



FIRST SESSION – NINTH PARLIAMENT

FIRST REPORT

OF THE THEMATIC COMMITTEE ON HUMAN RIGHTS

ON

ZIMBABWE HUMAN RIGHTS ANNUAL REPORT

PRESENTED TO PARLIAMENT JANUARY 2019

S.C. 1, 2019

1.0 Introduction

The Zimbabwe Human Rights Commission is established in terms of section 242 of the Constitution. Its functions include promoting awareness and respect for human rights and freedoms at all levels of society; promoting the protection, development and attainment of human rights and freedoms; monitoring, assessing and ensuring observance of human rights and freedoms; and receiving and considering complaints from the public and taking action with regard to the complaints it receives.

Pursuant to section 8 (1) and (3) of the Zimbabwe Human Rights Commission Act, which provides that;

*(1) The Commission shall no later than sixty days after the end of each financial year **submit to the Minister an annual report on its operations and activities** during the preceding financial year...(3)The Minister shall table before Parliament any report submitted to him or her by the Commission under subsections (1) and (2), no later than the thirtieth sitting day of whichever House of Parliament sits first after he or she has received such report.*

The Minister of Justice, Legal and Parliamentary Affairs tabled the annual report of the Commission in the National Assembly in November 2018 and the Speaker subsequently referred the report to the Thematic Committee on Human Rights. Therefore, the Committee on Human Rights resolved to consider the annual report in accordance with section 245 (1) (c) which stipulates that Independent Commissions “are **accountable** to Parliament for the efficient performance of their functions”

2.0 Objectives of the consideration of the Annual Report

The broad objective of the consideration of the annual report was to enable Committee Members to fully examine the performance of the Commission’s mandate. In more specific terms, the Committee sought to;-

- i. Understand the operations of the Zimbabwe Human Rights Commission with a view to assessing its effectiveness in the discharge of its functions; and
- ii. Appreciate the challenges and achievements of the Commission and make recommendations to the Executive aimed at the protection, promotion and enforcement of Human Rights and fundamental freedoms.

3.0 Methodology

The Committee acquainted itself with the contents of the annual report of the Human Rights Commission to get an understanding of the mandate and operations of the Commission. The Committee analysed the report to assess compliance of the Commission with the legal and constitutional provisions in terms of reporting and efficiency.

4.0 Committee's Findings

4.1 Compliance with the Constitution of Zimbabwe

The Committee noted that, in 2017, the Commission through its Education Promotion and Research Unit has derogated from section 243 (1) (i) which states that; “The Zimbabwe Human Rights Commission has the following functions-...to recommend to Parliament effective measures to promote human Rights and freedoms;” Recommendations to Parliament are pursued as evidenced by the adoption of one recommendation made by the Zimbabwe Human Rights Commission to Parliament relating to the resuscitation of the operations of the Special Board and the Mental Health Tribunal which make and review orders about the treatment and care of persons with mental illness.

4.2 Compliance with the Zimbabwe Human Rights Commission Act (*Chapter 10:30*)

The Committee has noted the Commission's compliance with the dictates of the act that regulates its operations. The annual report outlined that the Commission acted within the confines of the Act. The committee has also observed that the Commission complies with the following; its submissions of annual report and tabling in Parliament, it has not overstepped its jurisdiction when conducting investigations on human rights violations, it stuck to the general manner in which complaints to the Commissions were made and the manner of conducting investigations, and it had no cases of conflict of interest.

However, the Committee noted the Commission's omission regarding the submission of special reports to the Minister for presentation to the President and laying before Parliament in accordance with section 14 (4) which stipulates that;

If, within a reasonable time after a report is made in terms of subsection (1), no action is taken which, in the opinion of the Commission, is adequate and appropriate, the Commission may, if it thinks fit after considering the comments, if any, made by or on behalf of any authority or person affected, submit a special report on the case to the Minister for the Minister to present to the President and lay before Parliament.

The Committee has learned that the Immigrations Department, Zimbabwe Prisons Services and the Ministry of Home Affairs did not comply with Commission's recommendations as provided in section 14(3) of the Act to give effect to its recommendations. However, there was no special report relating to the improvements in conditions of detention in compliance with national, regional and international standards to improve the financial resources so that the detention centers function above the optimal standards of operation.

4.3 Overview of the Human Rights Situation

The Committee noted that 2017 was marred with rampant corruption in Government Ministries and departments, Parastatals, Public Entities as well as the Private Sector that crippled service delivery across the key sectors of the economy. It seriously compromised the protection and fulfilment of human rights especially of ordinary Zimbabweans. This was worsened by the Zimbabwe Republic of Zimbabwe (ZRP) that completely violated the rights of the motoring public and tourists through extortion with impunity. The ZRP's disposition towards corruption and arrogance towards the Zimbabwe Human Rights Commission impacted negatively towards destination image management.

The Committee also noted negative impact of flooding in Tsholotsho District in 2017 as a result of climate change and variability. It is the Committee's hopes that the Meteorological Services Department in collaboration with universities and development partners develop state of the art science and technology based information dissemination, flood mapping and monitoring systems.

The Committee bemoaned the poor waste management practices and service delivery in urban local authorities. The Commission's report outlined its effort to influence political and electoral reforms to ensure the levelling of the playing field for the delivery of free and fair

elections. It also advocated for the extension of the Biometric Voter Registration exercise to prisoners and people in the diaspora.

4.4 Promotion of Human Rights

The Commission received a total of 514 complaint cases but only 178 cases were in the human rights category relating to civil and political rights, property rights, right to food and water, equality and non-discrimination, children's rights, arbitrary evictions and labour rights. The small number of complaint cases is indicative of the lack of awareness of the existence and mandate of the Commission by the generality of Zimbabweans citizens.

The Committee noted a paltry 128 complaints lodged by women on human rights violation when they are more vulnerable and susceptible to abuse and violation than men. The Committee also noted the few complaints in the eight rural provinces of Zimbabwe. It welcomed the recommendation made by the Commission to decentralize to all provinces to ensure easier accessibility to its services by members of the public. The Committee noted that the Commission had 204 pending cases and that there is poor attendance to the mobile clinics conducted in 2017. The Commission reported that it had embarked on a process to install an automated case management system to improve the organisation's turn-around time when dealing with cases.

The Commission reported the absence of a clear policy position on the fate of former farm workers once the farm has been allocated to new owners. The Commission observed that compensation to the affected families had not been prioritized in violation of numerous rights as stated in the Declaration of Rights. The Commission detected that the courts, when passing judgements, do not consider all the relevant circumstances that safeguard against arbitrary evictions leaving farm workers and their families at risk.

4.5 Monitoring of Human Rights

The Commission reported that the minimum human rights standards for the prisons were not met in terms of the state of the cells and infrastructure. It also reported that the prohibited immigrants are housed in prisons because there are no detention facilities for them. This

means that they were subjected to prison conditions when they had not committed criminal offences.

The Commission observed that all children's homes had a common challenge regarding the enjoyment of the right to identity and birth registration as provided for in the Constitution of Zimbabwe. The Committee reiterates that the then Minister of Public Service, Labour and Social Welfare did not present a Ministerial statement in Parliament on proposed measures to regularize the procurement of birth certificates by children who had no known relatives.

The Commission reported that Older People's Homes relied heavily on donor funding in order to operate. As a result, it became a challenge to meet the minimum standards as provided for in International Instruments such as the United Nations Principles for Older Persons Resolution 46/91 and the Madrid International Plan of Action on Ageing. Therefore, adequate funding should be provided by the government so that the nation strives towards attaining the minimum stands provided for in international instruments.

The Committee observed the hindrance in meeting the minimum human rights standard for the asylum seekers and refugees when it came to the issue of the right to work and the freedom of movement because of the encampment policy that Zimbabwe adopted. However, it was submitted that the State is obliged to uphold obligations in the African Charter on Human and People's Rights, International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and political Rights which protect the freedom of movement, right to work, provision of social security and public relief to that group of people.

The Commission reported the distribution of food aid on political lines and the meddling of traditional leaders in political party activities as well as threats and intimidation of communities by political parties. The Commission also reported the system of recording of serial numbers on registration slips by some registrants. The Committee agreed with the Commission's recommendation to ZEC to ensure that all BVR centers cater for people with disabilities in terms of convenience.

The Commission observed that Zimbabwe has only one of the six international instruments that the State is Party to, that is, the Convention on the Rights of the Child, had up to date State Party reports. The Commission alluded to the absence of a fulltime team responsible for compiling the State Party reports.

The Commission reported that it did not take part in submission of its complimentary reports to the treaty bodies citing constraints in financial and human resources. The Committee noted the granting of the Commission of an Affiliate Status by the African Commission on Human and People's Rights in May 2017. The Committee looks forward to the Commission's fulfilment of its reporting obligation every two years.

The Committee also noted the Commission's accreditation with an "A" Status rating by the Global Alliance for National Human Rights Institutions (GANHRI). Thus, the ZHRC can participate fully in international and regional meetings, holding office and exercising voting rights on all the agenda items of GANHRIs' meetings.

4.6 Promotion of Human Rights

The Committee observed the low levels of participation by the public on the Commission's Commemorations and public awareness outreaches. The Committee noted that the Commission did not include legislators through the relevant Thematic and Portfolio Committees in its engagement meetings to promote awareness of and respect for human rights and freedoms. The Commission underestimates the influence of legislators in raising awareness and gaining public confidence and legitimacy.

The Committee noted the establishment of the eight Thematic Working Groups, in terms of the Zimbabwe Human Rights Act as read with paragraph 7 of the First Schedule to the Act, in order to take responsibility for specialised thematic issues they focus on. However, the Committee noted with concern the lack of meaningful impact of the Thematic Working Groups that is tangible. The Commission attributes this failure to the absence of a fully functional secretariat, limited funding and lack of cooperation by some members.

5.0 Recommendations

Informed by these pertinent observations, the Committee noted and agreed with all the recommendations made by the Commission to the relevant Ministries. Nevertheless, the Committee recommends the following;

5.1 The Zimbabwe Human Rights Commission must timeously recommend to Parliament effective measures to promote human Rights and freedoms.

5.2 The ZHRC's should regularly submit to Parliament special reports on cases where no action was taken relating to the authority or person affected.

5.3 The State, when effecting evictions, must ensure the evictees possess a degree of security of tenure to guarantee legal protection against forced eviction, harassment and other threats.

5.4 The ZHRC must include in its annual report any action pursued in any court of competent jurisdiction for the redress of any human rights violation.

5.5 The ZHRC's recommendations to relevant institutions and persons should have a legal force to compel entities to act on them.

5.6 The State must, as a matter of urgency, reconsider its reservations to the UN Refugee Convention so that the refugees and asylum seekers in the country can enjoy increased rights.

5.7 The ZHRC should make systematic monitoring and observation of election processes to expose and weed out such malpractices.

7.0 Conclusion

With the above submissions, Madam President of the Senate, I now commend this report for consideration by this August House.

I thank you.