 2014)

Rowe *Introduction to Policing*

Rowe M *Introduction to Policing* (Sage London 2014)

Slinn "Latimer House Guidelines for the Commonwealth"

Slinn P "Latimer House Guidelines for the Commonwealth" in Hatchard J and Slinn P (eds) *Parliamentary Supremacy and Judicial Independence: A*

*Commonwealth Approach: Proceedings of the Latimer House Joint Colloquium June 1998* (Cavendish London 1999) 17-29

UN Centre for Human Rights *National Human Rights Institutions*  
United Nations Centre for Human Rights *National Human Rights Institutions: A Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights* (United Nations New York 1995)

Viljoen *International Human Rights Law*  
Viljoen F *International Human Rights Law in Africa* 2nd ed (Oxford University Press Oxford 2012)

Zimbabwe Human Rights NGO Forum *Zimbabwe Human Rights*  
Zimbabwe Human Rights NGO Forum *Zimbabwe Human Rights, Rule of Law and Democracy – Annual Report* (Zimbabwe Human Rights NGO Forum Harare 2013)

### **Case law**

*Campbell v Republic of Zimbabwe* (SADC (T) 03/2009) [2009] SADCT 1 (5 June 2009)

*Fidelis Charamba v The Minister of Home Affairs* (High Court) (unreported) case number 6420/08

*Government of the Republic of Zimbabwe v Fick* 2013 5 SA 325 (CC)

*Jestina Mukoko v The Commissioner General of Police* (High Court) (unreported) case number 7166/08

*Jestina Mukoko v The Commissioner-General of Police* (SC) (unreported) case number 293/08

*Kenneth Simon Marimba v the Commissioner General of Police* (High Court) (unreported) case number 6903/08

*Mark Chavunduka and Raymond Choto v Ministry of Defence* (2000) ZLR (SC)

*Mike Campbell (Pty) Limited v The Republic of Zimbabwe* (2/07) [2007] SADCT 1 (13 December 2007)

*Mike Campbell (Pty) Ltd v Minister of National Security Responsible for Land Reform and Resettlement* (124/06) [2008] ZWSC 1

*Mike Campbell (Pty) Limited v The Republic of Zimbabwe* (2/2007) [2008] SADCT (28 November 2008)

*Mukoko v Attorney-General* [2012] ZWSC 11

*National Commissioner of the South African Police Service v Southern Africa Human Rights Litigation Centre* 2013 ZASCA 168 (27 November 2013)

*Roy Leslie Bennett v The Constituency Election Officer, Chimanimani Constituency* EP1/05

*Zimbabwe Human Rights NGO Forum v Zimbabwe* ACHPR Communication No 245/02

*Zimbabwe Lawyers for Human Rights v The Government of Zimbabwe Muzerengwa Buhera* ACHPR Communication No 306/05

*Zimbabwe Lawyers for Human Rights, Human Rights Trust of Southern Africa v The Government of Zimbabwe Forced Evictions Hopley – Porta Farm and Hatcliffe Communities* ACHPR Communication No 314/05

*Zimbabwe Lawyers for Human Rights and Institute for Human Rights and Development in Africa (obo Andrew Barclay Meldrum v Zimbabwe)* ACHPR Communication No 294/04

*Zimbabwe Lawyers for Human Rights, SADC Lawyers Association, Law Association of Zambia, Tanzania Law Society v the Government of Zimbabwe* ACHPR/LPROT/COMM/ZIM/321

## **Legislation**

### **South Africa**

*Constitution of the Republic of South Africa*, 1996

*International Criminal Court Act* 27 of 2002

### **Zimbabwe**

*Access to Information and Protection of Privacy Act* [Chapter 10:27] 1 of 2002 (AIPPA)



*Access to Information and Protection of Privacy Amendment Act 20 of 2007*

*Broadcasting Services Act 3 of 2001*

*Broadcasting Services Amendment Act 19 of 2007*

*Criminal Law (Law Reform and Codification) Act [Chapter 9:23] 23 of 2004*

*Criminal Procedure and Evidence Act [Chapter 9:07]*

*Lancaster House Constitution of Zimbabwe Order 1979 (SI 1979/1600) as amended by Amendment Act 1 of 2009*

*Police Act [Chapter 11:10] 2 of 1995*

*Private Voluntary Organisations Act [Chapter 17:05] 22 of 2001 (PVOA)*

*Private Voluntary Organisations (PVOA) General Notice 99 of 2007 – Code of Procedure for the Registration and Operations of Non-Governmental Organisations in Zimbabwe*

*Private Voluntary Organisations Act [Chapter 17:05]*

*Public Order and Security Act 5 of 2002 (POSA)*

*Public Order and Security Amendment Act 18 of 2007*

*Zimbabwe Constitution Amendment Act 20 of 2013*

*Zimbabwe Human Rights Commission Act [Chapter 10:30] 2 of 2012*

### **Regional and international instruments**

*African Charter on Human and Peoples' Rights (1981)*

*Gaborone Communiqué of the Southern African Development Community Secretariat (1996)*

*Guiding Principles Relating to the Status of National Institutions (1993) (Paris Principles)*

*International Bar Association Minimum Standards of Judicial Independence (1982)*

*International Convention on the Elimination of All Forms of Racial Discrimination* (1965)

*Latimer House Guidelines on the Independence of the Judiciary* (1998)

*Montreal Universal Declaration on the Independence of Justice* (1983)

*Resolution on the Protection of Human Rights Defenders* GA Res UN Doc A/HRC/22/L.13 (2013)

*SADC Protocol of the Tribunal and Rules of Procedure* (2000)

*SADC Protocol on Politics, Defence and Security Co-operation* (2001)

*SADC Treaty* (1992) (*Windhoek Declaration*)

*SARPPCO Code of Conduct* (2001)

*Universal Declaration of Human Rights* (1948)

*United Nations Basic Principles on the Independence of the Judiciary* (1985)

*United Nations Code of Conduct for Law Enforcement Officials* (1979)

*United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984)

*United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms* (1999)

*Universal Principles of Judicial Independence for the SADC* (2004)

*Vienna Declaration and Program of Action* (1993)

### **Internet sources**

ACHPR date unknown <http://www.achpr.org/network/nhri/>

African Charter on Human and Peoples' Rights date unknown *National Human Rights Institutions* <http://www.achpr.org/network/nhri/> accessed 22 August 2015

Amnesty International 2006 <http://www.amnesty.org/en/library/asset/AFR46/005/2006/en/dom-AFR460052006en.html>

Amnesty International 2006 *Zimbabwe: No Justice for the Victims of Forced Evictions* <http://www.amnesty.org/en/library/asset/AFR46/005/2006/en/dom-AFR460052006en.html> accessed 29 July 2015

Anon 2001 <http://allafrica.com/stories/200108100274.html>

Anonymous 2001 *Zimbabwe: Chidyausiku to Take Over as Chief Justice* <http://allafrica.com/stories/200108100274.html> accessed 6 November 2015

Anon 2005 [http://www.zimbabwesituation.com/old/mar18\\_2005.html#link10](http://www.zimbabwesituation.com/old/mar18_2005.html#link10)

Anonymous 2005 *Mugabe's Anger at Court 'Madness'* [http://www.zimbabwesituation.com/old/mar18\\_2005.html#link10](http://www.zimbabwesituation.com/old/mar18_2005.html#link10) accessed 11 March 2016

Anon 2006 [http://www.kubatana.net/html/archive/urbdev/060601reuters.asp?sector=URBDEV&year=0&range\\_start=1](http://www.kubatana.net/html/archive/urbdev/060601reuters.asp?sector=URBDEV&year=0&range_start=1)

Anonymous 2006 *Zimbabwe as Bad as It Can Get* [http://www.kubatana.net/html/archive/urbdev/060601reuters.asp?sector=URBDEV&year=0&range\\_start=1](http://www.kubatana.net/html/archive/urbdev/060601reuters.asp?sector=URBDEV&year=0&range_start=1) accessed 29 July 2015

Anon 2011 [http://www.zimbabwesituation.com/apr12\\_2011.html](http://www.zimbabwesituation.com/apr12_2011.html)

Anonymous 2011 *13 Congregants Still in Police Custody as Police Violate Mukoyi's Right to Health* [http://www.zimbabwesituation.com/apr12\\_2011.html](http://www.zimbabwesituation.com/apr12_2011.html) accessed 1 October 2015

Anon 2013 <http://www.newzimbabwe.com/news-12173-MDC-T+to+boycott+parliament+opening/news.aspx>

Anonymous 2013 *MDC-T MPs to Boycott Parliament Opening* <http://www.newzimbabwe.com/news-12173-MDC-T+to+boycott+parliament+opening/news.aspx> accessed 5 November 2015

Anon 2013 <http://m.news24.com/news24/Africa/Zimbabwe/Zim-appoints-new-rights-election-chiefs-20130218>

Anonymous 2013 *Zimbabwe Appoints New Rights, Elections Chiefs* <http://m.news24.com/news24/Africa/Zimbabwe/Zim-appoints-new-rights-election-chiefs-20130218> accessed 14 March 2016

Anon 2014 <http://www.newzimbabwe.com/news-13854-chidyausiku+attacks+govt+over+salaries/news.aspx>

Anonymous 2014 *Chidyausiku Attacks Government over Salaries* <http://www.newzimbabwe.com/news-13854->

chidyausiku+attacks+govt+over+salaries/news.aspx accessed 17 February 2016

Anon 2015 <http://www.newzimbabwe.com/news-20865-Mugabe+bullies+judges+on+Mutasa,+MDC-T/news.aspx>

Anonymous 2015 *Mugabe Bullies Judges on Mutasa, Says Opposition MDC-T* <http://www.newzimbabwe.com/news-20865-Mugabe+bullies+judges+on+Mutasa,+MDC-T/news.aspx> accessed 8 March 2016

Anon 2015 <http://www.newzimbabwe.com/news-21072-Moyo+defends+Mugabe+over+judges+threat/news.aspx>

Anonymous 2015 *Moyo Defends Mugabe over Judges Threat* <http://www.newzimbabwe.com/news-21072-Moyo+defends+Mugabe+over+judges+threat/news.aspx> accessed 8 March 2016

Atwood 2011 <http://www.kubatanablogs.net/kubatana/police-violently-suppress-prayer-for-peace/>

Atwood A 2011 *Police Violently Suppress Prayer for Peace* <http://www.kubatanablogs.net/kubatana/police-violently-suppress-prayer-for-peace/> accessed 25 October 2015

Chamboko 2012 <http://nehandaradio.com/2012/02/19/zanu-pf-ban-of-ngos-in-zimbabwe-self-defeating/>

Chamboko M 2012 *ZANU-PF Ban of NGO's in Zimbabwe Self-defeating* <http://nehandaradio.com/2012/02/19/zanu-pf-ban-of-ngos-in-zimbabwe-self-defeating/> accessed 6 November 2015

Cross 2015 <http://nehandaradio.com/2015/08/16/160-days-the-disappearance-of-itai-dzamara/>

Cross E 2015 *160 Days: The Disappearance of Itai Dzamara* <http://nehandaradio.com/2015/08/16/160-days-the-disappearance-of-itai-dzamara/> accessed 17 November 2015

International Bar Association 2007 <http://www.ibanet.org/Document/Default.aspx?DocumentUid=e4d35d9f>

International Bar Association 2007 *Partisan Policing: An Obstacle to Human Rights and Democracy in Zimbabwe* <http://www.ibanet.org/Document/Default.aspx?DocumentUid=e4d35d9f> accessed 2 October 2015

Machipisa 2001 <http://www.ipsnews.net/2001/03/politics-zimbabwe-a-top-judge-appointed-new-chief-justice/>

Machipisa L 2001 *Politics-Zimbabwe: A Top Judge Appointed New Chief Justice* <http://www.ipsnews.net/2001/03/politics-zimbabwe-a-top-judge-appointed-new-chief-justice/> accessed 26 November 2015

Mavedzenge and Coltart 2014 <https://constitutionallythinking.files.wordpress.com/2014/10/a-constitutional-law-guide-towards-understanding-zimbabwes-fundamental-socio-economic-and-cultural-human-rights.pdf>

Mavedzenge JA and Coltart DJ 2014 *Understanding Zimbabwe's Fundamental Socio-Economic and Cultural Human Rights* <https://constitutionallythinking.files.wordpress.com/2014/10/a-constitutional-law-guide-towards-understanding-zimbabwes-fundamental-socio-economic-and-cultural-human-rights.pdf> accessed 26 August 2015

Maveneka 2015 <https://erc.undp.org/evaluation/documents/download/8775>

Maveneka L 2015 *Terminal Evaluation of the Support for the Strengthening of the Promotion and Protection of Human Rights and the Rule of Law through Enhanced Capacity of Institutions Zimbabwe Human Rights Commission* <https://erc.undp.org/evaluation/documents/download/8775> accessed 17 October 2015

Mushava 2013 <http://www.newsday.co.zw/2013/02/20/mugabe-tsvangirai-misfire/>

Mushava E 2013 *Mugabe, Tsvangirai Misfire* <http://www.newsday.co.zw/2013/02/20/mugabe-tsvangirai-misfire/> accessed 13 March 2016

Ncube 2016 <https://www.newsday.co.zw/2016/09/27/high-court-frees-pro-democracy-activist-masarira/>

Ncube X 2016 *High Court Frees Pro-democracy Activist* <https://www.newsday.co.zw/2016/09/27/high-court-frees-pro-democracy-activist-masarira/> accessed 8 November 2016

Open Society Initiative for Southern Africa date unknown <http://www.osisa.org/openspace/zimbabwe/sadcs-role-zimbabwe>

Open Society Initiative for Southern Africa date unknown *SADC's Role in Zimbabwe* <http://www.osisa.org/openspace/zimbabwe/sadcs-role-zimbabwe> accessed 21 March 2016

Redress Trust 2005 <http://www.redress.org/downloads/publications/Amani2005.pdf>

Redress Trust 2005 *Torture in Zimbabwe, Past and Present Prevention, Punishment, Reparation? A Survey of Law and Practice*  
<http://www.redress.org/downloads/publications/Amani2005.pdf> accessed 14 October 2015

SADC 2012 <http://www.sadc.int/about-sadc/sadc-institutions/tribun/>  
Southern African Development Community 2012 *SADC Tribunal*  
<http://www.sadc.int/about-sadc/sadc-institutions/tribun/> accessed 21 March 2016

SARPCCO 2001 [http://www.apr.ch/content/files\\_res/SARPCCO](http://www.apr.ch/content/files_res/SARPCCO)  
Southern African Regional Police Chiefs Co-operation Organisation 2001  
*Harare Resolution on the SARPCCO Code of Conduct for Police Officials*  
[http://www.apr.ch/content/files\\_res/SARPCCO](http://www.apr.ch/content/files_res/SARPCCO) accessed 22 October 2015

UNDP 2014 [http://www.zw.undp.org/content/zimbabwe/en/home/operations/projects/democratic\\_governance/capacity-building-support-to-the-zimbabwe-human-rights-commissio.html](http://www.zw.undp.org/content/zimbabwe/en/home/operations/projects/democratic_governance/capacity-building-support-to-the-zimbabwe-human-rights-commissio.html)  
United Nations Development Programme 2014 *Capacity Building Support to the Zimbabwe Human Rights Commission*  
[http://www.zw.undp.org/content/zimbabwe/en/home/operations/projects/democratic\\_governance/capacity-building-support-to-the-zimbabwe-human-rights-commissio.html](http://www.zw.undp.org/content/zimbabwe/en/home/operations/projects/democratic_governance/capacity-building-support-to-the-zimbabwe-human-rights-commissio.html) accessed 10 September 2015

ZHRC date unknown <http://www.zhrc.org.zw/index.php/2014-07-02-07-41-38/speeches/59-media-engagement-workshop-overview-of-the-mandate-and-work-of-the-zimbabwe-human-rights-commission-zhrc>  
Zimbabwe Human Rights Commission date unknown *Media Engagement Workshop - Overview of the Mandate and Work of the Zimbabwe Human Rights Commission* <http://www.zhrc.org.zw/index.php/2014-07-02-07-41-38/speeches/59-media-engagement-workshop-overview-of-the-mandate-and-work-of-the-zimbabwe-human-rights-commission-zhrc> accessed 11 March 2016

Zimbabwe Human Rights Non-Governmental Organisation Forum 2005  
<http://hrforumzim.org/wp-content/uploads/2010/06/SR23-Zimbabwe-Facts-and-Fictions-An-Audit-of-the-Recommendations-of-the-Fact-Finding-Mission-of-the-ACHPR1.pdf>

Zimbabwe Human Rights Non-Governmental Organisation Forum 2005  
*Zimbabwe Facts and Fictions: An Audit of the Recommendations of the*

*Fact-Finding Mission of the African Commission on Human and People's Rights* <http://hrforumzim.org/wp-content/uploads/2010/06/SR23-Zimbabwe-Facts-and-Fictions-An-Audit-of-the-Recommendations-of-the-Fact-Finding-Mission-of-the-ACHPR1.pdf> accessed 4 November 2015

Zimbabwe Human Rights Non-Governmental Organisation Forum 2011 <http://hrforumzim.org/wp-content/uploads/2011.pdf>

Zimbabwe Human Rights Non-Governmental Organisation Forum 2011 *The Role of Human Rights Commission* <http://hrforumzim.org/wp-content/uploads/2011.pdf> accessed 4 November 2015

Zimbabwe Human Rights Non-Governmental Organisation Forum 2013 <http://reliefweb.int/sites/reliefweb.int/files/resources/Who-will-defend-the-human-rights-defenders.pdf>

Zimbabwe Human Rights Non-Governmental Organisation Forum 2013 *Who Will Defend the Human Rights Defenders? A Report on the Harassment of Human Rights Activists in Zimbabwe 2012* <http://reliefweb.int/sites/reliefweb.int/files/resources/Who-will-defend-the-human-rights-defenders.pdf> accessed 25 October 2015

## List of Abbreviations

AC	African Commission
ACHPR	African Charter on Human and Peoples' Rights
AHRLJ	African Human Rights Law Journal
AIPPA	Access to Information and Protection of Privacy Act
AU	African Union
CILSA	Comparative and International Law Journal of Southern Africa
CIO	Central Intelligence Organisation
CSOs	Civil society organisations
CSRO	Committee on Standing Rules and Orders
Harv Hum Rts J	Harvard Human Rights Journal
HR L Rev	Human Rights Law Review
HRIs	Human rights institutions
ICCNHRI	International Coordinating Committee of National Human Rights Institutions
ICC SCA	International Coordinating Committee's Sub-Committee on Accreditation
IJHSS	International Journal of Humanities and Social

	Science
IJHSSI	International Journal of Humanities and Social Science Invention
J Afr L	Journal of African Law
JSC	Judicial Service Commission
LDD	Law, Democracy and Development
MDC	Movement for Democratic Change
Midlands State U L Rev	Midlands State University Law Review
NANHRI	Network of African National Human Rights Institutions
NGOs	Non-governmental organisations
OHCHR	Office of the High Commissioner for Human Rights
PELJ	Potchefstroom Electronic Law Journal
POSA	Public Order and Security Act
PVOA	Private Voluntary Organisations Act
PVOs	Private voluntary organisations
SADC	Southern African Development Community
SADCT	Southern African Development Community Tribunal
SAPR/PL	Suid-Afrikaanse Publiekreg / South African Public Law
SAPS	South African Police Service
SARPCCO	Southern African Regional Police Chiefs Co-operation Organisation
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
WSOs	Welfare services organisations
ZANU-PF	Zimbabwe African National Union – Patriotic Front
ZEC	Zimbabwe Electoral Commission
ZHRC	Zimbabwe Human Rights Commission
ZRP	Zimbabwe Republic Police