



JUST ATONEMENT INC.

justice
hope peace unity equal opportunity
golden age
progress sustainability democracy freedom
human rights harmony civilization

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Just Atonement Inc. (JAI) is a global network of advocates who serve at the front lines in defending democracy, human rights, and a liveable planet.

JAI was founded in the United States of America in 2017.

JAI invites and organizes legal professionals globally into a single order and aligns a vision of a peaceful, sustainable world, governed by the democratic rule of law; litigates in courts all over the world on cutting edge human rights cases to build peace and sustainability, and to defend democracy; and advocates for a vision of a true Golden Age for humanity: a world where countries settle their disputes peacefully, manage social and economic systems that are in harmony with the planet, and govern themselves through the principles of democracy, the rule of law, and human rights.

JAI submits this written submission with respect to the Universal Periodic Review of the Republic of Zimbabwe.

Summary of Conclusions

1. Since the UPR Second Cycle, Zimbabwe has made considerable strides towards upholding human rights. This includes the ratification of at least four conventions and treaties, as well as the establishment of multiple committees under its constitution. The United Nations has also commended Zimbabwe for adopting its 2013 constitution, in which it recognized the rule of law and fundamental human rights.

2. JAI wishes to call attention to certain potential breaches of human rights obligations through this submission. In particular, the government has engaged in certain policies to silence political opposition inconsistent with human rights obligations, while current measures to combat corruption have lost their efficacy. Women's and children's rights are not adequately upheld. The public healthcare system in Zimbabwe is inadequate to support its population, especially during the coronavirus pandemic. Zimbabwe should continue to adopt and strengthen a variety of strategies to combat climate change and its effects, as it is vulnerable to the threat of climate change.



Government Corruption and Censorship

3. Amnesty International and Human Rights Watch have criticised the current government for using the pandemic as a guise for employing disproportionate police force against political opposition.

4. Examples of silencing political opposition include intimidation and harassment of human rights defenders who work on the topics of corruption, public accountability and democratic governance by the Central Intelligence Organization.¹ Human rights defenders reportedly went into hiding after the police issued a list of wanted persons after a July 31st anticorruption demonstration. Other reported victims include significant members of the Movement for Democratic Change (MDC) alliance, journalists, activists, citizens, NGOs, political opponents, and peaceful protesters.

5. Further, the Zimbabwe Electoral Commission (“ZEC”) has failed in its duty to facilitate the elections in an independent manner. Police officers, the Zimbabwe National Army, and prison officers have been intimidated to vote for the Zanu-PF party, all without condemnation or action by the ZEC.

6. By censoring all political opposition, the government is not fulfilling its duties under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which Zimbabwe has ratified:

“1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

7. On top of this, selective law enforcement breaches Article 2 of the ICCPR:

*“...To respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as ... **political or other opinion ...**”*

8. Human Rights Watch reported that more than 70 critics of the government had been abducted by unidentified assailants and subjected to sexual abuse, violence, and threats by suspected state security agents. These abductions are violations of Article 6 of the African Charter on Human and Peoples’ Rights (the “African Charter”):

“No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.”

9. Abuse of prisoners, including sexual abuse, would potentially violate Article 5 of the African Charter:

¹ Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 Zimbabwe. (2016). *United Nations Human Rights Council General Assembly, Twenty-sixth session.*



*“All forms of exploitation and degradation of man particularly slavery, slave trade, **torture, cruel, inhuman or degrading punishment** and treatment shall be prohibited.”*

Recommendations

10. Zimbabwe should comply with applicable human rights obligations under the ICCPR and the African Charter. The Independent Complaints Mechanism under section 210 of Zimbabwe’s 2013 constitution should be better established without interference from the government.
11. Moreover, Zimbabwe should ratify the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). Zimbabwe could also consider inviting neutral and impartial election observers to reduce opportunity for impropriety by local or other officials during the next Zimbabwe election.
12. Zimbabwe has not yet ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, though the United Nations has confirmed that its content has been incorporated into Zimbabwe’s constitution and laws. Nonetheless, Zimbabwe should join the 170 other signatories in order to make the obligation an internationally binding one.

Women’s Rights

13. Gender-based violence and discrimination remains a problem in Zimbabwe. School girls still face sexual abuse and harassment. Female representation in Zimbabwe’s government and parliament is less than 25%. Customary marriages perpetuate inequality by barring widows from inheriting their husband’s property and daughters from inheriting their fathers’ property. Rural women face limited access to technology and digital information.
14. More pressing dangers to women include domestic violence, access to reproductive healthcare for women in rural areas, and marital rape. Abortion is criminalised, while the rate of maternal mortality is high at 0.88%. The burden of unpaid care on women has also been especially exacerbated by pandemic.²
15. Existing efforts to recognise women’s rights include the adoption of the Domestic Violence Act 2007 and the Criminal Law Act in 2006. Zimbabwe Gender Commission, one of the five Independent Commissions established under Sections 232(c) and 245 of the Constitution of Zimbabwe, serves as a platform for information gathering and sharing.
16. The equality and non-discrimination of women are codified rights under section 56 and section 80 of its Constitution, as well as Article 18(3) of the African Charter:
“The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.”

² Zimbabwe Gender Commission. (2020, October 16). Statement by ZGC on the International Day of Rural Women 2020. <https://zgc.co.zw/>. <https://zgc.co.zw/wp-content/uploads/2020/10/ZGC-Statement-International-Rural-womens-Day-2020-Final.pdf>.



17. These rights are also codified in Article 3 of the ICCPR:
“The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.”

Recommendations

18. Zimbabwe should, first and foremost, ensure that women have access to healthcare, water, electricity, and food. Moreover, more female-centric information and education opportunities should be made available. Statutory law enforcement surrounding domestic violence needs to be more thorough.

19. Furthermore, Zimbabwe should follow through with the recommendations from The Committee on the Elimination of Discrimination against Women. These include (i) strengthening awareness raising and training for school officials in the interest of keeping the school environment safe, (ii) providing more support for young mothers and brides by increasing exposure to non-traditional career paths as well as providing career counseling, and (ii) ratifying the Operational Protocol to CEDAW.

Rights of Children

20. The Committee on the Rights of the child reported sexual exploitation and abuse of girls, orphans, children with disabilities, child migrants and impoverished children in Zimbabwe. Other violations include the ill-treatment and torture of children in police custody, corporal punishment, as well as child labour. Significant solutions to solve these issues include the enactment of the Trafficking in Persons Act (2014) and the creation of the Interministerial Task Force on Human Trafficking.

21. As of 2019, one in four girls aged 15-19 are wedded, mostly to much older men, under customary marriages which are often unregulated by statutory law. Pledging children in marriage greatly disadvantages young girls, who are forced to reside with often physically abusive husbands. Due to highly patriarchal values, they lose decision-making power in their own lives and often discontinue their education in order to take care of their children.

22. Human Rights Watch cited gaps in the country’s laws, extreme poverty, rape-induced pregnancy, harmful religious beliefs, and traditional practices as factors driving child marriages. Allowing such harm to come to children is not only patently tragic, but is in contravention of many sections of its constitution, namely, 19(3) on the rights of children:

- “3. The State must take appropriate legislative and other measures—*
- a. to protect children from exploitative labour practices; and*
 - b. to ensure that children are not required or permitted to perform work or provide services that*
 - i. are inappropriate for the children's age; or*
 - ii. place at risk the children's well-being, education, physical or mental health or spiritual, moral or social development.”*



23. As well as Article 24 of the ICCPR:
“Every child shall have, without any discrimination ... the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.”

24. Current action to solve these issues involves the National Action Plan (NAP) and Communication Strategy on Ending Child Marriage, currently coordinated across multiple sectors by the Ministry of Women Affairs. On top of this, Zimbabwe’s national gender policy was revised to address the problem of child marriage in 2017.

Recommendations

25. The government rightly aims to end the issue of children being pledged in marriage by 2030. To reach this goal, it should intensify existing measures to prevent child marriages, such as providing stronger incentives to stay in public education for young girls, as well as supporting young pregnant mothers.

26. The government must strengthen and increase the presence of safety net organisations for children and youth, such as shelters, NGOs, and law enforcement officers, especially in rural areas. These would especially benefit foster children and victims of abuse. Further, the government should follow through with the recommendation from the Committee of the Rights of the Child to establish a list of hazardous kinds of work in which children should not be involved.

Healthcare

27. Zimbabwe’s healthcare system is in need of improvement. Existing staff is overstretched due to a limited number of healthcare professionals and the infrastructure is outdated and ill equipped. Cancer, HIV/AIDS, malaria, tuberculosis, diarrhoeal diseases and birth complications continue to be prevalent problems.

28. The pandemic was an additional strain on Zimbabwe’s healthcare system. According to the World Health Organisation, as of 25th June 2021, there have been 44,306 confirmed cases of Covid-19 with 1,709 deaths.³

29. Female healthcare is also of major concern. Many unsafe abortions also occur as a result of lengthy authorisation procedures, while young women are often unable to access quality reproductive and sexual healthcare services.

30. Furthermore, the Committee on the Rights of the Child expressed concern about access to healthcare for impoverished children living in rural areas. High rates of maternal, neonatal and child mortality, as well as malnutrition abound among children under 5 years of age. In addition, they reported that most cases of disability were due to preventable causes, such as inaccessibility to full immunization, lack of comprehensive care, and malnutrition.

³ World Health Organization. (n.d.). *Zimbabwe Country Overview*. World Health Organization. <https://www.who.int/countries/zwe/>.



31. The Right to Health Care is enshrined in Article 76 of the Zimbabwe constitution: *“Every person living with a chronic illness has the right to have access to basic healthcare services for the illness.”*

32. The Right to Health Care is also enshrined in Article 16 of the African Charter, to which Zimbabwe is a party: *“States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.”*

Recommendations

33. To strengthen the overall healthcare system, more money and resources should be channelled into equipment and education. Zimbabwe should continue to partner with NGOs such as UNICEF to continue administering vaccines to the general public in the interest of minimizing preventable diseases.

34. Pertaining to the pandemic specifically, Zimbabwe should develop more comprehensive policies on sanitisation, social distancing, mask-wearing, and the communication of such policies to the public.

35. Access to healthcare resources needs to be much more robust, especially in rural areas. Sexual and reproductive health education should be taught in schools, while family planning information and contraceptives should be more widely disseminated.

Climate Change

36. **The breakdown and collapse of the Earth’s climate system is imminent and may have already commenced.** Zimbabwe has been hard-hit by devastating natural disasters such as Cyclone Idai, intense droughts, floods, and recently, an increasing number of wildfires. As a result, the bread basket of Africa is dwindling. Agriculture makes up 18% of the country’s GDP and supports over 60% of the population, yet Zimbabwe is still food insecure.

37. The issue of climate change is therefore of paramount importance to Zimbabwe’s survival. The government of Zimbabwe must not only continue implementing its current climate mitigation and adaptation efforts; it must continuously seek new avenues of climate-readiness.

38. Present action includes the 2018 Zimbabwe Agenda for Sustainable Socio-Economic Transformation (Zim Asset). This comprehensive plan analyses problems and solution strategies across sectors, focusing primarily on food security and economic growth.

39. Zimbabweans Environmental rights are enshrined in Article 73 of the Zimbabwean Constitution:

*“1. Every person has the right
a. to an environment that is not harmful to their health or well-being; and*



- b. to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that*
- i. prevent pollution and ecological degradation;*
 - ii. promote conservation; and*
 - iii. secure ecologically sustainable development and use of natural resources while promoting economic and social development.*
- 2. The State must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of the rights set out in this section.”*

Recommendations

40. Despite its relatively low greenhouse gas emissions per capita and thus low culpability in contributing to anthropogenic climate change, Zimbabwe has every interest in mitigating the damaging effects of climate change. To this end, Zimbabwe should reduce its own emissions as much as is practicably feasible.
41. The development of Zim Asset is a positive initiative. It must be more thoroughly implemented throughout the country through practical, on-the-ground support. It should also be supported by all ministries.
42. On top of intensifying the implementation of bio fuels, Zimbabwe should focus on a more sustainable economy that is not as reliant on fossil fuels, but instead on solar-power or renewable energy implementation. More effective pollution and waste management policies must also be implemented.
43. In terms of climate adaptation, Zimbabwe should take urgent action to increase climate disaster-readiness. Extensive policies and programmes should be implemented prepare for the high likelihood of fires, floods, cyclones, and droughts, as a result of climate change driven extreme weather conditions.
44. Zimbabwe could also look to the Rwanda Green Fund, a greatly successful resource facility, for creative development ideas. The Fund aims to catalyse climate resilient development, reduce poverty, and promote sustainable wealth creation by providing strategic financing.⁴

Acknowledgement

This submission was prepared by Dave Inder Comar (Stanford 2001, Stanford 2002, NYU School of Law 2005)

(2674 words)

⁴ Dhliwayo, M., Dhlakama, T., & Muroombo, T. (2019). *Climate change law in Zimbabwe: concepts and insights*. Konrad Adenauer Foundation.