

HUMAN RIGHTS MONTHLY

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The Declaration of Rights (Part 1)

The Declaration of Rights, to which every person in Zimbabwe is entitled, has been reproduced from a pamphlet first published by the Legal Resources Foundation (LRF) in 1995. The Human Rights Forum expresses its appreciation to the LRF for permitting this important information to be utilised in this Human Rights Monthly. There are twelve separate and specific rights and freedoms in the Declaration of Rights of which six are described in this Human Rights Monthly. Each right is stated, and then the limitations or exceptions are listed, which put limits on the right. We will reproduce the remaining six Rights and Freedoms from the Constitution in the January Human Rights Monthly.

1 What is the Declaration of Rights?

The Declaration of Rights is often (incorrectly) called the Bill of Rights. It is provided for in Chapter 3 of the Constitution of Zimbabwe. The Constitution is the basic law of the country, which sets out how the country is governed.

The Declaration of Rights sets out the rights which every person in Zimbabwe is entitled to. The Declaration of Rights is inspired by the Universal Declaration of Human Rights as proclaimed by the United Nations in 1948. No laws may be made which take away any of those rights, unless the Declaration of Rights itself allows such laws to be made. Any laws which already exist which take away any of the rights may be declared to be invalid.

Do other countries have a Declaration of Rights?

Many countries have a declaration of rights in their constitutions. In most countries that have modern constitutions, this is the case. South Africa and Namibia have declarations of rights in their constitutions.

What rights and freedoms are included in the Declaration of Rights?

The Declaration begins with a preamble which states that people in Zimbabwe are entitled to the rights and freedoms as set out in the Declaration, but that some of them are limited to ensure that people do not harm the public interest or violate the rights of other people.

What can you do if your rights have been violated?

1. *You can take the matter to the Supreme Court to have the action declared unconstitutional.*
2. *You can sue the individual and/or the government to stop them violating your rights and to pay you damages.*

Right to life

No one may be intentionally killed

➤ *Limitations or exceptions*

A person may be killed for the following reasons.

- execution of a death sentence, after a court has convicted the person of a crime such as murder
- in self - defence, or to defend someone from violence or to protect property (but killing is allowed in these circumstances only if there is no other way to defend the person or property, and if the killing is reasonable)
- if someone tries to arrest him/her lawfully and he/she resists or tries to run away, and there is no

way of stopping him/her except by killing him/her. But the killing must be reasonable in the circumstances

- while the authorities are trying to suppress a riot or revolution or trying to disperse an illegal gathering (but only if reasonable force is used)
- in order to prevent the person from committing a criminal offence (but again, only if reasonable force is used)
- in wartime, soldiers may kill enemy soldiers

Right to liberty

No one may be deprived of his liberty

➤ *Limitations or exceptions*

A person may be deprived of his/her liberty for the following reasons (there are some others as well):

- to undergo the sentence of a court or punishment for contempt of court or contempt of Parliament
- arrest on reasonable suspicion of having committed an offence
- prevention of diseases, treatment of alcoholism, insanity, etc
- preventing unlawful entry into Zimbabwe or for deportation, extradition, etc

Remember – a person who is arrested or detained:

- must be told within a reasonable time why he/she has been arrested
- must be allowed to speak to his/her lawyer
- must be brought to court without too much delay, where he/she has been arrested or detained on suspicion of his/her having committed an offence

Right to trial within a reasonable time

➤ *Limitations or exceptions*

There are no limitations or exceptions to this right

Protection from slavery and forced labour

No one may be held in slavery or required to perform forced labour.

➤ *Limitations or exceptions*

This protection does not prevent labour as part of a sentence of imprisonment, labour for members of armed services, labour during times of public emergency, etc.

Protection from inhuman treatment

No one may be subjected to torture or inhuman or degrading punishment or treatment.

➤ *Limitations or exceptions*

The following are not considered inhuman or degrading treatment or punishment.

- moderate corporal punishment of juveniles by parents and teachers or as sentence of a court
- hanging as a method of execution
- delays in carrying out death sentences

Protection from deprivation of property

No property may be compulsorily taken unless –

- the taking is necessary;
- the law requires that the person from whom it is acquired gets fair compensation in a reasonable time; and
- the person can go to court for a decision on the amount of compensation

➤ *Limitations or exceptions*

Property may be compulsorily acquired for the following reasons, among others:

- land and other property may be acquired by the State for resettlement or other public purposes;
- appropriation during time of public emergency is allowed, subject to safeguards;
- acquisition of property is allowed, subject to limitations, for such things as:
 - payment of rates and taxes;
 - forfeiture of property for breach of a law (such as where proceeds of a crime are forfeited);
 - forfeiture under a contract (e.g. for not paying a mortgage);
 - attachment in execution of judgment in a civil case;
 - impounding stray animals;
 - prospecting (e.g. staking claims);
 - holding property for purposes of administration of deceased estates; and
 - for use as an exhibit in a criminal trial

N.B: No compensation is paid for farms and agricultural land that is taken for resettlement and similar purposes.

2 Political Human Rights Violations - September 2004

The 57 cases of displacement recorded in September are the highest this year, mostly due to the eviction of residents of Porta Farm (Mhondoro Constituency) on 2 September 2004. Member-In-Charge of Norton Police Station, Mr. Makuku, District Administrator, Mr. Mushaniga, riot police and National Youth Service youths evicted Porta Farm residents despite a High Court Order granting them temporary relief from eviction. Occupied and unoccupied houses were reportedly demolished, including one from which a sleeping infant was rescued unconscious and in need of medical attention. Porta Farm residents allege that their property was destroyed and that effects of tear smoke used during the evictions has resulted in their suffering from various ailments.

Political victimization was relatively high around the MDC's 5th anniversary celebrations. On 11 September 2004, ZANU PF supporters reportedly attacked Blessing Chebundo, MDC MP for Kwekwe and other MDC members preparing for the celebrations at Globe and Phoenix Ground in Kwekwe. In Glen view EK, SR, LC, TC, FM, DM and RM allege that they have been victimised by ZANU PF supporters since they attended the MDC 5th anniversary celebrations in Highfield.

Violation of freedom of expression and numerous arrests were recorded in connection with demonstrations against the Non-Governmental Organizations Bill (NGO Bill). The repressive NGO Bill seeks, among other measures, to ban foreign funding for local NGOs involved in issues of governance. Fifty two (52) WOZA women, marching from Bulawayo to Harare to demonstrate against the NGO Bill, were reportedly arrested near Chegutu on 28 September for organising a demonstration without notifying the police. The women were taken into custody at Kadoma and Chegutu Police Stations and detained for 3 days. They then appeared in Court but the magistrate is said to have refused to try them due to lack of evidence. Forty four (44) NCA activists were reportedly arrested on 1 September for demonstrating against the NGO Bill. They were allegedly brutally assaulted by the police and 7 of them seriously injured. The demonstrators were reportedly detained at Avondale Police Station and then released without being charged at 20:00 hours

The Forum deplors the heavy-handed manner in which the police in Zimbabwe are quashing demonstrations. The Forum further urges the police to adhere to the United Nations (UN) Code of Conduct for Law Enforcement Officials, which states, "*Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty*"¹. The use of force must be proportional "*to the legitimate objective to be achieved.*"

3 Zimbabwe Human Rights NGO Forum Member Focus:

¹ Article 3 of the UN Code of Conduct for Law Enforcement Officials

The Zimbabwe Human Rights NGO Forum is a coalition of 17 Non-Governmental Organisations in Zimbabwe working towards the elimination of organised violence in the country. The *Human Rights Monthly* carries a brief narrative on the activities of one of its members in each issue to help readers understand the activities of the coalition and the services offered by each member NGO. This month we feature *Zimbabwe Peace Project*.

Zimbabwe Peace Project (ZPP)

Background Information

The Zimbabwe Peace Project is a broad based, non- partisan, non profit organization founded in 2000 by the churches in partnership with like minded civil society organizations in Zimbabwe. It is inspired by Christian values and the desire to see Zimbabweans embrace and cherish justice, peace and respect for human dignity and freedoms, in a country that values democracy, the rule of law and the security of all persons.

Vision

To see Zimbabwe transform into a society that cherishes the pursuit and realization of justice, freedom, peace, human dignity and development for all.

Mission Statement

To heighten the nation's sense of responsibility and socio - political conscience against violence and human rights abuses through information and community - based interventions.

Objectives

The aims and objectives of the organization are to:

- ❖ Monitor and gather information on the prevalence of violence and human rights abuses in all communities in the country;
- ❖ Raise the level of legal, political and social consciousness against violence and human rights abuses;
- ❖ Promote peaceful co - existence and political tolerance through non-partisan peace building;
- ❖ Provide early warning against potential breaches of peace in order to catalyse early action or to influence policy.

How does ZPP achieve its objectives?

- ❖ Monitoring all forms of violence and human rights abuse and collecting data on conditions, practices and policies which affect the human rights, freedoms, dignity and livelihood of people, e.g. the availability or otherwise of food;
- ❖ Recording and documenting cases of conflict and human rights violations;
- ❖ Providing basic counseling services for both victims and perpetrators of violence and human rights abuses;
- ❖ Supporting community peace education programs dealing with peace, human rights, governance and democracy.

ZPP can be contacted at **43 Dan Judson Road, Milton Park, Harare**. P.O Box BE 427, Belvedere, Harare. Tel: **778311/ 011 401 340** E-Mail: zpp@africaonline.co.zw

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