



State of Transparency and Accountability Barometer (STAB)

April-June 2020

An Assessment of the Impact of Covid-19 on Access to Justice

Justice

“Government is commended for ensuring that urgent court applications were to be entertained. Notwithstanding the disruption of court businesses, various urgent matters were heard during the time.”



Prisons

“The ZPCS is commended for decongesting prisons during the period under review by reducing convicted inmates and persons on remand which are vulnerable to viral contagion as they are held in a high-risk environment.”



Police

“During the period under review, cases of arbitrary arrests, harassment and assault of citizens and journalists were reported. For example, 150 cases of victimisation by police were reported during the first 21 days of the lockdown alone.”



Gender-Based Violence

“Unfortunately, the negative impact of COVID-19 cases disrupted a noble capacity building opportunity of frontline justice sector institutions which directly work towards the mitigation of child marriages and domestic violence”

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STATE OF TRANSPARENCY AND ACCOUNTABILITY BAROMETER

COVID-19 Monitoring the National Indicative Program
Citizens' Access to Justice

April-June 2020

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Recommended Citation

National Association of Non-Governmental Organisations (2021). State of Transparency and Accountability: Covid-19 Monitoring the National Indicative Program Citizens' Access to Justice. NANGO Publications, Zimbabwe

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Produced by NANGO, Zimbabwe, October 2021

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1.0. Governance and Institution Building

1.1. Introduction

This section presents results of a **Monitoring and Evaluation (M&E)** exercise carried out by The National Association Non-Governmental Organisations (NANGO) and partners on the impact of COVID-19 on citizens' access to justice in justice sector institutions supported through the 11th European Development Fund (EDF) in the Governance and Institution Building Pillar under the National Indicative Program (NIP). The objective of the M&E is to track how justice related services such as the police, courts, legal aid, correctional, parliament, independent commissions and local authorities were affected and how such institutions responded to the effects. Programs earmarked for support under the NIP of the 11th EDF and other related projects under this pillar are monitored with the view to track progress of implementation and attainment of results.

Accordingly, this section seeks to measure the capacity and commitment of justice sector institutions in contributing to the achievement of the NIP objectives. These include the courts under the Judicial Service Commission, Legal Aid Directorate, Zimbabwe Republic Police (ZRP), National Prosecuting Authority (NPA), Zimbabwe Prison and Correctional Service (ZPCS), Parliament of Zimbabwe, Zimbabwe Gender Commission (ZGC), Zimbabwe Human Rights Commission (ZHRC), Rural District Councils (RDCs) and Urban Councils.

1.2. Monitoring and Evaluation Methods, Instruments and Guidelines

Compilation of this State of Transparency and Accountability Barometer (STAB) was guided by various methods, instruments and guidelines. Public Health Legislation enacted by government in March, April, May and June of 2020, Practice Directions issued by the Chief Justice, interviews and secondary data analysis provided most of the data and information which informs this STAB.

1.2.1. Public Health Legislation Regulations

Provisions of the Public Health (COVID-19 Prevention, Containment and Treatment) Regulations gazetted by government between March and June 2020 will also be used as the M&E instruments. The impact of the provisions of the regulations contained in various Statutory Instruments (SIs) read with the Public Health Act [Chapter 15:17] in measuring the extent of the impact of COVID-19 pandemic on access to justice shall be assessed.

1.2.2. Practice Directions issued by the Chief Justice of Zimbabwe

The Chief Justice issued a maximum of three practice directions during the time under review. Contents of the Practice Directions are a useful instrument to assess the impact of COVID-19 on access to courts of law for remedies by citizens.

¹Statutory Instrument 77 of 2020, Statutory Instrument 83 of 2020 of 2020, Statutory Instrument 83 of 2020 of 2020; Statutory Instrument 93 of 2020 of 2020; Statutory Instrument 99 of 2020; Statutory.

1.2.3. Interviews, Secondary Data Collection and Analysis

Collection of quantitative and qualitative data was also achieved through targeted interviews with leaders in the justice, law and order sector. Heads of institutions which were beneficiaries of the Zimbabwe Rule of Law Project supported by the European Union under the 11th European Development Fund were consulted to provide statistics and data which assists to measure the extent of the impact of COVID-19 on access to justice between April and June. Unfortunately, most public officials appeared to blame the pandemic for the unavailability of statistics. Thus, a triangulation of responses emanating from targeted interviews with secondary data such as reports, website information and other reportage on matters which are in the public domain was done.

1.3. Judicial Competence, Integrity and Professionalism

The M&E assessment under this section focuses on the extent to which the judicial system promoted or hindered access to justice during the period under review. COVID-19 pandemic resulted in grave disruptions to court matters. Following the promulgation of Public Health (COVID-19 Prevention, Containment and Treatment) Regulations, 2020 in Statutory Instruments No. 77 and 83 of 2020 on 23 and 28 March 2020 respectively, the judiciary through the Chief Justice issued Practice Direction I of 2020 on 29 March 2020 which directed the courts' operations for the 21 days which followed and ended on 19 April 2020.

The Practice Directions affected access to all the courts from the Constitutional Court down to the Magistrates Court. Paragraph 4 suspended the filing of new cases, all process and pleadings for the duration of the national lock down with the exception of initial remands, urgent applications and bail applications which the court might entertain. Even on urgent matters, the Practice Directions uses the word “*may*” denoting that the Court retained its discretion to assess the urgency of the matters. The *dies induciae* or time limits prescribed by various court legislation and rules were also suspended by the Practice Direction for the 21 days of National Lockdown proclaimed by Government.

Government is commended for ensuring that urgent court applications were to be entertained. Notwithstanding the disruption of court businesses, various urgent matters were heard during the time. However, ordinary cases dealing with matters which have a direct bearing on access to justice by citizens especially those bordering on criminal justice where victims or survivors of rape, gender-based violence, assaults, theft, and fraud would want to seek justice could not be heard as urgent matters.

The effect of COVID-19 pandemic on access to justice through courts and how they responded between April and June is illustrated in **Table I** below:

Instrument 110 of 2020; Statutory Instrument 134 of 2020 of 2020; Statutory Instrument 135 of 2020 of 2020; and Statutory Instrument 144 of 2020 of 2020.

Table 1: COVID-19 Impact to Court Services and Responses

<p>30 March to 19 April 2020 Practice Direction 1</p>	<p>19 April to 3 May 2020 Practice Direction 2</p>	<p>3 May to 30 June 2020 Practice Direction 3 Level 2 Lockdown</p>
<ul style="list-style-type: none"> • New cases, process and pleadings suspended for 21 days. • Only initial remands, urgent applications and bail applications might be entertained. • Time limits prescribed by court rules for filing of process or pleadings were suspended for 21 days. • Summonses and subpoenas issued were cancelled and were to be reissued after 21 days. • All pending cases were extended to 19 May 2020. 	<ul style="list-style-type: none"> • Measures under Practice Direction 1 were extended for 14 days to 3 May 2020. 	<ul style="list-style-type: none"> • All courts become operational with effect from 11 May 2020 with Court functions and duties resuming under MoHCC and WHO Guidelines. • Registries opened for litigants, legal practitioners and the public on weekdays, between 0800hrs and 1500hrs. • Filing of court documents, including process and pleadings, proceed in terms applicable rules, legislation or court orders. • Matters heard and determined expeditiously to avoid unnecessary attendances by litigants at courts. • The Sheriff to serve all other process and orders, but shall not carry out evictions, executions or conduct sales in execution for the duration of the lockdown period. • Solemnization of marriages remain suspended for the duration of lockdown period.

Cross Cutting Measures reaffirmed by Practice Direction No.3

Litigants and other court users at all times adhere to the following: -

- Be subjected to temperature checks and sanitisation of hands at entrances; These are available as one enters courtrooms.
- Wear face masks and avoid person to person contact;
- Maintain social distancing of at least one meter apart.
- Any person refraining from complying with the requirements won't be allowed to enter into the courthouse or courtroom; or is required to leave the courtroom or the courthouse.

- Entry into court rooms limited to litigants, their legal practitioners, witnesses and members of the press.
- Entry into courthouses shall not be permitted for members of the public who have no business at court.
- Litigants who are required to attend Court in a Province or District other than where they are normally resident should obtain the necessary letters of clearance at the nearest police station.

Surely, limitations on access to courts as illustrated in **Table I** above violate Section 69 of the Constitution on the right to a fair hearing for those who would have been arrested and whose matters cannot be heard on time. Further, a wide array of rights of arrested and detained persons under Section 50 and rights of accused persons under Section 70 of the Constitution are violated. This also led to the perpetuation of case backlogs which have been a cause for concern for the judiciary in the past years even before the pandemic. While the response is commended, courts are urged to do more by adopting virtual measures such as virtual courts and electronic management systems linking other justice sector players such as ZRP, NPA and ZPCS. This has the advantage of busting COVID-19 related restrictions and avoiding physical contact. The JSC can work with the Treasury and Development Partners for support in this regard.

The relaxation of lockdown rules under level 2 which led to the issuance of Practice Direction 3 and opening of all courts with effect from 11 May 2020 improved access to justice in that citizens had access to courts and could litigate all the cases as they wish. Registries opened for litigants and their legal practitioners of choice and the public during weekdays. Usual filing of court documents, including process and pleadings, proceeded in terms of applicable rules, legislation and court orders. Further, the JSC deliberately programmed its work to ensure that matters are heard and determined expeditiously to avoid unnecessary attendances by litigants at courts.

²The case of *Stringer v Minister of Health and Child Care & Anor* (HH 259-20, HC 2154/20) [2020] ZWHHC 259 (31 March 2020) is a case in point where Stringer was arguing that his rights to a health environment had been violated by the setting up of a Covid-19 Treatment center in proximity to his residence by Sakunda Holdings's renovation of the Rock Foundation Medical Centre in Arundel. The application was dismissed with costs.

³The High Court of Zimbabwe also heard the case of the Zimbabwe Association of Doctors for Human Rights (ZADHR) who sued to compel the government to provide them with personal protective equipment (PPE) and adequately equip public hospitals to combat the COVID-19 outbreak. The application was granted; Another High Court case was filed by the Media Institute of Southern Africa-Zimbabwe (Misa-Zimbabwe) and a journalist, Panashe Makufa, against the police and the Zimbabwe Media Commission over alleged harassment of journalists. A favourable judgment was handed down on April 20, 2020 by High Court judge Justice Jacob Manzungu that the police and other COVID-19 law enforcement agencies should refrain from unnecessarily arresting, detaining or interfering with the work of journalists; An urgent chamber application by Zimbabwe Lawyers for Human Rights (ZLHR) and a Karoi woman, Lucia Masvondo, against the Ministry of Home Affairs and the ZRP was also granted in favour of the applicant when Justice Happpias Zhou upheld the application ordering the State security agents, soldiers and the police to refrain from beating, harassing, assaulting and violating citizens rights when enforcing lockdown regulations. This order came in the wake of reports by the ZHRC and Zimbabwe Lawyers for Human Rights that more than 150 cases of brutality on citizens by lockdown enforcers were documented during the first 21-day lockdown period. In two of the cases, a Bulawayo man, Levison Ncube and Paul Munakopa were allegedly assaulted to death by law enforcement agencies during lockdown; In early May, the High Court in the case of *MDC Alliance v Minister of Justice, Legal and Parliamentary Affairs and the Minister of Finance and Economic Development* (HC-2199-20) successfully sought to interdict the Ministers from disbursing funds in terms of the Political Parties Finance Act to any person other than itself; In another High Court case in May of *MDC Alliance and Others v Douglas Mwonozora and Others* (HC-2308-20), the MDC Alliance and two of its members unsuccessfully sought to stop Douglas Mwonozora, Thokozani Khupe and their MDC-T party from recalling MPs representing the MDC Alliance in Parliament; and Further, the High Court heard the case of *Lillian Timveos and Anor versus Douglas Mwonozora* when the former filed an urgent chamber application seeking to interdict, bar and stopping the MDC-T from replacing their proportional representation seats with other nominees and interdicting Parliament to gazette the seats as vacant. The application was granted.

1.4. Rule of Law, Democracy and Respect for Human Rights

The monitoring assessment under this section zeroes in on the extent to which government, especially law enforcement agencies worked towards strengthening the rule of law and observing human rights. Law enforcement agencies such as the ZRP, NPA, LAD and ZPCS will be addressed. This part will also pay particular attention to both the demand and supply side of rule of law through programs supporting institutions as well as enhancing access to justice for the poor, especially women and vulnerable groups.

1.4.1. Zimbabwe Republic Police

The Zimbabwe Republic Police (ZRP) is established by Section 219 (1) (a-e) of the Constitution. Its functions include detecting, investigating and preventing crime; preserving the internal security of Zimbabwe; protecting and securing the lives and property of the people; maintaining law and order; and upholding the Constitution and enforcing the law without fear or favor. The extent to which the above functions are executed by the police during the pandemic has a bearing on how justice is accessed by the citizens. In law enforcement, good practice principles and standards of proportionality and human rights-based approaches to policing should be observed.

During the period under review, cases of arbitrary arrests, harassment and assault of citizens and journalists were reported. For example, 150 cases of victimization by police were reported during the first 21 days of the lockdown alone. The COVID-19 pandemic led to the limitation of rights and freedoms in terms of Section 86 of the Constitution through a declaration of public emergency in terms of Section 87 of the Constitution. The *SI 83 of 2020 Public Health (COVID 19 Prevention, Containment and Treatment) (National Lockdown) Order, 2020* gazetted on 28 March 2020 provides for a wide array of limitations which have a real risk of hindering access to justice by citizens if the police fail to strike a balance between the administration of justice, law and order and the rights of citizens. The restrictions summarized in **Box 1** below were imposed by SI 83 of 2020:

Box 1: COVID-19 Restrictions Imposed in terms of SI 83 of 2020

- People confined to their homes for 21 days starting from 30 March until 19 April 2020. This has been enforced up to June 2020 with various regimes of relaxations, with only one person per household who could leave the house temporarily for buying medicine, basic necessities, fuel, gas at a shop, pharmacy or outlet which is within 5 km of the area where they stay.
- People employed in essential services are allowed to leave their houses for purposes of going to work or do the business of the essential services.
- Members of staff of foreign missions and agencies allowed to go to and from the mission or agency.
- Citizens, residents or protected subjects of a foreign country allowed to go to the foreign mission of their country to obtain services or help.
- Restaurants to be closed except for those at hotels servicing residents and those providing take away services to people not covered by the lockdown as well as for those temporarily allowed to leave the lockdown.

⁴See Note 5.

⁵See also Summary of SI 83 of 2020 Public Health (COVID-19 Prevention, Containment and Treatment) (National Lockdown) Order, 2020 by the Legal Resources Foundation.

- Businesses closed except those providing essential services such as pharmacies, laboratories, banks (financial institutions), payment and money transfer services, supermarkets, fuel outlets, health care providers, transport services involved in carriage of staff for essential services, carriage of sick persons and transportation of food, basic goods, water, fuel and medical supplies.
- Manufacturing businesses where continuous processes required could continue to operate with minimum staff needed.
- All government departments to be closed unless the responsible head directs that they open.
- All educational institutions to be closed except those providing medical training or research for combating COVID-19.
- All transport services within cities prohibited except services engaged in carrying those who provide essential services as well as those who are sick.
- Transport for services within cities and outside cities provided by ZUPCO, Public Service vehicles, Police Service, Defense forces and Civil Protection Services.
- Local authorities (Rural, Urban and Metropolitan Councils) allowed to provide services for carriage of staff for essential services as well as basic goods, water and food.
- Gatherings of more than 2 people not allowed at public places except people waiting to board transport and at funerals but not to be more than 50 people at any given time, with social distancing measures to be observed.
- An offence to publish or communicate false news about any public officer, official or enforcement officer involved with enforcing or implementing the national lockdown or any private individual that has the effect of prejudicing the State's enforcement of the national lockdown.
- Any person found guilty liable to a fine up to or exceeding level 14 or imprisonment for a period not exceeding 20 years or both.
- Returning residents and citizens of Zimbabwe allowed back at the entry points or borders but should be subjected to quarantine and isolation for 21 days.
- Only vehicles for transportation of food, essential supplies and goods will be permitted to move throughout the country delivering goods.

Most of the above restrictions have remained in place save for various relaxation regimes imposed by subsequent regulations promulgated to extend and vary the provisions of SI 83 of 2020.

It is evident from the nature of restrictions shown in **Box 1** that various rights were limited. The limitation of rights affects access to civil and political entitlements, economic, social and cultural rights and even environmental rights. Freedoms of assembly and association; freedoms to demonstrate and petition; Freedom of expression and freedom of the media; Access to Information; Labor rights; freedom of movement and residence; political rights; Right to education; and many more rights were limited.

An attempt to claim one's rights during the lockdown period between April and June was and continues to be met by a vicious response by the police in many cases, which is a downside of the utility of the police to facilitate access to justice when people report to police for them to attend to crime related cases and scenes. Further, another direct impact of COVID-19 on access to police service as a justice sector player is demonstrated by a serious limitation on access by citizens to police stations.

Movement to police stations to report cases of domestic violence is a good example.

A Report compiled on 24 April 2020 by the Musasa Project reveals that there was a sharp reduction of cases reported to the police from 678 cases of domestic violence recorded from 30 March to 13 April in 2019 to 193 cases recorded same time in 2020. This trend is easily attributed to lack of access to the ZRP stations and optional approaches to reporting of such cases as a result of prohibitions on movement. For one to travel from their homes they would need a letter or proof of authorization. This reasoning is also applicable on cases such as assault, rape and other sexual offences which happen in domestic set-ups leading to a negative impact of COVID-19 on access to justice by the victims and survivors who might have wished to report such cases.

The flipside of the above view is also worth noting. A number of human rights activists, lawyers and pro-democracy opposition politicians were unwarrantedly arrested, abducted or raped during the period under review. While the police are expected to preserve the internal security of Zimbabwe and its people; protecting and securing the lives and property of the people, experiences have proved the contrary.

A series of arrests recorded between April and June is worrisome as it undermines the role of the police as facilitators of accessing justice by the citizenry. Cecilia Chimhiri, Netsai Marova, and MDC Alliance legislator Joanna Mamombe were allegedly abducted and tortured by security agents in May 2020, faced trial in hospital, detained and rearrested in June for “faking” the abductions.

Thabani Mpofu and Choice Damiso who are advocates of the superior courts of Zimbabwe; Admire and Miriam Rubaya, Tapiwa Makanza, Lawman Chimuriwo, Joshua Chirambwe who are Harare attorneys and Dumisani Dube, a Bulawayo attorney were arrested on charges of cases associated with their work in violation of Article 16 of the United Nations (UN) Basic Principles on the Role of Lawyers. Article 16 adjures governments to *ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; travel and consult with their clients freely both within their own country and abroad; not to suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.*

Police also arrested Vongai Zimudzi and Namatai Kwekweza on 19 June 2020 outside the New Government Complex in Harare while they were peacefully holding a two-persons demonstration by way of merely holding placards while seated at entrance of the Complex. They were charged for allegedly participating in a gathering with intent to cause public violence, breach of peace, bigotry as provided under Section 37 of the Criminal Law (Codification and Reform) Act [Chapter 9:23].

⁶See Note 1 for subsequent SI promulgated by Government to regulate citizens' behavior and conduct during the COVID-19 pandemic.

⁷Section 58 of the Constitution.

⁸Section 59, *ibid.*

⁹Section 61, *ibid.*

¹⁰Section 62, *ibid.*

¹¹Section 65, *ibid.*

¹²Section 66, *ibid.*

¹³Section 67, *ibid.*

¹⁴Section 75, *ibid.*

They held placards outside the government building urging government to consult more on the Constitutional Amendment No.2 Bill of 2020.

While the police are commended for enforcing lockdown rules to prohibit unnecessary movement which could cause the spread of Covid-19 by citizens, the wanton arrest of pro-democracy activists is worrisome as it affects and suppresses citizens' voices against state violations of human rights during the COVID-19 pandemic.

1.4.2. National Prosecuting Authority and Legal Aid Directorate

The National Prosecuting Authority (NPA) is established by Section 258 of the Constitution. It is one of the institutions under Chapter 13 established to combat corruption and crime. Thus, while its mandate is primarily combating crime, the NPA is responsible for instituting and undertaking criminal prosecutions on behalf of the state and discharging any functions that are necessary or incidental to such prosecution within the criminal justice system. The institution is therefore, very crucial in facilitating the administration and access to justice by members of the public.

The Legal Aid Directorate promotes access to legal representation in civil and criminal cases for people who need it and are unable to afford legal practitioners of their choice. Section 31 of the Constitution and the Legal Aid Act [7:16] provide for the provision of legal aid in Zimbabwe.

It should be noted that the nature of work for the NPA and LAD is directly affected by the three Practice Directions issued by the Chief Justice between April and June. The NPA and LAD could only appear in courts under the guidance prescribed by the Practice Directions. Accordingly, the level of these two institutions' facilitation of access to justice between April and June was diminished. The situation at LAD is worse in that only the Director and three Deputy Directors were reporting for work while the rest of officers stay at home. Insiders at LAD indicated that the Law Officers have been reporting to work only when called by the Director, thus leaving it operating at 30% capacity. During the period under review, very few files were opened leaving officers to attend to old files to update clients who were called to find out how far their cases had gone. This obviously had a risk of prejudicing the indigents whose cases had determinations pending before the Courts. Access to legal aid services is compounded by the fact that Legal Aid centers have always been few.

1.4.3. Zimbabwe Prisons and Correctional Service (ZPCS)

The Zimbabwe Prisons and Correctional Service (ZPCS) is established by Section 227 of the Constitution and the yet to be aligned Prisons Act [Chapter 7:11]. It is responsible for the protection of society from criminals through the incarceration and rehabilitation of convicted persons and others who are lawfully required to be detained, and their reintegration into society. The ZPCS is commended for decongesting prisons during the period under review by reducing convicted inmates and persons on remand which are vulnerable to viral contagion as they are held in a high-risk environment. Detention facilities are difficult to subject to social distancing and use of basic protective measures such as social distancing and hygiene rules thus exposing inmates to greater health risks. In fact, the ZPCS face difficulties in regularly supplying masks to every inmate and to supply sanitizers and institute temperature checks. As a result, 5000 inmates were pardoned at the end of March and a further 2528 inmates were freed through a Clemency Order No. 1 of 2020 (Amendment) published in the Government Gazette XCVIII, No.39, dated 30 April 2020.

While the ZPCS is commended for decongesting prisons and ensuring that the risk of spreading COVID-19 is reduced, Government should do more to ensure that those who visit prisons to see their relatives are also screened. This is especially necessary when it was reported that Zimbabwe recorded its first two cases of COVID-19 positive inmates and one prison officer in Plumtree correctional facility and two cases of COVID-19 positive inmates and one prison officer in Beit-bridge correctional facility on 19 June 2020.

1.4.4. Access to Justice by Women and Vulnerable Groups

A number of interventions and programs to ensure that women and other vulnerable groups such as children and girls, women and girls with disabilities are able to exercise their rights to access justice had been planned to be rolled out in the second quarter of 2020, that is from April to May. The interventions were to be implemented under the Justice, Law and Order Sector (JLOS) mechanism coordinated by the Ministry of Justice, Legal and Parliamentary Affairs. The JLOS has been in existence since 2012 and covers institutions in the Executive, justice sector agencies and departments such as the Judiciary and Civil Society Organizations. This mechanism has gained recognition as a platform to deliberate and coordinate justice delivery efforts through a collaborative platform that brings together relevant institutions with a mandate on justice delivery dialogue and develops joint strategies for the improvement of access to justice by the citizens.

The Ministry responsible for Justice, which coordinates the JLOS with technical and financial support from the United Nations Development Program (UNDP) through the Spotlight Initiative had planned to conduct nine provincial Justice Sector Sensitization and Train of Trainers workshop on Child Marriages. The major objective was to sensitize justice sector institutions and non-state actors to increase their capacity to respond to the scourge of child marriages and domestic violence.

Due to the impact of COVID-19, the workshops were postponed to the third quarter scheduled to take place in July. Access to justice is enhanced through periodic training of justice sector officers to capacitate them in the responsive programming with the view to avail meaningful remedies for the victims and survivors of child marriages and domestic violence. Unfortunately, the negative impact of COVID-19 cases disrupted a noble capacity building opportunity of frontline justice sector institutions which directly work towards the mitigation of child marriages and domestic violence.

1.5. Impact of COVID-19 on Parliamentary Oversight

Section 299 of the Constitution provides that Parliament of Zimbabwe must monitor and oversee expenditure by government at every level to ensure that all revenue is accounted for; all expenditure is properly incurred; and that any limits and conditions on appropriations are observed. Parliament achieves its monitoring and oversight function through the work of Parliamentary Portfolio Committees. The COVID-19 pandemic did not spare Parliament of Zimbabwe as it adjourned earlier on 18 March 2020 than scheduled due to the coronavirus scare and the tight sitting arrangement in the National Assembly which has sitting capacity of 150 legislators against the current 270. Speaker of the National Assembly, Jacob Mudenda announced that Parliament would adjourn until May 5, and would only resume depending on the prevailing conditions at the time of such resumption. On 5 May, Parliament further adjourned to 19 May 2020 meaning that close to two months of parliamentary business were wasted.

Ideally, Parliament through the Parliamentary Portfolio Committee responsible for Health and probably the Public Accounts Committee would have had time to hear Officials from the Ministry of Health and Child Care on the procurement of COVID-19 test kits and PPE. Given, the nature of Parliamentary probes which have been witnessed in recent years, such probe might have been able to whistle blow on the Drax-International scandal. The impact of COVID-19 on the business of Parliament is therefore evident in this regard.

Parliament of Zimbabwe also has a huge backlog of a convoluted legislative agenda which, if the months of April and May had been put to good use in as far as law making process and alignment of legislation is concerned, some laws which are crucial to the administration of justice could have been enacted. These include the following laws which remain outstanding:

1. The Child Justice Bill and the Marriages Bill, which seek to provide a child justice system and outlaw child marriages, respectively;
2. The Mandatory Sentencing for Rape and Sexual Abuse Bill;
3. The Public Health Act Amendment Bill;
4. Coroner's Bill, which provides for the establishment of the Coroner's Office;
5. The High Court Amendment, Constitutional Court Bills and Customary Law and Local Courts Bill;
6. The Rural District Councils Bill;
7. The Traditional Leaders Amendment Bill;
8. The Provincial and Metropolitan Councils Bill, will facilitate the devolution of governmental powers and responsibilities to Provincial and Local Authorities;
9. Bill for the establishment of a Zimbabwe Media Commission, and an Amendment Bill of the Broadcasting Services Act;
10. The Cyber Crime and Cyber Security Bill supported by the Data Protection Bill as well as the Electronic Transactions and Electronic Commercial Bill and
11. The Labor Amendment Bill.

While Parliament of Zimbabwe's role is commendable, especially the Public Accounts Committee, a lot still needs to be done to ensure the tightening of screws on how Ministries and other government agencies spend allocated funds from the Treasury. Further, Parliament of Zimbabwe needs to be commended as it launched a virtual public hearing on Constitutional Amendment No. 2 Bill of 2020. The hearings on the Constitutional Amendment Bill were originally scheduled to take place from 29 March to 3 April 2020 but were deferred together with all parliamentary activities from 18 March to 5 May 2020 due to the COVID-19 pandemic.

The Bill is however a cause for concern as there has been public outcry that public hearings on an important Constitutional Amendment Bill should not be rushed through the COVID-19 pandemic period as currently underway. The current process has the risk of violating Section 141 of the Constitution which provides that Parliament of Zimbabwe must facilitate public involvement in its legislative and other processes in the processes of its Committees, including consultations on Bills under consideration. The rationale behind the amendments have also been questioned as they all point to a reversal of the gains of the people driven constitutional dispensation of 2013. An analysis of all the 28 amendments point to need to consolidate power and entrench power retention to its advantage by the ruling party.

Failure to align laws to the Constitution has a bearing on the citizens of Zimbabwe especially the vulnerable sections of society as they will find it difficult to enforce their rights and freedoms in terms of Section 85 of the Constitution.

1.6. Independent Commissions

The work of the Zimbabwe Human Rights Commission (ZHRC) and that of the Zimbabwe Gender Commission were monitored during the period under review.

The ZHRC was also affected by the COVID-19 pandemic as its officers stopped going to work in March through April when the lockdown measures were proclaimed. The Commission however resumed working when level two of the lockdown was pronounced.

As a response to COVID-19, the ZHRC visited various districts to monitor the impact of COVID-19 and the extent to which Government responded to it to ensure a human rights-based approach in Government intervention. They also continued to educate the public through documentation of violations and compiling reports which they published on their website including proffering useful recommendations on how government can promote access to justice and other rights such as health, education, services for vulnerable groups such as children, elderly persons and persons with disabilities amongst others. The Executive Secretary for the ZHRC also appeared on various media platforms including the Mai Chisamba Show hosted by ZBC TV to educate members of the public on the need to strike a balance between their human rights and observing COVID-19 related obligations and responsibilities which boarder on administration of justice during the COVID-19 lockdown.

The Zimbabwe Gender Commission (ZGC) was also affected in that its programs which are based on interfacing with the public and visiting them in their localities to promote gender rights through civic education and investigations on gender rights violations were affected. However, the ZGC continued to influence communities for gender inclusivity through closely monitoring all developments and the unfolding gender dimensions obtaining in the context of the COVID-19 response efforts.

The Gender Commission proposed various recommendations including calling upon all Zimbabweans to adhere to the guidance provided pertaining to the national lockdown and cooperate with security actors including the need to train security actors for them to be sensitive to gender-responsive approaches to ensuring human security that transcend policing to community support. The ZGC also urged government to prioritize provision of basic needs of women, children, and persons with disabilities among other vulnerable groups in the spirit of leaving no one behind and that clear reporting mechanisms and measures be put in place to address gender based violence in the public and private spaces including GBV risk-mitigation measures in quarantine facilities while ensuring women and girl's safety in view of historical vulnerabilities.

1.7. Local Authorities

SI 83 of 2020 provides that during the national lockdown period, local authorities may be required by the Minister of Health and Child Care to set aside and make available land or premises adequate for quarantine or isolation of more than 50 people at a time, infected with or suspected of being infected by COVID-19.

Various local authorities have worked with government to set up quarantine centers and medical facilities in preparation for serious cases where COVID-19 patients may be admitted. In Harare, for example the Harare City Council identified a number of quarantine centers including Polytechnic Colleges, Schools, lodges and hotels.

The Council run hospitals such as Wilkins, and the Beatrice Infectious Diseases Hospitals were identified and equipped in partnership with development partners and donors. The City Council also partnered with private sector players such as Sakunda Holdings and Solidarity Trust of Zimbabwe to upgrade the Rock Foundation Medical Center and the St Anne's facilities respectively in preparation for any mishaps likely to be caused by the COVID-19 pandemic in future.

Local authorities are also providers of social amenities such as water, sewer, roads, housing and lighting. Thus, the local authorities worked closely with government to identify priority areas for funding from central government. Various boreholes were drilled between April and May to improve the residents' rights to water and sanitation as prescribed by Section 77 of the Constitution. However, citizens in high density areas especially in Harare and Bulawayo, continued to face adverse and erratic supply of clean and safe water, which has continued to compromise the social distancing and hygiene preventive side of COVID 19.

I.8. The Project

The access to justice component which was being implemented under the coordination role of the Ministry of Justice, Legal and Parliamentary Affairs (MoJLPA) was also affected by COVID-19. The timelines available for the formulation and implementation of the already delayed Program Estimate and remote work arrangements due to COVID-19 restrictions led to the cancellation of activities under the Support to Rule of Law and Access to Justice for All Financing Agreement.

A virtual technical meeting held between the EU Delegation and the National Authorizing Office on 7 May 2020 agreed to the de-committal of funds from the Support to Rule of Law and Access to Justice for All Financing Agreement with the view to commit the resources towards COVID -19 response. An agreement was also reached to commit the remaining unallocated funds under the NIP to the COVID 19 pandemic. This flexibility adaptability of the NIP Agreement is commendable as the country continues to experience the effects of COVID 19, and possible other natural shocks that demand a flexible approach to development.

I.9. Recommendations


A following set of recommendations grounded in human rights-based approaches are proposed for government:

1. Government should be guided by the Siracusa Principles adopted by the UN Economic and Social Council in 1984, and UN Human Rights Committee general comments on states of emergency and freedom guiding government responses that restrict human rights for reasons of public health or national emergency that such measures taken to protect the population that limit people's rights and freedoms must be lawful, necessary, and proportionate. Further, states of emergency need to be limited in duration and any curtailment of rights needs to take into consideration the disproportionate impact on specific populations or marginalized groups.

1. Government should take heed of the March 16, 2020 pronouncement by a group of United Nations Human Rights Experts that *“emergency declarations based on the COVID-19 outbreak should not be used as a basis to target particular groups, minorities, or individuals. It should not function as a cover for repressive action under the guise of protecting health... and should not be used simply to quash dissent”*
2. Government should be guided that under international human rights law, it has an obligation to protect the right to freedom of expression, including the right to seek, receive, and impart information of all kinds, regardless of frontiers. Permissible restrictions on freedom of expression for reasons of public health, noted above should not jeopardize the right itself.
3. Zimbabwe should be alive to its obligation to provide education and access to information concerning the main health problems in the community, including methods of preventing and controlling them, through a rights-based response to COVID-19 to ensure that accurate and up-to-date information about the virus, access to services, service disruptions, and other aspects of the response to the outbreak is readily available and accessible to all.
4. Government should take steps to mitigate gendered impacts and ensure that responses do not perpetuate gender inequity.
5. Governments should ensure public awareness campaigns address how victims of domestic violence can access services and should ensure that services are available to all victims of domestic violence, including those living in areas under movement restrictions or under quarantine and those infected with COVID-19.
6. Law enforcement agencies should cooperate and conduct joint training to standardize approaches and promote collaboration and engender common purpose against COVID-19.


ENDS//.



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