

Transparency International Zimbabwe and Transparency International – Secretariat

Submission to the Universal Periodic Review mechanism of the UN Human Rights Council

Introduction

Transparency International defines corruption as the abuse of public or entrusted power for private gain. Transparency International also recognises that corruption can constitute a major obstacle to, or even direct violation of, the enjoyment of fundamental human rights by undermining state capacity and limiting access to public services.

Transparency International Zimbabwe is concerned at the levels of grand¹, systemic and petty corruption that undermine the enjoyment of fundamental social and economic rights, including the right to adequate housing, right to health, the right to water and the right to food. The organization is further concerned by the lack of enabling budgetary allocation to the Zimbabwe Anti-Corruption Commission and the Zimbabwe Human Rights Commission, key constitutional commissions supporting state accountability in ensuring peoples' access to and fair delivery of basic services.

The Zimbabwe Constitution and the human rights framework

The country's constitution that came into effect on 22 May 2013 incorporates key economic and social rights under the Declaration of Rights in Chapter 4. Furthermore one of the founding values of the constitution in Section 3 (e) is the "recognition of the inherent dignity and worth of each human being." The social and economic provided in sections 71-78 of the constitution include:

- The right to property
- Freedom from arbitrary eviction
- The rights to access to health care services
- The right to sufficient food and clean water

¹ Transparency International defines grand corruption as "the abuse of high-level power that benefits the few at the expense of the many, and causes serious and widespread harm to individuals and society." See <https://unmaskthecorrupt.org/>

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Zimbabwe also acceded to the International Covenant on Economic, Social and Cultural Rights in 1990, which requires that the state take steps, to the maximum of available resources (article 2.1), to progressively achieve the full realization of, among others, the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (article 12), to an adequate standard of living including adequate food, clothing and housing, and to the continuous improvement of living conditions (article 11). However, Zimbabwe has not submitted a state report to the Committee on Economic, Social and Cultural Rights on its efforts since 1995,² despite its reporting obligations under the Covenant. Zimbabwe's last report was due in 1998.³

Zimbabwe is also party to the UN Convention against Corruption since 2007.

Corruption and violations of human rights

The right to health

TI Zimbabwe has been monitoring corruption scandals in the health delivery system, including theft of medical supplies at public health institutions and budget leakages that lead to drug shortages and poor quality services. Some drugs that are supposed to be given to patients for free are reported to have been sold to them at high prices, leading to lower utilisation of drugs amongst the patients as some cannot afford them.⁴

Allegations of systemic corruption involve top-level government officials. In one case in May 2014, the Minister of Health, David Parirenyatwa, received an overpayment of US\$77,000 from the Premier Service Medical Aid Society (PSMAS) to his private company, CHEST.⁵ In his self-defense, the Minister described the payment as 'capitation,' implying that the overpayment was a common norm that would be offset by future claims.

TI Zimbabwe contends that undertaking private work while government Minister is a case of administrative and systemic corruption in breach of the Constitution's 'no-conflict' principle. Section 106(2), on conduct of Vice Presidents, Ministers and Deputy Ministers states that:

² E/1990/5/Add.28, 25 September 1995

³ http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=ZWE&Lang=EN

⁴ See U4 Expert Answer (Transparency International and CHR Michelsen Institute, *Zimbabwe: Overview of corruption in the health and education sectors and in local governments*. See also, Al Jazeera, *Zimbabwe: Stealing Lives*, <https://www.youtube.com/watch?v=Zfx5fpMhlu0>

⁵ See New Zimbabwe, *Doctors demand health Minister Parirenyatwa's resignation*, 26 October 2015 [http://www.newzimbabwe.com/news-25683-Resign,+doctors+tell+\\$100k+con+minister/news.asp](http://www.newzimbabwe.com/news-25683-Resign,+doctors+tell+$100k+con+minister/news.asp)

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“(a) Vice-presidents and Ministers and Deputy Ministers may not during their tenure, directly or indirectly undertake any other paid work; (b) act in a way that is inconsistent with their office, or involving them to any situation involving risk of a conflict between their responsibilities and private interests; or (c) use their position, or information entrusted to them to enrich themselves, or improperly benefit any other person.”

In addition, the executives of the Public Service Medical Aid Society (PSMAS) were amongst the highest earners in the economy, as the Annual State of Corruption Report for 2015 showed.⁶ Yet, the parastatal was failing to meet its service obligations and its wider membership denied access to medical healthcare. Hospitals and pharmaceutical outlets declined the medical aid insurance and demanded upfront cash payments. Its over 600,000 membership base, largely civil servants, suffered without recourse and have been denied access to healthcare. Corruption in the health sector does have severe consequences for access, equity and effectiveness of health care services.

Right to housing and freedom from arbitrary eviction

Housing demolitions constitute the intentional physical destruction of a house or of a portion thereof by government forces. Housing demolitions have far-reaching social and economic impact on the affected communities: Not only do the demolitions sometimes result in death, there is further a direct connection to the loss of access to basic commodities such as water and food and a strong correlation to the deterioration of health and education.

In the local government sector, Council officials use their power to either provide or withhold a service to demand bribes from residents. Citizens report that they are regularly solicited to pay bribes to circumvent complex processes or secure access to services. In Chiredzi, Harare and Masvingo, residents reported increasing levels of corruption in the housing departments, claiming that those on the waiting lists had to pay bribes in order to receive preferential treatment in the allocation of houses. The government has also continued illegal housing demolitions. In 2013, the government resumed demolishing illegal urban housing structures, targeting most high-density suburbs in Harare.

Notably, proliferation of ‘illegal housing structures’ is embedded in systemic administrative corruption. For example, the City of Harare has exposed bureaucratic corruption by its planning and water departments in the ‘regularisation’ and servicing of illegal settlements. On 5 February 2016, the City of Harare dismissed City Water Engineer, Melchizedel Chaniwa

⁶ Transparency International Zimbabwe, *Annual State of Corruption Report* (2015).

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for approving water and sewer reticulation design from illegal settlements and by implication regularizing their existence. The demolitions have so far affected, *inter-alia*, Ruwa, Damofalls, Chitungwiza, Budiro, Glenview 4, Dunstan Farm and Arlington farms (near Harare international Airport).

In Zimbabwe, housing demolitions pose a country-wide problem. In Harare alone the city council estimates that there are 74 illegal settlements, raising signals that the demolitions are likely to continue. In light of the Zimbabwe Constitution, the International Covenant on Economic, Social and Cultural Rights and other human rights conventions to which Zimbabwe is party, the on-going demolitions and forced evictions without alternative shelter are a violation of the right to an adequate standard of living, including adequate housing, a violation of human dignity and due process of the law, and can even amount to a violation of the right to life.

Recommendations:

- The government should implement the Corporate Governance Code to ensure greater transparency and accountability of parastatals.
- The government should institute whistleblower protection reforms and mechanisms to encourage the reporting of misconduct, fraud and corruption.
- The government should must stop all ongoing illegal demolitions.
- The government should immediately compensate victims for their losses, including allocation of alternative land.
- Dismissal of corruption offenders is not enough. The government should pursue prosecution of corruption offenders.
- All future demolitions should comply with the Constitution and laws of the country, as well as international human rights law, including provision of alternative shelter prior to demolitions.
- Parliament should hold the executive to account and ensure compliance of executive actions with the constitution and laws of Zimbabwe and human rights law.
- The Ministry of Local Government and Local Authorities must ensure transparency in the allocation of housing land to co-operatives through public display for all land applications.
- The government should strengthen the operational effectiveness of the Zimbabwe Anti-Corruption Commission (ZAAC).
- The government should develop and implement a coordinated National Anti-Corruption Strategy to respond to prevalence of corruption.

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- The government should, in accordance with its obligations under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights, submit an updated state report on measures adopted and the progress made in achieving observance of the rights within the Covenant, including specifically addressing the impact of corruption on the rights to health and housing and efforts made to combat corruption in these areas.