



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

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## Committee on the Elimination of Racial Discrimination 107th session

### Summary record of the 2908th meeting

Held at the Palais Wilson, Geneva, on Thursday, 18 August 2022, at 10 a.m.

*Chair:* Ms. Shepherd

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*Combined fifth to eleventh periodic reports of Zimbabwe (continued)*

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*The meeting was called to order at 10 a.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** *(continued)*

*Combined fifth to eleventh periodic reports of Zimbabwe (CERD/C/ZWE/5-11; CERD/C/ZWE/Q/5-11)*

1. *At the invitation of the Chair, the delegation of Zimbabwe joined the meeting.*
2. **Ms. McDougall** (Country Rapporteur) said that the Committee was concerned at reports that most black women in Zimbabwe were trapped in informal jobs or domestic work where wages were low and working conditions poor, with no social security, health care or compensation for work-related injuries, diseases or deaths. The Committee would appreciate statistics, disaggregated by racial or ethnic identity or region of origin, on the percentage of female workers engaged in domestic and informal work, and information on any measures taken to prepare black women for formal employment. She would be interested to know whether labour laws applied to the informal and domestic sectors and what the State party had done to address racial discrimination against female workers in those sectors, including any sanctions taken against public- and private-sector employers who were found to have committed acts of discrimination. Information and statistics on labour-market discrimination faced by black Zimbabweans and ethnic minorities, including the number and nature of complaints, investigations and their outcomes, and the compensation awarded to victims, would be welcome. She would be grateful if the delegation could comment on allegations that rural women were trafficked to urban areas and forced to work in domestic service and explain in which regions such trafficking was most prevalent and whether it had an ethnic dimension.
3. The Committee had received reports that Chinese companies and personnel operating in the State party had physically abused and racially discriminated against Zimbabwean employees, for example, by giving them inferior housing and meals to those received by Chinese co-workers. She wished to know how many such complaints had been submitted to the authorities, what steps had been taken to investigate them, and what had been done to put an end to such treatment.
4. The Committee had also seen reports that the police used vagrancy laws as a pretext for profiling and that regulations for preventing the spread of coronavirus disease (COVID-19) had given rise to police abuses. She would be grateful for information on measures taken to prevent actions by the police or security forces that violated the rights of minorities or indigenous persons under the Convention, including racial or ethnic profiling.
5. The Committee welcomed the information that victims of discrimination could bring their complaints directly to the Magistrates' Courts and the High Court and that the rules of those courts had been simplified to facilitate access and minimize procedural requirements. She would be interested to know whether victims of racial discrimination, hate speech and hate crimes enjoyed the right to free legal assistance and, if so, how such victims had requested assistance. The Committee would appreciate details regarding the number and nature of complaints of racial discrimination filed with the police and brought before the Magistrates' Courts, the High Court and the Constitutional Court, and their outcomes. Noting that section 85 of the Constitution empowered courts to grant "appropriate relief" to victims, including payment of fair compensation and/or restitution, she asked how often such relief had been provided in racial discrimination cases.
6. The Committee would appreciate information on measures taken to publicly disseminate information, throughout all regions, and especially among ethnic minorities and among lawyers, magistrates and law enforcement officers, on the prohibition of racial discrimination and the available remedies for victims. It would also be interesting to know what proportion of members of the judiciary and the police force came from regions where minority languages predominated, and whether those bodies had any programmes to recruit such persons. She wondered whether law enforcement officers attended training programmes to improve their response to racial discrimination, hate speech and hate crimes and whether any progress had been made in establishing an independent complaints mechanism to ensure their accountability.

7. The Committee was concerned that the Zimbabwe Human Rights Commission did not enjoy full independence, as it was required to submit its reports to Parliament through the Ministry of Justice, Legal and Parliamentary Affairs and to obtain government approval in order to receive donor funding. She would welcome an explanation of the rationale for those requirements and an indication of whether the State party planned to bring the Commission into conformity with the Paris Principles. The delegation might also provide information on the Commission's financial and human resources; efforts to ensure that it was accessible throughout Zimbabwe; and its activities in the area of racial discrimination. The Committee would also like to learn how the Interministerial Committee on Human Rights and International Humanitarian Law disseminated information on the elimination of all forms of racial discrimination.

8. **Mr. Yeung Sik Yuen** (Country Task Force) said that he would be interested to know from which year the figure of 12,500 refugees in Tongogara refugee camp dated. The Committee had been informed that, although the Parliamentary Portfolio Committee on Public Service, Labour and Social Welfare had stated in 2018 that Zimbabwe had adjusted its refugee policy, requiring refugees to be "self-sustainable", and allowing them to enjoy freedom of movement and the right to engage in economic activities, no person admitted as a refugee was permitted to leave an area designated for refugees' residence unless authorized to do so in writing. He wished to know whether the Parliamentary Portfolio Committee had the authority to change government policy and whether Parliament had passed the corresponding legislation. He would be grateful if the delegation could comment on reports that Zimbabwe had recently carried out forced returns of refugees in violation of the principle of non-refoulement. He asked how many refugees had submitted applications for Zimbabwean citizenship.

9. According to the periodic report, citizenship by registration was granted to any person who had been continuously and lawfully resident in Zimbabwe for at least 10 years and who had satisfied other conditions prescribed by an Act of Parliament. In that regard, he wished to know whether the word "continuously" was strictly interpreted, meaning that permanent residents who travelled to a neighbouring country for a few days during the qualifying period would be ineligible for citizenship, what conditions applicants had to satisfy "under an Act of Parliament" and how many such Acts were in force. Noting that, in 2013, the Constitutional Court had determined in the case of *Mawere v. Registrar General* that dual nationality was permissible, he asked whether the State party had revised the laws that were inconsistent with that decision. He would be grateful for clarification of the employment-to-population ratio for labour migrants, quoted in the periodic report as 30.4 per cent.

10. The Committee had received allegations that undocumented migrants, including minors, were held in detention facilities with convicted criminals, often for prolonged periods and in poor material conditions; that female migrants faced sexual violence, sexual harassment and physical, psychological and emotional abuse, including from government authorities and in detention facilities; that migrant farm workers faced discrimination and obstacles to the enjoyment of their economic and social rights; and that migrants were frequently targeted under eviction and slum clearance policies. He would therefore be interested to know what steps the Government was taking to ensure that migrants could enjoy their basic rights.

11. It was reported that there were some 300,000 people in Zimbabwe at risk of statelessness, many of whom had been born there to parents from neighbouring countries who had moved to work in Zimbabwe before independence. Efforts had been made to offer such persons Zimbabwean citizenship, on the condition that they renounced their original citizenship in accordance with section 9A of the Citizenship of Zimbabwe Act. However, most of them did not hold Zimbabwean civil status documents or identity papers, let alone those of their parents; and many would be unaware that, under article 43 (2) (a) of the Constitution, all persons born in Zimbabwe were Zimbabwean citizens by birth if one or both of their parents were citizens of member States of the Southern African Development Community. Descendants of people killed in the Gukurahundi conflict of the 1980s were also at risk of statelessness, as they did not have identity papers or the birth certificates of their deceased parents. He wished to know how persons without identity documents could be duly recognized as citizens of Zimbabwe by birth in accordance with the Constitution, for instance

whether a sworn affidavit would be considered sufficient proof of a person's status for the purpose of obtaining citizenship, or if there was an alternative system that allowed applicants to prove their birth in Zimbabwe and their parents' country of origin. Had the Government made any effort to raise awareness among persons at risk of statelessness that they might qualify for Zimbabwean citizenship by birth under article 43 (2) (a) of the Constitution, and that the fee for regularizing their citizenship was the equivalent of less than US\$ 1?

12. Although the Constitution guaranteed the right of citizens to birth certificates, identity documents, passports and other travel documents, several barriers to birth registration perpetuated the risk of statelessness for many children. For example, it had been reported that children born out of wedlock and children whose parents had separated or migrated were barred from birth registration, and that officials of the Registrar General's Department discriminated against and refused to register the children of foreign parents. He wished to know what steps the State party had taken to ensure that the constitutional protections against statelessness were reflected in legislation and regulations and implemented in practice.

13. Considering the particular difficulties faced by minority groups in obtaining documents – owing to their high illiteracy and poverty levels, language barriers, the cost of travelling to registry offices, a lack of understanding of the importance of registration and the high rate of home births – it would be useful to know if the Government had adopted any measures, such as mobile registration campaigns, to facilitate their access to birth certificates and other documents.

14. In the light of reports that stateless persons without birth certificates and national identity documents faced challenges in accessing education and health care and had been excluded from the Government's COVID-19 vaccination programme, he asked what measures had been taken to remove obstacles to their enjoyment of the rights to health and education. He wondered if other groups, such as asylum-seekers, refugees and migrants, also faced barriers in access to health care, and what was being done to remove them. Lastly, he requested the delegation to provide an update on any progress made towards fulfilling the commitments made by the State party during the high-level segment on statelessness of the Office of the United Nations High Commissioner for Refugees in October 2019.

15. **Mr. Diaby** said that he would welcome comments on claims by civil society organizations that the bill to amend the Private Voluntary Organizations Act due to be adopted in August 2022 contained repressive provisions that would restrict their operations. The Committee would also be interested to know to what extent civil society been consulted in and had contributed to the drafting of the report.

16. It would be interesting to learn whether and where police officers received any training in respect of the Convention. He would appreciate information concerning the measures taken to align the Citizenship Act with article 43 of the Constitution, thus ensuring that the descendants of nationals of neighbouring countries received Zimbabwean citizenship. He welcomed the State party's succession to the 1954 Convention relating to the Status of Stateless Persons and wished to know whether it might also accede to the 1961 Convention on the Reduction of Statelessness. Lastly, he wondered whether Zimbabwe had developed and implemented a national action plan in the framework of the Global Action Plan to End Statelessness 2014–2024.

17. **Ms. Tlaluka** said that she would be interested to hear what action had been taken in the case of a Chinese company that had allegedly violated the rights of its employees. Reports indicated that the Deputy Minister of Public Service, Labour and Social Development had visited the company's premises and declared that it had been treating its employees in an inhumane and degrading manner.

18. The Committee would welcome an update on progress made to amend the Citizenship Act and other laws since the 2014 Constitutional Court ruling that dual citizenship was permissible under the Constitution and whether the Government had set a deadline for the changes.

19. **Ms. McDougall** said that she would like to know whether the State party took any measures to educate black domestic workers about their labour rights, including the right to form their own organization. It would be useful to know whether any legislative measures

were being taken to introduce provisions protecting the rights of informal workers and, more generally, what action the Government intended to take to improve the position of black women in the economy.

20. **Ms. Esseneme** said that the Committee had been informed that the minimum wage for domestic workers was lower than the national minimum wage; she would appreciate an explanation of that discrepancy and wondered whether there were any plans to introduce a uniform minimum wage applying to all workers. In the light of allegations that domestic workers were being forced to convert to the religion of their employers, she also wished to know whether the Government would consider carrying out a comprehensive review of its legislation in order to guarantee all fundamental human rights, including the right to freedom of religion, for domestic workers.

21. **Mr. Amir** asked whether diplomatic missions and private employers paid taxes for the services carried out for them by domestic workers.

*The meeting was suspended at 10.50 a.m. and resumed at 11.20 a.m.*

22. **Mr. Ziyambi** (Zimbabwe) said that, as a result of difficulties caused by the economic sanctions that had been imposed on his country since 2001, many formally registered companies had closed and Zimbabweans had started to depend to a large extent on the services of informal companies. That was one of the reasons why the number of people in informal employment in his country was so high.

23. The Government did not collect any data by ethnic origin of the country's population, but by geographic area. Nor did his country have a national minimum wage; rather, the Government set separate minimum wages for each of the country's main industries and employment sectors.

24. He was not aware of any young women being trafficked from rural areas to be domestic workers in cities, nor of any allegations of racial discrimination against black employees. He questioned the reliability of the quotes attributed to the Deputy Minister of Public Service, Labour and Social Development, as he was not aware of them. Such stories often emerged as a result of the dissemination of misinformation on social media.

25. **A representative of Zimbabwe** said that the delegation would be happy to share with the Committee the results of the Labour Force Survey for the first quarter of 2022; they were disaggregated by geographic region and by gender but not by ethnic origin. It should be noted that domestic workers mainly fell under the category of informal sector employees. In Zimbabwe, the informal sector was defined as the section of the labour market made up of employers that, for whatever reason, were not formally registered companies.

26. Legal standards pertaining to working conditions for domestic workers, including minimum requirements for working hours and pay, had been established by a tripartite commission composed of representatives from the Government, businesses and trade unions. The Ministry of Public Service, Labour and Social Development had also published guidelines for domestic workers who were considering leaving Zimbabwe to work in other countries. The guidelines, which were aimed at protecting such people from the dangers they might face as migrant domestic workers, had been translated into several of the official languages of Zimbabwe. They therefore also served as a useful tool for members of ethnic groups who wished to leave their community to find domestic work in other parts of the country. With regard to dispute resolution, domestic workers could report any violations of their rights to labour officers, who operated in all the provinces and most of the districts of the country.

27. **Mr. Ziyambi** (Zimbabwe) said that law enforcement officers in Zimbabwe treated all people equally, regardless of their ethnic origin, and did not engage in the practice of racial profiling. With respect to access to justice, disadvantaged persons were entitled to receive free legal aid from the Legal Aid Directorate; there had been few such requests in relation to cases of racial discrimination. Furthermore, there had been no cases where relief had been provided under section 85 of the Constitution in cases concerning racial discrimination.

28. The Government organized advocacy meetings for members of the public around the country to raise awareness about the Constitution and the rights and remedies available to

them. Special funds were allocated to ensure that such meetings were held in even the most isolated and disadvantaged communities. There were also labour officers operating in each province who offered advice and information to the public on how to lodge a complaint if they experienced racial discrimination.

29. The police recruitment process was designed to guarantee an even distribution of officers from each of the country's provinces and districts, without regard to ethnic origin, language or tribe. All new recruits received training on human rights and the Constitution. A new bill on the establishment of an independent complaints mechanism to ensure the accountability of the security forces had been adopted by Parliament and would soon be submitted for presidential approval.

30. With respect to the protection of human rights defenders, the laws of Zimbabwe were of a general nature and applied to all citizens. Similarly, the rights conferred on individuals under chapter 4 of the Constitution applied to everyone on an equal basis. He therefore failed to see the logic of enacting legislation that only served to protect a certain section of the population, be that human rights defenders or any other group.

31. Non-governmental organizations and other sectors of civil society had been consulted in the drafting of the periodic report. It might be noted that the activities of such organizations should remain within the limits of their mandates. If they considered it necessary to challenge any government decision, they could do so through the national courts.

32. **A representative of Zimbabwe** said that all citizens, including those belonging to minority groups, enjoyed access to justice, assisted, where appropriate, by the Legal Aid Directorate. The small claims court allowed simple cases to be handled by magistrates. In areas without easy access to the courts, magistrates travelled to conduct hearings and consider civil claims in circuit courts. All centres that conducted court hearings made use of interpreters who worked with local languages. Statistics on the work of the courts and the Legal Aid Directorate were not disaggregated by ethnicity.

33. **A representative of Zimbabwe** said that, while all allegations pertaining to issues relevant to the Convention should be brought to the Government's attention, it was considered dangerous to separate out any particular race or nationality. There were many employers of Indian, European or Chinese origin in the country and complaints against them were not restricted to a single nationality; any major investment was liable to lead to disputes with the local community.

34. **Mr. Ziyambi** (Zimbabwe) said that the Zimbabwe Human Rights Commission was an independent organization that submitted its reports to Parliament through the conduit of the Ministry of Justice, which could not edit them. The Commission was invited to participate in parliamentary debates as appropriate. The Commissioners were selected by Parliament and a shortlist of candidates was transmitted to the President. The Commission received funding from the State budget, but there was a general lack of funds due to the imposition of sanctions on the country. It would not be appropriate, however, for such an institution to accept funds from donors outside the country without appropriate checks.

35. Refugees were not permitted to engage in paid employment. Any refugee who violated the law in any way, such as by attacking the police, was effectively a criminal and would be deported on that basis. Travel outside of the country for a holiday or a work assignment would not be considered an interruption of the 10-year period of permanent residency for the purposes of granting citizenship.

36. Under the 2013 Constitution, all persons from the area of the Southern African Development Community (SADC) were eligible for citizenship by registration; thus there were not 300,000 persons at risk of statelessness in the country. Registration required only the submission of their old identity document in order to obtain a new identity document that clarified their status as citizens and voters. Mobile teams had been dispatched to support that process. Neither the persons from the SADC area who had entered the country prior to independence as migrant workers, nor their families, suffered from discrimination and they were not at risk of statelessness.

37. Other categories of persons who wished to acquire citizenship had to meet specific requirements, such as length of residency, and the relevant legislation was being amended to

that end. The prevailing philosophy in interpreting the law was to ensure that it gave effect to the provisions of the Constitution, in particular its chapter 4. There were no known cases in which a person had been denied Zimbabwean nationality, including where a person held another nationality but could prove Zimbabwean descent. Most refugees from Mozambique did not want to become Zimbabwean citizens, preferring to remain citizens of Mozambique.

38. No person was denied a birth certificate. Indeed, since 2021, the requirements for obtaining a birth certificate had been suspended in the areas affected by the Gukurahundi disturbances in the 1980s, so that any person who could be identified by community leaders could obtain a birth certificate and identity documents. Persons who could not be so identified could not obtain a birth certificate in that manner, for security reasons. The number of registered voters in those areas had increased thanks to that initiative.

39. **A representative of Zimbabwe** said that the figure of 12,500 refugees in Tongogara refugee camp related to the date of drafting of the periodic report. The exact number fluctuated as new refugees arrived in the camp and others moved on; there were currently around 15,000. There was only one refugee camp and refugees were not able to move elsewhere in the country due to the encampment policy, which was permitted under the 1951 Convention relating to the Status of Refugees. The possibility of allowing refugees to take up paid employment was under consideration, with a view to reducing their reliance on State funds and allowing those with qualifications in fields such as law or medicine to exercise their skills. That discussion was ongoing, including through the Parliamentary Portfolio Committee on Justice, Legal and Parliamentary Affairs, which was not able to change government policy. Refugees could not obtain Zimbabwean nationality; the durable solutions available to them included repatriation to their country of origin and resettlement in a third country of their choice. Refugees were initially granted a stay of three months, with the possibility of an extension for three more months, to allow them to make a decision on the appropriate course of action.

40. In 2021, a number of persons, some of them refugees, had set fire to the police station next to Tongogara refugee camp. The refugees involved had been returned because they had not fulfilled their obligation to respect the laws of their host State and had engaged in criminal activity.

41. **Mr. Ziyambi** (Zimbabwe) said that it was the custom for a visitor to someone's home to join in with any prayers that were taking place. Domestic workers were not forced to follow their employer's religion and a worker's comfort with the religious practices of a household should be checked prior to employment. It should not pose a problem if domestic workers who did not follow their employer's faith asked to sit outside while prayers or other practices were performed. The employment of domestic workers was ultimately a private matter and so it would be expected that any agreement on opting out of religious practices should be reached with the family concerned.

42. **Ms. McDougall** said that she would welcome the data relating to the State party's regions as a reasonable proxy for data relating to its ethnic groups. She would also appreciate information on the minimum wage in all sectors of the economy. It might be noted that employers generally had an unfair advantage in negotiating agreements in poor countries, where persons looking for employment as domestic workers were in need of an income and so would agree to any conditions.

43. She would welcome the results of the Labour Force Survey and information on the complaints of discrimination in employment submitted in all parts of the State party. She wished to know whether the reports of racial discrimination by Chinese companies operating in the State party were true. It would also be interesting to know how the courts had handled cases of racial discrimination.

44. She wondered whether the Zimbabwe Human Rights Commission would be able to comply with the Paris Principles and why, in a departure from the usual practice of the national human rights institutions of States parties, the members of the Commission had not submitted a report to or appeared before the Committee. The Committee generally received a large amount of helpful information from human rights defenders, and their ability to collect and transmit that information, often in person, was indicative of the freedoms they enjoyed in the countries where they were active.

45. **Mr. Vega Luna** said that human rights defenders in many countries, including on his own continent of Latin America, faced great risks. He urged the State party to follow the example of some countries, such as Mexico, which had adopted laws specifically to protect human rights defenders. Based on his own experience as Ombudsman in Peru, he was of the view that Governments should not assess the persons or institutions from which national human rights institutions received the financial resources or international aid that would enable them to fulfil their mandate.

46. **Mr. Yeung Sik Yuen** said that he would welcome confirmation that a brief absence from the State party would not cause a foreign national who wished to become a naturalized citizen of Zimbabwe to fall foul of the constitutional provision on length of continuous residency. He urged the State party to bring the Citizenship Act and other laws into line with the Constitutional Court ruling on dual citizenship. If necessary, the delegation might provide written responses to his earlier questions on the situation of migrants in the State party.

47. **Mr. Rayess** said that he found the tone of some of the head of the delegation's reactions, including his questioning of the veracity or the source of information in the Committee's possession, somewhat regrettable. Turning to the substance of the delegation's statements, he said that it might keep in mind that, while all persons were equal before the law, some – judges, for example, or a Head of State or Government – needed special protection. Affording such persons special protection did not put them above the law. In recent years, civil society organizations in some countries had been granted legal personality, enabling them to sue. The State party might consider following that path, not least because such organizations, in the same way as judges or Heads of State, often needed special protection.

48. **Mr. Ziyambi** (Zimbabwe) said that the result of the Labour Force Survey and information on discrimination-related court cases would be provided in writing. He wished to know where the Committee had heard that the Deputy Minister of Public Service, Labour and Social Development had visited the premises of the Chinese company mentioned, and found that its black employees were being treated in an inhumane and degrading manner, as he was not aware of such a finding.

49. Allowing an institution such as the Zimbabwe Human Rights Commission to turn anywhere for financial resources, without any oversight, would be dangerous. Without supervision or regulation, an independent national human rights institution could be tempted to turn to its host country's enemies for funding. Consideration could be given, however, to adopting laws to protect certain categories of person. Brief absences from the country would not affect a non-national's hopes of becoming a citizen of Zimbabwe.

50. **Mr. Payandeh** said that the Committee was interested not in the country of origin of the companies whose workers had allegedly been subjected to degrading treatment amounting to racial discrimination, but in the incidents that had prompted the allegations and the steps taken by the State party in response. The Deputy Minister's findings, for the rest, were not the Committee's sole source of information on racial discrimination in the workplace.

51. Refugees were, of course, obliged to respect the laws of the countries they lived in. However, the automatic deportation of any refugee who had committed a crime, regardless of how serious the crime or the risks that might be faced in the country to which the refugee was deported, was problematic. He would like to know how many such refugees had been deported and what role domestic and international human rights standards had played in the deportation decisions.

52. **Ms. Tlakula**, noting that a member of the delegation had said that complaints had been lodged against a number of companies, said that she wished to know what those complaints had involved. She also wished to know whether the Government would consider allowing the Zimbabwe Human Rights Commission to report to the Parliamentary Portfolio Committee.

53. **Mr. Diaby** said that a law on the protection of human rights defenders would not favour certain people; such a law was impersonal and its adoption could ensure that protection was afforded to all.

54. He asked what steps would be taken to bring the State party's citizenship laws into line with the Constitution and how many stateless persons were estimated to reside in the State party. What plans had the Government made to combat statelessness in Zimbabwe?

55. **Ms. McDougall**, thanking the delegation of the State party for entering into the dialogue with the Committee, said that the Committee had welcomed the State party's appearance before it after an absence of some 20 years. It was looking forward to receiving additional information in writing within the following 48 hours.

56. **Mr. Ziyambi** (Zimbabwe), noting that the Government of Zimbabwe was committed to playing its part to fight racial discrimination, said that his delegation had taken note of the constructive suggestions made during the interactive dialogue. The Government was ready to continue cooperating with the Committee and other stakeholders to act on the recommendations made by the Committee in its concluding observations.

*The meeting rose at 1 p.m.*