

REPORT OF THE ZIMBABWE HUMAN RIGHTS COMMISSION FOR THE UNIVERSAL PERIODIC REVIEW.

1.1 INTRODUCTION

The Zimbabwe Human Rights Commission is conscious of the fact that the Universal Periodic Review (UPR) process was created through the UN General Assembly on 15 March 2006 by resolution [60/251](#), which established the Human Rights Council itself. It is a cooperative process which, by the end of 2011, will have reviewed the human rights records of every member state of the United Nations. Currently, no other universal mechanism of this kind exists. The UPR is one of the key elements of the new Council which reminds States of their responsibility to fully respect and implement all human rights and fundamental freedoms.¹

The ultimate aim of this new mechanism is to improve the human rights situation in all countries and address human rights violations wherever they occur.

1.2 ROLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS(NHRI'S) IN THE UPR PROCESS

NHRI's where they exist, are expected to play a critical role in a country's UPR process. The UPR process ensures the participation of all relevant stakeholders, including non-governmental organizations (NGOs) and national human rights institutions (NHRIs). NGOs and NHRIs can submit information which can be added to the "other stakeholders" report which is considered during the review. Information they provide can be referred to by any of the States taking part in the interactive discussion during the review at the Working Group meeting. (www.ohchr.org).

In this respect, in 2011 the Zimbabwe Human Rights Commission is to submit its report under the cluster "stakeholders" report in addition to other reports such as the National report and the UN report (drawn from treaty bodies, special procedures and other UN teams).

From the 9th-11th February 2011, the Commission was able to attend the national stakeholder's consultative process organized by the Government of Zimbabwe with other stakeholders and participate in the process of compilation of the national report. The Commission attended all the sessions and made submissions with respect to its position as a national human rights institution, although one which is still in the making.

1.3 SUBMISSION OF THE ZIMBABWE HUMAN RIGHTS COMMISSION(ZHRC)

The Zimbabwe Human Rights Commission is a newly formed organization that is established by Constitutional Amendment 19 of February 2009, and provided for under Article 100R of the Constitution of the Republic of Zimbabwe with the following functions:

¹ www.ohchr.org

- (a) To promote awareness of and respect for human rights and freedoms at all levels of society;
- (b) To promote the development of human rights and freedoms;
- (c) To monitor and assess the observance of human rights in Zimbabwe;
- (d) To recommend to Parliament effective measures to promote human rights and freedoms;
- (e) To investigate the conduct of any authority or person, where it is alleged that any of the rights in the Declaration of Rights has been violated by that authority or person; and
- (f) To assist the Minister responsible for the Act of Parliament referred to in subsection(8) to prepare any report required to be submitted to any regional or international body constituted or appointed for the purpose of receiving such reports under any human rights convention, treaty or agreement to which Zimbabwe is a party.

Despite the existence of the above Constitutional provisions establishing a Commission, an enabling Act of Parliament, to operationalise the mandate of the institution is yet to be debated and passed by the Parliament. The Ministry of Justice and Legal Affairs (being the Line Ministry responsible) has twice shared a draft bill with the Commission wherein it submitted its proposals and recommendations, guided by the Paris Principles that provide for the international normative and legal framework for such institutions. Government through the Executive/Ministry is yet to make its final response to the recommendations and inputs from the Commission and other stakeholders.

Section100R of the Constitution does not reflect an essential element of the Paris Principles, in that it fails to provide that the Commission will be an **Independent** Constitutional body in respect of whatever it does under the Constitution and the law. At present it is expected that this defect will in part, be remedied by a provision for a legal, though not Constitutional guarantee of such independence to be provided in the draft Bill and finally in the Zimbabwe Human Rights Commission Act

On a positive note, seven of the eight members of the Commission, including three of the four constitutionally required women members, have been appointed, and were sworn-in, on 31st March 2010. They have now been provided with terms and conditions of service; a building has been secured by the Government to house the Commission, although rehabilitation and refurbishment is required to make it functional.

A US\$8 million budget proposal for 2011 has been submitted through the offices of the Ministry of Justice and Legal Affairs, to provide for what will be the Commission's "start-up year". It must commence recruitment of senior and other staff; launch a public information campaign on the breadth of national and international human rights and establish itself as a working institution. At this time the Commission has been informed that US\$1 million would be available at some point. No disbursement of any sum has yet been made.

Since August 2010 members of the Commission have undergone trainings and capacity building and are developing the skills and knowledge of the role of national human rights institutions, and how this task is operationalised. They have also undertaken study tours of

different national human rights institutions in Kenya and South Africa; and been exposed to regional human rights events and workshops. These activities, as well as the occasional opportunity for the Commissioners to meet together (as not all Commissioners are from the same part of the country), have been made possible by the technical and financial assistance, agreed to by the Ministry of Justice and Legal Affairs, of the UNDP Country Office in Zimbabwe and the Offices of High Commissioner for Human Rights (OHCHR) in both Pretoria and Geneva

Given this background and the fact that it has not been operational, the Commission is of the view that it is unable to objectively or authoritatively comment on the observance, respect and realization of human rights and fundamental freedoms in the country by its citizens at this point in its formation.

The Commission however, is aware of the complexities within the existing realities facing the efforts so far made by Government and the different stakeholders in the establishment of this important institution. The Commission's creation has created great expectations that it must and will make a vital contribution to the promotion and protection of human rights and fundamental freedoms in the country.

To begin to meet these expectations the Commission anxiously recommends, as a vital next step, the expeditious finalization and enactment of an enabling law that reflects the Paris Principles and the provision of adequate funding to enable it to commence operations, build on its preparations of the past year and have the capacity to effectively and efficiently execute its mandate.

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