



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined fifth to eleventh periodic reports of Zimbabwe*

1. The Committee considered the combined fifth to eleventh periodic reports of Zimbabwe,¹ submitted in one document, at its 2907th and 2908th meetings,² held on 17 and 18 August 2022. At its 2921st meeting, held on 26 August 2022, it adopted the present concluding observations.

A. Introduction

2. While welcoming the submission of the combined fifth to eleventh periodic reports of the State party, the Committee regrets that they were submitted with a delay of more than 21 years and requests that the State party adhere to the regular reporting cycle in the future. The Committee welcomes the constructive dialogue with the State party's high-level delegation and thanks the delegation for the information provided during the consideration of the report and after the dialogue.

B. Positive aspects

3. The Committee welcomes the accession by the State party to the following international human rights instruments:

- (a) Convention on the Rights of Persons with Disabilities, in 2013;
- (b) Optional Protocol to the Convention on the Rights of Persons with Disabilities, in 2013;
- (c) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2013;
- (d) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2012.

4. The Committee also welcomes the following legislative and institutional measures taken by the State party:

- (a) Adoption of the new Constitution, in 2013, which contains a commendable Bill of Rights and many progressive provisions that respond to concerns raised in the Committee's previous concluding observations;
- (b) Development of the National Referral Mechanism for Vulnerable Migrants, in 2019;

* Adopted by the Committee at its 107th session (8–30 August 2022).

¹ CERD/C/ZWE/5-11.

² See CERD/C/SR.2907 and CERD/C/SR.2908.



- (c) Adoption of the Trafficking in Persons Act, in 2014.

C. Concerns and recommendations

Statistics

5. While taking note of the State party's reluctance to collect information on the basis of ethnicity, the Committee is concerned that the lack of comprehensive statistics on the demographic composition of the State party's population, including on ethnolinguistic groups, indigenous peoples and non-nationals, impedes both an accurate assessment of racial equality in the State party and the elaboration of effective policies against racial discrimination in line with articles 1 and 2 of the Convention (arts. 1–2).

6. **The Committee recommends that the State party collect comprehensive statistical information on the demographic composition of its population, including on ethnolinguistic groups, indigenous peoples, migrants, refugees, asylum-seekers, stateless persons and persons at risk of statelessness, together with socioeconomic indicators, disaggregated by ethnolinguistic identity, gender, region of origin and languages spoken, and provide such information to the Committee.**

Anti-discrimination legislation

7. The Committee is concerned that the anti-discrimination legislation in the State party does not encompass indirect discrimination and does not establish liability for acts of racial discrimination in all areas of public life. The Committee is also concerned that the definitions of racial discrimination in the Constitution and the Prevention of Discrimination Act do not contain the grounds of descent in line with article 1 of the Convention (arts. 1–2).

8. **The Committee recommends that the State party adopt comprehensive anti-discrimination legislation, encompassing and defining both direct and indirect discrimination, in full conformity with article 1 of the Convention. The Committee also recommends that the State party ensure that the definition of racial discrimination in its Constitution includes discrimination on the grounds of descent.**

Convention in the domestic legal order

9. The Committee regrets the lack of information on which laws currently infringe on the right to non-discrimination as provided in the Convention and on cases in which the Convention has been invoked before or applied directly by domestic courts (art. 2).

10. **The Committee recommends that the State party take urgent measures to bring all legislation into conformity with the Convention and to ensure that members of the legislature, judges, magistrates, lawyers and other relevant officials are trained on the provisions of the Convention, so that the Convention may be invoked before or applied by domestic courts.**

National human rights institution

11. The Committee is concerned that the Human Rights Commission is not fully independent, in particular because prior government approval is required for it to receive donor funding, it is required to submit its reports to parliament through the Executive and it lacks a clear, transparent and participatory selection process (art. 2).

12. **The Committee recommends that the State party ensure the independence of the Human Rights Commission, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), by formalizing and applying a clear, transparent and participatory selection and appointment process for all members of the Commission, by providing the Commission with the explicit power to submit its reports directly to Parliament and by guaranteeing that the Commission can receive donor funding without prior government approval.**

Racist hate crimes and hate speech

13. The Committee is concerned that section 42 (2) of the Criminal Law (Codification and Reform) Act places conditions on the prohibition of racist statements, namely, that the offender should have intended to cause offence, or realized that there was a real risk or possibility of doing so, and that the impugned offences should also have been committed publicly. Recalling its previous concluding observations,³ the Committee is concerned that section 6 (1) of the Prevention of Discrimination Act also places a condition on the prohibition of racist statements and thereby weakens the text. The Committee is also concerned that racist motives do not constitute an aggravating circumstance for criminal acts (art. 4).

14. In the light of its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party introduce and enforce legislative provisions that expressly criminalize racist hate speech and hate crimes and ensure that those provisions are not subject to limitations or conditions that are not in line with article 4 of the Convention. The Committee also recommends that the State party recognize racist motives as an aggravating circumstance for all acts criminalized under the Criminal Law (Codification and Reform) Act.

Civil society organizations

15. The Committee is concerned that the private voluntary organizations amendment bill, which is currently before the legislature of the State party, would further affect the ability of human rights defenders and civil society organizations to pursue their activities independently and would increase their risk of facing reprisals, intimidation or interference (art. 5).

16. The Committee recommends that the State party put into place specific measures, including legislative measures, to ensure that human rights defenders and civil society organizations, including those working on issues related to racial discrimination, are able to carry out their work effectively and without fear of reprisal.

Atrocities perpetrated by government forces in the 1980s

17. While noting that a general amnesty was granted to the perpetrators of the atrocities in the 1980s, which consisted of the killing of around 20,000 mostly Ndebele-speaking persons and other acts of violence in North and South Matabeleland and Midlands Provinces by government forces, and that traditional leaders have been tasked with solving a number of related and unresolved practical matters, the Committee is concerned by reports that the atrocities remain a source of ethnic tension and that healing and closure for the victims is far from realized. The Committee is also concerned by reports that many victims remain traumatized and that State agents hinder them and their relatives from engaging in mourning and commemorative activities. The Committee is further concerned that the National Peace and Reconciliation Commission is not fulfilling its constitutionally mandated responsibility to provide a platform for public truth-telling about the events of that period (art. 5).

18. The Committee recommends that the State party:

(a) Carry out effective measures aimed at achieving reconciliation and healing for victims of the atrocities perpetrated by government forces in the 1980s, with victims consulted and participating in decisions on such activities, and provide rehabilitative treatment and support to all victims who need it;

(b) Ensure that mourning and commemorative activities for victims can be conducted without restrictions or threats and investigate reports that State agents have hindered such activities;

(c) Ensure that the National Peace and Reconciliation Commission performs its responsibilities, as set out in section 252 of the Constitution, inter alia, with regard to providing a platform for post-conflict public truth-telling;

³ CERD/C/304/Add.92, para. 10.

(d) **Ensure that victims who wish to pursue claims in court have access to effective legal remedies, all claims are investigated independently on the basis of well-documented factual records of the events and just compensation is paid.**

Political representation of ethnolinguistic minority groups

19. While welcoming the efforts of the State party to achieve regional and gender balance in political decision-making bodies, such as Parliament, the Committee is concerned that the lack of statistical data on ethnolinguistic groups when considering equitable representation in political life may have resulted in the marginalization of, and discrimination against, minority groups (art. 5).

20. **The Committee recommends that the State party take measures to ensure fair and equitable representation of all ethnolinguistic groups in political life and decision-making bodies at all levels, including in government, Parliament, the civil service and at the regional level. In addition, the Committee recommends that the Government ensure that civil servants are prepared to render services in the languages of those they serve in each region of the country.**

Economic development

21. The Committee is concerned by reports that the lack of representation of Ndebele-speakers in positions of power in the government has contributed to decades of marginalization with respect to social and economic development assistance in regions traditionally associated with Ndebele-speakers (art. 5).

22. **While the State party failed to provide the requested data that could refute such reports, the Committee recommends that the State party take steps to ensure the equal distribution of social and economic development projects in all regions, create clear documentation of efforts taken and make that data public.**

Land reform

23. While welcoming the information that over 360,000 Zimbabwean families have benefitted from the land reform programme carried out in the State party, the Committee is concerned that, due to the lack of statistical data, disaggregated by race and ethnolinguistic group, it remains difficult to assess whether the programme has been carried out in a non-discriminatory and fair manner. The Committee is also concerned by the possible disadvantages faced by indigenous and “coloured” (“mixed race”) persons with regard to land distribution (art. 5).

24. **The Committee recommends that the State party review its laws and policies pertaining to land reform and redistribution and ensure the non-discriminatory nature of those laws and policies and that their implementation is inclusive of all groups and persons. It also recommends that the State party collect disaggregated data, including on race, ethnolinguistic group and gender, regarding the beneficiaries of its land reform policies and provide that information in its next periodic report.**

Indigenous peoples

25. While noting the assistance provided to minority groups by the State party, the Committee is concerned by reports that indigenous communities are nonetheless affected by high levels of poverty and a lack of access to social services. The Committee is also concerned by reports that the livelihoods of indigenous peoples and the traditional lifestyle of their communities are under threat due to hunting bans and seizures of lands traditionally used by them. The Committee is further concerned by the lack of information on measures to preserve indigenous languages that are at risk of extinction and by discriminatory stereotypes that exist of certain indigenous communities. The Committee regrets that, despite the State party’s formal endorsement of the United Nations Declaration on the Rights of Indigenous Peoples, it has not yet recognized the status and the rights of indigenous peoples on its territory and is not a party to the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour Organization (ILO) (art. 5).

26. **In the light of its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee recommends that the State party:**

(a) **Intensify measures to reduce poverty and enhance access to social services for indigenous peoples;**

(b) **Recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories without their free, prior and informed consent, take steps to return those lands and territories;**

(c) **Urgently identify indigenous languages that are at risk of extinction and devise and implement measures to preserve them and take steps to counter negative stereotypes of indigenous peoples;**

(d) **Affirm in its legislation the status and the rights of indigenous peoples on its territory, in line with the United Nations Declaration on the Rights of Indigenous Peoples, and ratify the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).**

Education

27. While noting that all 16 official languages of the State party are taught in schools, the Committee is concerned by reports that children from some minority communities cannot receive an education in their language, in practice. The Committee is also concerned about the lack of information on how the issues of racial discrimination and ethnic diversity are taught in schools (art. 5).

28. **The Committee recommends that the State party take measures to ensure access to education in any of the 16 official languages, in practice. The Committee also recommends that the State party take measures to ensure that all school curricula include the promotion of tolerance, respect for diversity and understanding among different groups living in the territory of the State party.**

Discrimination in the private sector

29. The Committee is concerned by the lack of information on beneficiaries of the Indigenization and Economic Empowerment Act and on persons in private sector leadership positions, disaggregated by race and ethnolinguistic group (art. 5).

30. **The Committee recommends that the State party collect and make available statistical information, disaggregated by race and ethnolinguistic group, on persons who have benefitted from the Indigenization and Economic Empowerment Act and on persons in leadership positions in the private sector.**

Domestic workers and the informal sector

31. The Committee is concerned that legislation to protect labour rights and prevent discrimination does not explicitly cover the informal sector and domestic work, both sectors in which black women predominate and face low wages, poor working conditions and racist, dehumanizing treatment from employers and customers of different racial or ethnolinguistic identities, which is reminiscent of the pre-independence era (art. 5).

32. **The Committee recommends that the State party:**

(a) **Amend its legislation prohibiting discrimination and its labour laws to explicitly cover the informal sector and domestic work;**

(b) **Take measures to address discrimination on the intersecting grounds of race, class and gender in all areas of employment, including by raising awareness among domestic workers of their labour rights and by providing them with mechanisms to claim these rights through collective organizing;**

(c) **Explicitly include domestic workers in its minimum wage regulations at a level that guarantees a liveable wage equal to other workers;**

(d) **Ratify the ILO Domestic Workers Convention, 2011 (No. 189).**

Discrimination in foreign companies operating in the State party

33. The Committee is concerned about reports that Zimbabwean workers employed in foreign companies operating in the State party, in particular some Chinese-owned companies, experience a range of violations that manifest racially discriminatory attitudes, including physical abuse and being provided substandard and inferior housing and meals compared with those provided to their foreign coworkers. The Committee is also concerned by reports of lack of effective steps taken by the State party to investigate all such allegations (art. 5).

34. The Committee recommends that the State party ensure that all its labour laws and laws that prohibit discrimination are fully applied to all foreign companies operating in its territory, including Chinese-owned companies, that it promptly and effectively investigate any allegations of racial discrimination or other violations based on racially discriminatory attitudes in relation to foreign companies and, where applicable, punish perpetrators as provided by law. The Committee also recommends that the State party effectively implement the provisions of the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

Migrants

35. In the light of its previous concluding observations,⁴ the Committee regrets the lack of information on the situation of refugees, migrants and other non-nationals residing in the State party. The Committee is concerned by reports that:

(a) Foreign nationals are targeted in the course of evictions and slum clearances and that migrant farm workers face particular obstacles to enjoying economic and social rights;

(b) Undocumented migrant women and girls face discrimination based on race, gender and immigration status, including sexual violence and harassment by government authorities in detention facilities and other locations;

(c) Undocumented migrants, including minors, are placed in detention facilities with convicted criminals, often for prolonged periods of time and in poor living conditions (art. 5).

36. The Committee recommends that the State party collect and publish information documenting the violations of the fundamental rights of refugees, migrants and other non-nationals residing in Zimbabwe. The Committee also recommends that the State party:

(a) **Ensure that all migrant workers, regardless of their status, have access to minimum standards with regard to economic, social and cultural rights, including housing;**

(b) **Take measures to prevent and punish discrimination faced by undocumented migrant women and girls;**

(c) **Take measures to develop alternatives to the detention of undocumented migrants, in particular children, and ensure that living conditions in places of detention are in accordance with international standards.**

Citizenship

37. Noting that descendants of migrants from States of the Southern African Development Community born in the State party qualify for Zimbabwean citizenship by birth under article 43 (2) (a) of the Constitution and that mobile teams have been dispatched to support their registration, the Committee is concerned by reports that many such people remain at risk of statelessness. While also noting that the legislation in the State party must be interpreted in the light of the Constitution, the Committee is nonetheless concerned that the Citizenship of Zimbabwe Act and the Immigration Act have not yet been aligned with the rights on citizenship guaranteed under the Constitution (art. 5).

⁴ Ibid., para. 12.

38. **The Committee recommends that the State party intensify its efforts to raise awareness among persons who qualify for citizenship by birth under article 43 (2) (a) of the Constitution about their rights and to support them in the process of obtaining citizenship. The Committee also recommends that the State party ensure that the provisions in the Constitution that provide for protection against statelessness are fully and expeditiously incorporated into legislation, including the Citizenship of Zimbabwe Act and the Immigration Act.**

Lack of identity documents

39. The Committee is concerned by reports that, despite the simplified registration process introduced by the State party, survivors and descendants of victims of the atrocities perpetrated by government forces in the 1980s are often unable to apply for birth certificates and national identity documents because they cannot produce the birth certificates or other identity documents of their deceased parents. The Committee is also concerned by reports that members of ethnolinguistic minority groups face particular difficulties in obtaining civil registration documents, due to high illiteracy and poverty levels, language barriers, lack of awareness of the importance of registration and a high rate of home births among such groups, as well as the long distances and costs of travel to the general offices of the Department of the Registrar. The Committee is further concerned that persons without identification documents are prevented from realizing their rights under article 5 of the Convention, including with respect to access to education, maternal and other health care and the government coronavirus disease (COVID-19) vaccination programme (art. 5).

40. **The Committee recommends that the State party intensify efforts to ensure that victims of the atrocities perpetrated by government forces in the 1980s, and their descendants, can obtain birth certificates and identity documents through a simplified process. The Committee also recommends that the State party develop and implement measures to facilitate access to civil registration documents, including birth registration, for persons belonging to minority groups in the State party, including by expanding mobile birth registration in remote areas, raising awareness among such groups about the importance of registration and ensuring that all provisions related to the issuance of such documents are performed in a non-discriminatory manner. The Committee further recommends that the State party develop and implement policies that ensure that persons without identity documents can enjoy their basic rights under article 5 of the Convention, including with respect to education, maternal and other health care and employment.**

Refugees

41. The Committee is concerned that the State party forcibly removed refugees from the Democratic Republic of the Congo in 2021. The Committee is also concerned that refugees are denied the right to work, that they are not permitted to leave the Tongogara refugee camp unless authorized by an officer of the camp in writing and that they cannot become citizens of Zimbabwe. The Committee is further concerned by the practice of the State party to deport refugees and asylum-seekers when they are convicted of a crime (art. 5).

42. **The Committee recommends that the State party ensure the full respect of the principle of non-refoulement in law and in practice and that it ensure judicial appeal procedures for all refugees and asylum-seekers. The Committee also recommends that the State party develop and effectively implement a long-term strategy that provides a durable solution for the local integration of refugees, especially with regard to employment, freedom of movement within the State party and the possibility of obtaining Zimbabwean citizenship. The Committee asks that the State party ensure that deportations of refugees and asylum-seekers on the grounds of the commission of a crime are only carried out in the case of a conviction for grave crimes, in a procedure that guarantees due process, and that no deportations are carried out when the refugee or asylum-seeker faces the risk of grave rights violations, in accordance with the international legal protections of refugees.**

Access to justice

43. The Committee is concerned about the lack of information on complaints or cases involving racial discrimination, hate crimes or hate speech in the State party, on the number of such cases that have been prosecuted, on decisions rendered by domestic courts or other bodies with regard to such complaints and cases and on any convictions or penalties imposed. The Committee is concerned by reports that “vagrancy laws” are being used to justify racial profiling by police and that at times enforcement of COVID-19 regulations has given rise to police abuse (art. 6).

44. **In the light of its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system and general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials, the Committee reminds the State party that the absence or low number of complaints and legal actions relating to racial discrimination, hate crimes or hate speech may reveal poor awareness of the legal remedies available, a lack of trust in the judicial system, a fear of reprisal or a lack of will on the part of the authorities to prosecute the perpetrators of such acts. The Committee recommends that the State party:**

(a) **Facilitate the system for filing complaints on racial discrimination, hate crimes and hate speech and ensure its accessibility and availability to victims;**

(b) **Continue to undertake public education campaigns on the rights enshrined in the Convention, including in remote communities, on how they can be invoked before the courts and on remedies available;**

(c) **Take robust steps, including special measures, to recruit Zimbabweans from all ethnolinguistic groups and regions to ensure equitable representation in the police force and at all levels of the judiciary;**

(d) **Conduct training programmes for law enforcement officials, prosecutors, judges and other public officials on the identification and registration of incidents of racial discrimination, hate crimes and hate speech;**

(e) **Take effective disciplinary measures against police officers who engage in racial profiling and other unjustified policing activities;**

(f) **Ensure that free legal aid is widely available for victims of racial discrimination, hate speech and hate crimes;**

(g) **Collect statistical data on complaints of racial discrimination, hate crimes and hate speech, as well as on investigations, prosecutions, convictions and the sanctions imposed, and on the reparations provided to victims, disaggregated by age, gender and ethnolinguistic group;**

(h) **Establish an independent complaint mechanism to ensure the accountability of the police and security forces.**

D. Other recommendations

Ratification of other treaties

45. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, the ILO Domestic Workers Convention, 2011 (No. 189), and the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). The Committee encourages the State party to accede the Convention on the Reduction of Statelessness.**

Declaration under article 14 of the Convention

46. The Committee welcomes the fact that the State party has accepted the amendment to article 8 of the Convention and encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

Follow-up to the Durban Declaration and Programme of Action

47. In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

48. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies in collaboration with organizations and peoples of African descent. The Committee requests that the State party include in its next report precise information on specific measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

49. The Committee recommends that the State party establish and implement a practice of regular consultations with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Dissemination of information

50. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including municipalities, and publicized on the website of the Ministry of Foreign Affairs in the official and other commonly used languages, as appropriate.

Follow-up to the present concluding observations

51. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 12 (national human rights institution) and 40 (lack of identity documents) above.

Paragraphs of particular importance

52. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 18 (atrocities perpetrated by government forces in the 1980s), 24 (land reform), 32 (domestic workers and the

informal sector) and 44 (access to justice) above and requests the State party to provide detailed information in its next periodic report on specific measures taken to implement those recommendations.

Preparation of the next periodic report

53. The Committee recommends that the State party submit its combined twelfth and thirteenth periodic reports, as a single document, by 12 June 2026, taking into account the reporting guidelines adopted by the Committee at its seventy-first session⁵ and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

⁵ CERD/C/2007/1.