



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General
20 December 2021

Original: English
English, French and Spanish only

Committee on the Elimination of Racial Discrimination

**Combined fifth to eleventh periodic reports
submitted by Zimbabwe under article 9 of the
Convention, due in 2000***

[Date received: 28 June 2021]

* The present document is being issued without formal editing.



Abbreviations

CCZ	Constitutional Court of Zimbabwe
CSOs	Civil Society Organisations
DRC	Democratic Republic of Congo
EPR	Employment Population Ratio
GoZ	Government of Zimbabwe
HIFA	Harare International Festival of the Arts
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
IEEA	Indigenisation Economic Empowerment Act
IMC	Inter-Ministerial Committee on Human Rights and International Humanitarian Law
NPRC	National Peace and Reconciliation Commission
OUA	Organisation of African Unity
PDA	Prevention of Discrimination Act
PSMAS	Premier Services Medical Aid Society
RoZ	Republic of Zimbabwe
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
USD	United States of America Dollars
WFP	World Food Programme
ZGC	Zimbabwe Gender Commission
ZHRC	Zimbabwe Human Rights Commission
ZIMDEF	Zimbabwe Manpower Development Fund

Part one

Introduction

1. The Republic of Zimbabwe (RoZ) is pleased to present its 5th–11th Combined Periodic Report (‘the Report’) under the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD). Zimbabwe submitted its last report on 26 October 1998. This Report will address the concerns raised by the Committee in its concluding observations and it will also provide an update on implementation of ICERD in Zimbabwe to date.
2. Building on previous efforts by the GoZ and its partners, this Report will outline the constitutional, legislative, administrative, judicial and other measures adopted to implement ICERD.
3. During the reporting period, RoZ adopted the Constitution of Zimbabwe, 2013 (‘the Constitution’).¹ The Constitution provides for an expanded bill of rights including provisions prohibiting discrimination on various grounds including race.² Zimbabwe is currently reviewing all laws that infringe on the right to equality and non-discrimination.
4. Thus Zimbabwe remains committed to the protection and promotion of fundamental rights and freedoms in particular the elimination of all forms of racial discrimination.

Part two

Methodology

5. This Report was produced through the efforts of the ICERD Sub-Committee of the Inter-Ministerial Committee on Human Rights and International Humanitarian Law (IMC).
6. The IMC was established in 1993 to coordinate efforts of various state institutions in programming and implementation of human rights work through promotion, protection and enforcement of the same.
7. This mechanism led to the standardisation of approaches by line Ministries and other institutions which deal with human rights related issues.
8. The IMC-HR&IH is constituted by various Sub-Committees dealing with specific rights issues including the ICERD Sub-Committee.
9. The report was drafted through a multi-stakeholder participation from inline Ministries and Organisations involved in the promotion, protection and enforcement of elimination of all forms of discrimination against racial discrimination.
10. Following consultations, the ICERD Sub-Committee packaged the information into a draft Report which was consulted upon and comments from the consultations were incorporated.

Part three

Article 1: Definition of racial discrimination

11. The definition of racial discrimination is inferred from section 56 (3) read with section 56 (4) of the Constitution. Section 56 (3) prohibits treatment of any person in an unfairly discriminatory manner on grounds including race. The treatment of persons in a discriminatory manner for the purposes of sub-section 3 is when such persons are subjected

¹ The Constitution entered into force on 22 May 2013.

² Section 56 (3) of the Constitution.

directly or indirectly to a condition, restriction or disability to which other people are not subjected or when other people are accorded directly or indirectly a privilege or advantage which they are not accorded. The Constitution clearly states, under section 56 (3) that race is a ground upon which discrimination could be based.

12. Furthermore, section 3 (2) (i) (i) of the Constitution provides that Zimbabwe is founded on respect for values and principles which include recognition of the rights of ethnic, racial, cultural, linguistics and religious groups.

The Prevention of Discrimination Act³ gives effect to section 56 (3) and (4) of the Constitution.

13. In Zimbabwe, the scope of the term “*public life*” as prescribed by Article 1 of the ICERD, is provided for in terms of sections 2 and 3 of the Prevention of Discrimination Act. The scope encompasses access to public premises, commodities, services and facilities.

14. Zimbabwe has not entered any reservations and declarations, as well as derogations, restrictions or limitations regarding the scope or the definition of racial discrimination in domestic law relating to provisions of the ICERD.

15. In Zimbabwe there is no differential racial treatment based on citizenship or immigration. In terms of section 35 (2) of the Constitution, all citizens regardless of race are equally entitled to the rights, privileges and benefits of citizenship. Such citizenship is by birth, decent, and registration:

“With regards to revocation of citizenship, there are no racial considerations made in terms of section 39 of the Constitution which provides for revocation of citizenship. Section 41 of the Constitution provides for the establishment of a Citizenship and Immigration Board which is responsible for the granting and revoking of citizenship by registration among other functions. Government is currently reviewing the Citizenship of Zimbabwe Act⁴ and Immigration Act⁵ to give effect to the aforementioned provisions”.

16. With regards to special measures to secure the adequate advancement of groups or individuals protected by the Convention, section 56 (6) of the Constitution obliges the State to take reasonable, legislative and other measures to promote the achievement of equality and to protect or advance people or classes of people who have been disadvantaged by unfair discrimination including race in cases of genuine need.

Article 2: Duty to Condemn Racial Discrimination

17. Zimbabwe adopted various pieces of legislation and policies to eliminate racial discrimination.

Constitutional and Legislative Measures

18. Section 56 of the Constitution prohibits racial discrimination as described under paragraph 3.1 of the Report. The Constitution also provides for values and principles which promote the recognition of various groups based on ethnicity, culture and race under Section 3 (1) (d).

19. Further, Section 75 (2) of the Constitution states that every person has the right to establish and maintain at their own expense, independent educational institutions of reasonable standards, provided they do not discriminate on any ground prohibited by the Constitution and this includes race.

³ Chapter 8:16.

⁴ Chapter 4:01.

⁵ Chapter 4:02.

20. Section 72 (7) of the Constitution provides for compulsory acquisition of land for the resettlement of people to correct the previous imbalances where the majority of Zimbabweans had no access to land for agricultural purposes.

The following pieces of legislation give effect to the Convention.

Prevention of Discrimination Act

21. The Prevention of Discrimination Act (PDA) prohibits discrimination on the grounds of race, tribe, place of origin, national or ethnic origin, political opinions, colour, creed or gender and it provides remedies for persons injured by such discrimination.

22. The PDA also amended various pieces of legislation that had potentially discriminatory clauses such as Education Act,⁶ Banking Act,⁷ Building Societies Act,⁸ Insurance Act,⁹ Estate Agents Act¹⁰ and the Unlawful Organisations Act.¹¹

23. The Act also repeals the Public Premises (Prevention of Discrimination) Act¹² and the Immovable Property (Prevention of Discrimination) Act.¹³

Criminal Law (Codification and Reform) Act¹⁴

24. Section 42 of the Criminal Law (Codification and Reform) Act (The Criminal Law Code) provides that any person who publicly makes any insulting or otherwise grossly provocative statement that causes offence to persons of a particular race, tribe, and place of origin, colour, creed or religion shall be guilty of an offence and liable to a fine or imprisonment for a period not exceeding one year. The person should have intended to cause such offence or realised there is a real risk or possibility of doing so.

Education Act

25. In order to address the Committee's concerns regarding the effect of charging fees, Government amended the Education Act in 2006 to provide for the regulation of fees charged by educational institutions.

26. To that end, it is now mandatory for every responsible authority to first apply to the Ministry of Primary and Secondary Education for approval to charge or raise any school fees or levies before effecting any increases. This has the effect of making education accessible to the majority of learners in all schools.

Indigenisation and Economic Empowerment Act¹⁵

27. This Indigenisation and Economic Empowerment Act (IEEA) provides for, among other things, support measures for the further indigenisation of the economy and the economic empowerment of indigenous Zimbabweans.

"Indigenous Zimbabwean" is defined as "any person who before 18 April 1980 was disadvantaged by unfair discrimination on the grounds of his or her race, and any descendant of such person, and includes any company, association, syndicate or partnership of which indigenous Zimbabweans form the majority of the members or hold the controlling interest".

⁶ Chapter 25:04.

⁷ Chapter 24:20.

⁸ Chapter 24:02.

⁹ Chapter 24:07.

¹⁰ Chapter 27:17.

¹¹ Chapter 11:13.

¹² Chapter 8:16.

¹³ Chapter 10:12.

¹⁴ Chapter 9:23.

¹⁵ Chapter 14:33.

Land Acquisition Act¹⁶

28. The Land Acquisition Act [LAA] provides for the acquisition of land and other immovable property compulsorily with the view to improve access to agricultural land to previously disadvantaged racial groups.

Labour Act¹⁷

29. In terms of section 5 of the Labour Act, no employer shall discriminate against any employee or prospective employee on grounds of race, tribe and other forms of discrimination.

Administrative Measures and Challenges in the Education Sector

30. Teaching and learning in Zimbabwe used to be undertaken through three main languages namely, Shona, Ndebele and English on an equal time basis in schools up to Form 2 level. Now all the 16 official languages introduced by section 6 (1) of the Constitution are taught in schools.

31. In terms of Section 4 of the Education Act, children must be admitted to schools without discrimination on the grounds of namely, their race, tribe, origin, political opinions, colour, creed or gender. Section 4 (2) (b) of the Act will add other prohibited grounds: nationality, class, custom, culture, marital status, pregnancy, social status and legitimacy.

32. The education sector is mandated by the Education Act to teach every officially recognized language and that language of institution is language of examination in Section 62 and 63 of the Act. Schools have also incorporated human rights education into the curricula from all levels through social studies syllabus. The Indigenous Languages Bill is also being aligned to Section 6 of the Constitution to allow for the teaching of all the 16 officially recognised languages in schools.

33. The Zimbabwe deliberately approved teaching of some of the 16 officially recognised languages in tertiary institutions with the Great Zimbabwe University, a state university, leading the teaching programme.

34. The Government has also approved programmes to enable teacher training colleges and other universities to train teachers in teaching some of the officially recognised languages in Zimbabwe.

35. The responsible Minister may also authorise the teaching of foreign languages to enable the country to participate fully in the global fora.

36. The school curricula are being revised so as to incorporate the teaching of the Constitution. This is a constitutional requirement in terms of section 7 (b).

37. Although educational institutions in Zimbabwe are open to people of all races, it has been noted that due to exorbitant fees few sectors of the society can afford to attend non-governmental schools.

Administrative Measures in the Land Administration Sector

38. In response to the Committee's concerns with respect to land redistribution, Government embarked on a fast track land reform programme in 2000 to ensure that the previously marginalized black majority people of Zimbabwe have access to land.

39. This ensured that the previously disadvantaged races would benefit from the land reform programme.

40. Since 2000, the land reform programme has benefited Zimbabweans as illustrated below.

¹⁶ Chapter 20:10.

¹⁷ Chapter 28:01.

Table 1
Distribution of land tenure documents processed

<i>Tenure document</i>	<i>Number of tenure documents issued</i>
99 year leases	60
Deed of Grant	34
Offer letters	2 563
A1 settlement permits	3 342
Total	5 999

41. To enhance the utility and production of agricultural land, Government adopted programmes meant to empower both small holder and commercial farmers who had no access to capital to meet the demands of the capital intensive agriculture which the previously disadvantaged races had no access to.

42. In 2016, Zimbabwe introduced the ‘Command Agriculture Programme’. Its objectives are to boost agricultural production through provision of input and machinery at the expense of Government standing at \$500 million in 2017 and over a billion dollars by 2019. The programme also extended to development and rehabilitation of irrigation infrastructure; horticulture; crop and livestock production, among others.

43. In 2020, Government and the former farmers’ representatives engaged in extensive negotiations over the global compensation figure for improvements on the land compulsorily acquired from the former farm owners. The successful negotiations culminated in the signing of the landmark US\$3.5 billion Global Compensation Deed Agreement (Agreement) on the 29th July 2020 between government and the former commercial farmers’ representatives.

44. The former commercial farmers from whom land was expropriated are equally being considered for agricultural land offer and 99-year leasehold system or tenure so that the land, now state land, could be used for purposes of boosting production.

45. Government is already engaged with involving white farmers in accessing state land for agricultural purposes based on the 99 year leases. The move is again meant to boost agricultural productions but ensuring inclusiveness of all population groups in the country.

Article 3: Prevention of Racial Segregation and Apartheid

46. As stated in the previous reports, the Zimbabwe remains committed to eradicating racial discrimination. This is evidenced by the provisions of section 56 (3) of the Constitution on the right to equality and non-discrimination and also by the enactment of various pieces of legislation which have been reported under items 4.6 to 4.15 of this Report.

Article 4: Duty to condemn All Propaganda and All Organisations which are based on ideas of superiority of one Race

Constitutional and Legislative Measures

47. Section 56 of the Constitution prohibits discrimination of any form including racial discrimination, which by inference includes propaganda and all institutions based on ideas of superiority of one race.

48. Further, section 61 (5) provides that freedom of expression and freedom of the media should not include incitement to violence or advocacy of hatred or hate speech of any kind including that which borders on race.

49. The following pieces of legislation prohibit propaganda and hate speech meant to promote racial discrimination:

Criminal Law (Codification and Reform) Act

50. Section 42 of this Act penalises any person who publicly makes any insulting or otherwise grossly provocative statement that causes offence to persons of a particular race, tribe, and place of origin, colour, creed or religion.

51. The penalty for such a contravention is a fine or imprisonment for a period not exceeding one year or both.

52. The person should have intended to cause such offence or realised there is a real risk or possibility of doing so. Accordingly, the provision makes it possible to deal with persons with clear intention to publish racially offensive statements and cases where intention is not present but statements are likely to cause offence.

Unlawful Organisations Act¹⁸

53. To address the concerns raised by the Committee relating to the non-criminalisation of organisations engaged in propaganda activities that promote and incite racial discrimination, GoZ amended section 3 of the Unlawful Organisations Act in 1998.

54. The amended section 3 of the Act now provides for the declaration of organisations as unlawful if the activities of the organisations are aimed in promoting, inciting or propagating discrimination against any person or class of persons on the grounds of race, place of origin, national or ethnic origin, colour, creed or gender of any person or class of persons.

Prevention of Discrimination Act read with the Interpretation Act

55. In terms of section 6 of the Prevention of Discrimination Act read together with section 3 of the Interpretation Act¹⁹ the definition of 'persons' includes organisations thereby addressing the Committee's concerns that the law as it stood did not criminalise inciting or propagating racial discrimination through hate speech and propaganda by organisations.

Variation of Racial Trusts Act²⁰

56. Section 2 (2) of this Act prohibits trusts from conferring benefits in a manner which discriminates between persons on account of race and colour if it confers benefits on persons of particular race or colour to the exclusion of any other race or colour.

Administrative and other measures on the duty to condemn all propaganda and all organisations, which are based on ideas of superiority and race

57. Zimbabwe established the National Peace and Reconciliation Commission (NPRC) through Section 251 of the Constitution to promote post conflict justice; healing; reconciliation; dialogue among political parties; communities, groups and organisations in order to prevent conflicts and disputes of any nature including those found on racial differences.

58. Commissioners of the NPRC were appointed in 2016 and the Commission has a fully-fledged Secretariat.

59. The NPRC constituted Peace Committees in all the districts of the country in order to undertake programmes that promote peace and cohesion among Zimbabweans of all races.

Furthermore, a National Dialogue of Political Parties was launched with the view to pursuing deliberate policies and attitudes intended to deepen a sense of cohesion, togetherness to engender a common vision that knows no race, colour, creed and all other forms of discrimination.

¹⁸ Chapter 11:13.

¹⁹ Chapter 1:01.

²⁰ Chapter 8:15.

Article 5: Duty to Prohibit and to Eliminate Racial Discrimination in All its Forms and to Guarantee the Right of Everyone to Equality before the Law

Constitutional and Legislative Measures

60. The Constitution provides for the right to equal treatment before courts, tribunals and other organs administering justice. Section 69 (1) provides that every person has the right to a fair and public trial within a reasonable time before an independent and impartial court.

61. Various pieces of legislation such as the Judicial Services Act,²¹ Supreme Court Act,²² High Court Act²³ and the Magistrate Court Act,²⁴ give effect to constitutional provisions on the independence and impartiality of courts and tribunals involved in the administration of justice.

62. Furthermore, section 52 of the Constitution provides for the right to personal security, bodily and psychological integrity including freedom from all forms of violence from public or private sources.

63. The Maintenance of Public Order Act²⁵ and the Criminal Law Codification and Reform Act give effect to constitutional provisions relating personal security.

64. Political rights are guaranteed in terms of section 67 of the Constitution, which confers to every Zimbabwean regardless of race, the right to free, fair and regular elections for any elective public office.

65. Section 67 (2) further confers rights to all citizens to form, join and participate in the activities of a political party or organisation of their choice regardless of race.

66. To give effect to constitutional provisions on political rights, the Electoral Act²⁶ provides for political rights including the right to participate in elections, to vote and to stand in elections as a candidate and a voter.

67. Chapter 4 of the Constitution provides for various freedoms outlined in Article 5 of the Convention as shown in **Table 2** below.

Table 2

Other Constitutional, Legislative and Administrative Measures taken by RoZ to Implement Article 5 of the ICERD

<i>Right in terms of Article 5 of ICERD</i>	<i>Right in terms of the Constitution of Zimbabwe</i>	<i>Statute giving Effect to the Right</i>	<i>Administrative and other measures to operationalise the right</i>
Right To Freedom of Movement, Nationality, Residence within the State of all races	Section 39 93), 66 (2) (a–c) provides that citizens have rights to move freely and reside in Zimbabwe	Citizenship Act, Immigration Act	Citizenship and Immigration Board
Right to marriage and choice of spouse	Section 78 (1,2) provides that every citizen of at least 18 Years has right to found family without compulsion	Marriage Amendment Bill which is currently being reviewed by Parliament gives effect to this right.	In 2017, the Mudzuru v Minister of Justice & Ors ²⁷ Case was heard by the Constitutional Court which ordered that any person of less than 18 years of age couldn't be married meaning that any other person of at least 18 years

²¹ Chapter 7:18.

²² Chapter 7:13.

²³ Chapter 7:06.

²⁴ Chapter 7:10.

²⁵ Chapter 11:17.

²⁶ Chapter 2:13.

²⁷ CC12/15.

<i>Right in terms of Article 5 of ICERD</i>	<i>Right in terms of the Constitution of Zimbabwe</i>	<i>Statute giving Effect to the Right</i>	<i>Administrative and other measures to operationalise the right</i>
			can found a family besides his or her race.
Right to own property individually and or in association with others and to inherit property thereof	Section 71 (2) on property rights entrenches the right to own property individually or in association with others	The Deeds Registries Act, Estates Administration Act and the Land Acquisition Act allows every citizen of Zimbabwe to have access to immovable property such as land acquired for agricultural purposes and to purchase private land and to register such property rights thereof.	The GoZ Established the Zimbabwe Land Commission to ensure accountability and transparency in land administration and to determine complaints and disputes arising from agricultural land. The Estates Administration Council is also in place to administer processes and disputes arising from estates and inheritance of property
Right to Freedom of Thought, Conscience and Religion	Section 60 (1) provides every person the right to freedom of conscience including freedom of thought, opinion, religion and belief.	Members of religious organisations are allowed to freely register as Trustees in terms of the Deeds Registries Act, As Social Welfare Organisation in terms of the Private Voluntary Organisations Act	-
Right to freedom of expression and opinion	Section 61 (1) provides that every person has the right to freedom of expression	The Access to Information and Protection of Privacy Act give effect to section 61 of the Constitution. The Media Commission Act and the Broadcasting Services Act are also relevant in operationalising Section 61	GoZ established the Zimbabwe Media Commission and the Broadcasting Services Board to ensure they undertake oversight on the implementation of the right to freedom of expression and opinion
Right to freedom of peaceful assembly and association	Section 58 of the Constitution confers every person with the right to freedom of assembly and association and vice versa.	The Public Order and Security Act is being amended to give effect Section 58 of the Constitution.	-
The right to work, to form and join trade unions	Sections 64 and 65 of the Constitution provides for fair and self-labour practices and standards and to be paid a fair and reasonable wage.	The Labour Act which is being reviewed gives effect to Section 65 of the Constitution.	Government established the Civil Service Commission to oversee the labour rights of civil servants and various Trade Specific Employment Councils to put in place mechanisms to protect the right to fair labour practices regardless of race.
The right to housing	Section 28 of the Constitution provides that the State and all institutions and agencies of government at every level must take reasonable measures to enable every person to have access to housing. Further Section 74 provides that no		

<i>Right in terms of Article 5 of ICERD</i>	<i>Right in terms of the Constitution of Zimbabwe</i>	<i>Statute giving Effect to the Right</i>	<i>Administrative and other measures to operationalise the right</i>
	person may be evicted from their home or have their home demolished without a court order		
The right to public health, medical care, social security and social services.	Sections 30 and 76 of the Constitution provides that the State must take measures to provide social security and social care; and for the right to basic health-care services, health for everyone respectively	The National Social Security Act, the Public Health Act, the Mental Health Act and the Health Services Act give effect to sections 30 and 76 of the Constitution	Government established the Premier Services Medical Aid Society (PSMAS) which is run by a board to administer health public services and the National Social Security Authority (NSSA) to deal with social security services without consideration of race.
The right to education and training.	The right to education is extended to every citizen regardless of race in terms of Section 75 of the Constitution.	The Education Act and the Manpower Planning and Development Act ²⁸ provide for equal opportunities education and Training to all citizens regardless of race.	Government established the Zimbabwe Manpower Development Fund (ZIMDEF) to capacitate polytechnic students on attachment.
The right to equal participation in cultural activities.			
The right of access to places of service.			

Protection of Relevant groups of Victims or Potential Victims of Racial Discrimination: Refugees

68. Zimbabwe is a party to the 1951 United Nations Convention Relating to the Status of Refugees and the 1969 Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refuge Problems in Africa. These have been domesticated into national law through the enactment of the Refugees Act.²⁹

69. Zimbabwe has a refugee camp in Manicaland Province called Tongogara Refugee Camp, which has been designated as the official home for refugees (encampment policy). It is in this camp that refugees' basic needs such as food, shelter, education and health services are met regardless of race.

70. Determination of refugee status is regulated by the Refugees Act and is carried out by the Zimbabwe Refugee Committee, which is comprised of relevant Government ministries as well as the United Nations High Commissioner for Refugees (UNHCR), which sits as an observer and provides technical advice to the Committee.

71. The Tongogara Refugee Camp accommodates approximately 12500 refugees.³⁰ Nearly 75% of the refugees are from the Democratic Republic of Congo (DRC) while the rest are from other countries such as Rwanda, Burundi, Uganda, Somalia, Ethiopia, Eritrea, Sudan, Cameroon, Ivory Coast, Egypt, and Syria.

72. The Zimbabwe built a primary and secondary schools in the camp, with the primary school having an enrolment of more than 800 pupils, while the secondary school has an

²⁸ Chapter 28:02.

²⁹ Chapter 4:03.

³⁰ World Food Programme, <https://insight.wfp.org/faces-of-hope-tongogara-refugee-camp-in-zimbabwe-d82bfb07ef30>.

enrolment of over 200 students. This is one of the various social services Zimbabwe provides, with the support and assistance of its national and international partners.

73. In the context of recognition of their rights under international law, refugees in certain line of trade or expertise are allowed to seek employment and work like any other non-nationals in terms of Zimbabwean laws.

Protection of Relevant groups of Victims or Potential Victims of Racial Discrimination: Non-citizens, including immigrants, refugees, asylum-seekers and stateless persons, bearing in mind general recommendation No. 30 (2004) on discrimination against non-citizens.

74. The Constitution of Zimbabwe provides for citizenship under Chapter 3. In terms of section 35 of the Constitution, citizenship is accorded to a person by birth, descent or by registration.

75. During the colonial era, migrant workers from neighbouring countries were brought into Zimbabwe as labourers on mainly farms, mines and railways. These and their descendants were treated as aliens. In an effort to correct this historical anomaly, the Citizenship of Zimbabwe Act was amended to give non-nationals (aliens) the option to adopt a citizenship of their choice through the renunciation process spelled out in section 9A of the Act.

76. Further, Section 38 provides that any person who has been married to a Zimbabwean citizen for at least five years is entitled, on application, to be registered as a Zimbabwean citizen.

77. Citizenship by registration is also granted to any person who has been continuously and lawfully resident in Zimbabwe for at least 10 years and who has satisfied other conditions prescribed by an Act of Parliament.

78. Section 36 (2) of the Constitution lays the foundation for citizenship by birth. It states that a person born outside of Zimbabwe is a citizen by birth if when they were born to both or one of the parents who was a Zimbabwean citizen.

79. The courts have had to deal with the matter of dual citizenship on numerous occasions. Under the provisions of the previous constitution and the Citizenship Act, one could not hold dual citizenship and was required to renounce citizenship of a foreign country in order to retain the Zimbabwean Citizenship. That was acknowledged in cases such as *Sebastian Piroro v Registrar General*³¹ and *Roland Whitehead v Registrar General*.³²

80. However, inspired by the 2013 Constitution, the Constitutional Court in the case of *Mawere v Registrar General*³³ determined that dual citizenship is permissible in terms of the Constitution. This was also later to be confirmed by the *Madzimbamuto v Registrar General*.³⁴

81. Thus, the Citizenship Act and other relevant laws are currently being revised to bring them into conformity with the Constitution.

82. The National Census carried out in 2012 revealed that almost all of the population in Zimbabwe was of African ethnic origin. A negligible percent accounted for persons of European, Asiatic and Mixed origin. It was also observed that majority of the population in the country was made up of Zimbabweans. About 35 and 34 percent of the non-Zimbabweans were Mozambicans and Malawians respectively. The above statistics demonstrate that in Zimbabwe, racial discrimination based on whether one is/was non-citizen, immigrant, refugee, asylum-seeker and stateless not a common phenomenon persons.

83. The 2019 Labour Force and Child Labour Survey revealed that there were around 1 721 806 migrants of whom 30 468 were labour migrants. The largest numbers of migrants were those from neighbouring countries. Mozambique contributed 56.9% of labour migrants

³¹ HH 128/11.

³² HH 349/12.

³³ CCZ 30/13.

³⁴ (CCZ 114/13) [2014] ZWCC 5 (04 June 2014).

followed by and Zambia with 15.9%. A majority of the labour migrants cited arranged job as the main reason for their movement into Zimbabwe. The overall Employment to Population Ratio (EPR) for the labour migrants was 30.4%.

Birth registration

84. The obligation to register children born outside Zimbabwe lies with parents in terms of section 13 of the Births and Deaths Registration Act.³⁵

85. Where the parents are not available to do so, the Act provides a list of responsible people who can inform/notify the Registrar of the birth for registration purposes.

86. Where an order has been made under any law for the adoption of a child born outside of Zimbabwe, the Registrar-General shall, on the application of the adopter and on production of relevant documentation, cause the birth of the child to be recorded in his register and in the register of births of the district in which the order of adoption was made regardless of due process.

87. Zimbabwe does not deny foreign nationals entry into the country on account of race provided they meet the entry conditions and requirements prescribed by law in terms of section 29 of the Immigration Act. That law places emphasis on the production of any of the following documents: visitor's entry certificate, work permits, study permits or an exemption by the Minister of Home Affairs.

Gender-related Dimensions of Racial Discrimination

88. GoZ established the Zimbabwe Gender Commission in terms of Part 4 of Chapter 12 of the Constitution of Zimbabwe.

89. The ZGC is mandated to monitor issues concerning gender equality to ensure gender equality as provided in the Constitution and to investigate possible violations of rights relating to gender including racial discrimination based on gender.

Article 6: Obligation of State Parties to assure everyone within their jurisdiction effective protection and remedies against any acts of racial discrimination.

Constitutional and Legislative Measures

90. Zimbabwe has a well-established judicial and quasi-judicial legal system for the provision of effective remedies following acts of racial discrimination. Some remedies are penal in nature while others are civil.

91. As mentioned above, the primary provision on prohibition of racial discrimination as a principle is section 56 of the Constitution, which provides for the right to equality and non-discrimination. Section 56 (3) provides for an open list of grounds upon which a person should not be discriminated against. Race is one of them.

92. To enforce this constitutional principal through penal law, section 42 of the Criminal Code penalises with a fine or imprisonment or both where,

“a person makes any insulting or otherwise grossly provocative statement that causes offence to persons of a particular race, tribe, place of origin, colour, creed or religion, intending to cause such offence or realising there is a real risk or possibility of doing so, shall be guilty of causing offence to persons of a particular race, tribe, place of origin, colour, creed or religion as the case may be...’.

93. Acts of racial discrimination may also be enforced through the civil justice process where a person against whom the act has been done may approach a court of law and allege that their right to equality or non-discrimination in terms of section 56 of the Constitution has been violated.

³⁵ Chapter 5:02.

94. Such a victim of discrimination is given competence to approach courts by section 85 of the Constitution that allows them to appear in their own interest; or someone acting on behalf of another who cannot appear on their own behalf; or appearing in public interest; or on behalf of a class of persons affected by the discrimination; or an association acting on behalf of its members. It provides that:

“Section 85 (1) of the Constitution provides that Any person is entitled to approach a court, alleging that a fundamental right or freedom enshrined in the Constitution is being or is likely to be infringed, and the Court may grant appropriate relief including a declaration of rights and an award of compensation.”

95. The courts with such jurisdiction to deal with violations of right to equality and non-discrimination range from lower courts that are available throughout the country including in rural areas. These courts are known as Magistrates’ Courts.

96. A victim of discrimination may also approach the High Court, which is also decentralised to provincial capital cities for ease of access by persons with such complaints. Yet still the victim could approach the Constitutional Court with the same complaint subject to fulfilling certain procedural requirements.

97. The Rules of these Courts have been simplified to facilitate access to courts with minimal procedural requirements and in many cases without the need of a lawyer for those who cannot afford them.

98. Upon making a finding that someone has been racially discriminated against, section 85 of the Constitution empowers courts to grant ‘appropriate relief’ including payment of fair compensation and or restitution. In other words, the courts are empowered to give any relief they deem to be effective in addressing the plight of the victim as well as other persons in a similar position.

Administrative and Other Measures

99. The law also provides for administrative arrangements and or quasi-judicial institutions for redressing complaints of racial discrimination. In Part 3 of Chapter 12, the Constitution establishes an independent commission known as the Zimbabwe Human Rights Commission (ZHRC). This is a premier organisation in terms of promotion and protection of human rights in Zimbabwe. Its functions range from mere promotion of human rights and freedoms to investigating cases of violation of fundamental rights and freedoms. The ZHRC is fairly known throughout the country and reachable through social media and other platforms for ease communication.

100. Upon making a finding that there has been racial discrimination, the ZHRC is empowered by section 243 (1) (g) of the Constitution to secure appropriate relief, including recommending for the prosecution of offenders.

101. Government has also established the Inter-Ministerial Committee on Human Rights and International Humanitarian Law (IMC) with a secretariat that coordinates activities of the committee. The IMC continues to carry out its mandate to disseminate information on human rights issues that includes elimination of all forms of racial discrimination.

102. To ensure that citizens have information concerning their rights in general and issues of racial discrimination in particular, Government is currently designing an interactive website through which the IMC expects to interact with the public through information dissemination and receive feedback. Individuals will also have access to International Conventions, State Party Reports as well as comments and recommendations (concluding observations) from Treaty Bodies.

103. Zimbabwe recognizes days internationally set aside to commemorate human rights, including those marked on the United Nations calendar. Commemorations are usually marked by various activities such as dramas, public processions and poetry performed as part of awareness campaigns. State and non-state actors and members of the public attend such gatherings.

104. It must be noted, that these efforts to disseminate human rights information have and are being hampered by a lack of sufficient resources. However, as Government is committed

to the protection and promotion of human rights, it has created an enabling environment that has seen the Inter-Governmental Organisations, Civil Society Organisations (CSOs) and other development partners playing an active role in activism and advocacy work on human rights issues.

105. In order to disseminate human rights information, the IMC participates in national exhibitions such as the agricultural show held annually.

106. In 2014 Government commissioned an Information, Media Panel of Inquiry to look into the whole information and media sector with the view that the recommendations would inform government in crafting the national media policy, which in turn should address issues of polarisation and other unacceptable practices within the sector.

107. Government through the responsible ministry embarked on a re-engagement exercise with the whole media industry, particularly the practitioners in a bid to create an environment of cooperation between the Government and the media sector, both the public and the private.

Article 7: Duty to Adopt Immediate and Effective Measures to Combat Prejudices which Lead to Racial Discrimination

Education and Teaching

108. Information relevant to this subtitle has been adequately captured under Article 2 of this report, including the incorporation of human rights principles in “career subjects continues as previously reported; and the syllabi of all law enforcement agencies include human rights. In addition, Government in partnership with development partners hold human rights capacity programmes for law enforcement agencies.

Culture

109. Section 63 of the Constitution states that every person has the right to use the language of their choice; and to participate in the cultural life of their choice; but no person exercising these rights may do so in a way that is inconsistent with the Constitution.

110. Section 16 of the Constitution further mandates the State and all institutions and agencies of Government at every level must promote and preserve cultural values and practices, which enhance the dignity, well-being and equality of Zimbabweans.

111. To promote awareness of the cultural heritage ethnic, religious or linguistic minorities and of indigenous communities the Government established culture centres in, districts and villages where major cultural events are promoted and national heritage is stored and exhibited.

112. Zimbabwe strives to create an enabling environment for the participation and enjoyment of cultural life for all Zimbabweans from all occupations. In 2004, the Government developed a National Culture Policy whose main objective is to promote cultural expression of different ethnic linguistic and religious groups among others.

113. A National Arts Council was established in terms of the National Arts Council of Zimbabwe Act.³⁶ The National Arts Council is mandated to foster, develop and improve the knowledge, understanding and practice of the arts in Zimbabwe by encouraging the teaching and practice of the arts and their presentation, performance, execution, and exhibition to the public.

114. The Council is also mandated to advise and cooperate with the Government, local authorities, registered arts organisations, or any other societies, organisations, associations, groups or other bodies or individuals in any matter concerned directly or indirectly with the arts and the teaching or practice thereof.

115. The Harare International Festival of the Arts (HIFA) is a 6-day annual festival and workshop programme that displays local, regional and international arts and culture in a comprehensive festival programme of theatre, dance, music, circus, street-performance,

³⁶ Chapter 25:07.

fashion, spoken word and visual arts. HIFA has become an important symbol of something positive about Zimbabwe, unifying socially and culturally disparate groups of Zimbabweans.

116. Since its inception in 1999, the festival has received recognition for its support of arts and culture in Zimbabwe and a major contributor to development in this area. HIFA is now the largest cultural event in Zimbabwe and among the eight major festivals in Africa.

117. Founded in 1989, CHIPAWO is an arts education trust that is all about sharing. Children of all backgrounds and (dis)abilities from age 4 and school children of all ages learn to sing, dance, play music, act, make videos, and work together, communicate, develop confidence and life skills, build through criticism. The programme involves up to 70 centres all over Zimbabwe and includes the urban and rural disadvantaged children as well as disabled children and an innovative infant's programme.

118. The Harare International Carnival is a weeklong annual festival that encompasses a series of events and festivities. It is aimed at advancing the arts, culture and heritage of Zimbabwe as well as uniting the populace. It is all about celebrating diversity, getting communities together, getting to know one another, in love and harmony that builds our country into a peaceful and promising place for everyone.

Concluding Observations

119. Zimbabwe has taken great strides in eliminating all forms of racial discrimination as evidenced by the raft of measures contained in this report. Racial discrimination can never be condoned and as a country, we stand fully committed to taking all means at our disposal to not only adhere to the Convention on the elimination of All Forms of Racial Discrimination, but indeed to all Conventions which we are a party to.

120. In its concluding observations to Zimbabwe's previous report, the Committee noted that there were limitations placed on the Ombudsman to investigating the actions of public officials in fields relating to racial discrimination. The Office of the Ombudsman has since been disbanded to pave way for the Zimbabwe Human Rights Commission.
