



**Zimbabwe's Compliance with the International Covenant on Economic, Social and Cultural Rights
Suggested List of Issues Relating to the Death Penalty**

Submitted by The Advocates for Human Rights
a non-governmental organization in special consultative status with ECOSOC since 1996
Veritas Zimbabwe

and
The World Coalition Against the Death Penalty

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty (WCADP), an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

Veritas Zimbabwe works for the Rule of Law, Justice, and Human Rights in Zimbabwe.

EXECUTIVE SUMMARY

1. Zimbabwe fails to meet its obligations under the International Covenant on Economic, Social and Cultural Rights. In the absence of formal abolition of the death penalty, the newly adopted Criminal Law Codification and Reform Amendment Act, also known as the “Patriotic Bill,” creates an imminent risk of criminalizing human rights defenders and subjecting them to the death penalty. The lack of free and safe conditions to defend rights directly impacts the enjoyment of economic, social, and cultural rights of Zimbabweans and the fulfillment of Zimbabwe’s obligations under the Covenant.
2. Zimbabweans who are sentenced to death and have a *de facto* life sentence, and detention conditions violate their right to an adequate standard of living and their right to health. The conditions reported in Zimbabwean prisons and detention centers include lack of running water in prison cells,¹ insufficient food (overall food shortages and protein in particular being in short supply),² inadequate access to medications³ and hygiene products, and insufficient warm clothing and blankets.⁴ Detention facilities in Zimbabwe also face systemic overcrowding.

Zimbabwe fails to uphold its obligations under the International Covenant on Economic, Social and Cultural Rights

I. Zimbabwe’s Parliament recently passed Patriotic Bill threatens the defense of economic, social and cultural rights (art. 2.2)

3. Zimbabwe’s Government has taken retrogressive measures that impede the fulfillment of its obligations under the Covenant, such as passing and implementing the Criminal Law Codification and Reform Amendment Act, also known as the “Patriotic Bill.” This act criminalizes activities that “willfully damage the sovereignty and national interest of Zimbabwe,” including boycotts, sanctions, and any act that the State considers “subversion.”⁵ The Act authorizes penalties including loss of citizenship, denial of the right to vote, and the death penalty.⁶

¹ *Prisoners in Zimbabwe at Grave Risk of Covid-19 Spread*, Human Rights Watch, (July 29, 2020), <https://www.hrw.org/news/2020/07/29/prisoners-zimbabwe-grave-risk-covid-19-spread>.

² <https://www.newsday.co.zw/editorials/article/200010122/zim-prison-conditions-a-recipe-for-disaster>; Freedom House, *Freedom in the World 2017: Zimbabwe*, <https://freedomhouse.org/country/zimbabwe/freedom-world/2017>.; Freedom House, *Freedom in the World 2019: Zimbabwe*, <https://freedomhouse.org/country/zimbabwe/freedom-world/2019>.

³ United States Department of State, *2019 Country Reports on Human Rights Practices: Zimbabwe*, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/zimbabwe/>.

⁴ United States Department of State, *2019 Country Reports on Human Rights Practices: Zimbabwe*, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/zimbabwe/>.

⁵ Criminal Law (Codification and Reform) Act [Chapter 9:23] (No. 23 of 2004); *Zimbabwe: Parliament’s passing of ‘Patriotic Bill’ is a grave assault on the human rights* (June 9, 2023), <https://www.amnesty.org/en/latest/news/2023/06/zimbabwe-parliaments-passing-of-patriotic-bill-is-a-grave-assault-on-the-human-rights/#:~:text=The%20Criminal%20Law%20Codification%20and%20Reform%20Amendment%20Bill%2C%202022%2C%20criminalizes,economic%20sanctions%20against%20the%20country>.

⁶ *Zimbabwe: Breaking Down the Patriotic Bill*, (June 1, 2023), <https://citizenshiprightsafrika.org/zimbabwe-breaking-down-the-patriotic-bill/>.

4. In recent years, civil society mobilization has centered on the promotion of economic, social, and cultural rights,⁷ and authorities can use this Act's overly broad and vague language to prosecute human rights defenders.⁸ The Act also reportedly allows the government to revoke the registration of organizations perceived to have "political affiliation," with limited or no opportunity for judicial review.⁹ Several national non-governmental organizations have reported that this law "deepens the political and economic crisis" in Zimbabwe.¹⁰ According to one non-governmental organization, Section 22A(3) of the revised Code could be used against organizations that champion economic and social rights.¹¹ It also could apply to civil society organizations that encourage foreign governments to impose sanctions against individuals or the government for the infringement of social or economic rights.¹² Moreover, it could apply to civil society organizations or individuals who suggest that foreign governments should sanction individuals who have committed genocide, such as the campaign in Matabeleland known as Gukurahundi, or anyone who advocates for military intervention to prevent such genocides in the future, and would authorize such people to be sentenced to death.¹³
5. The Patriotic Bill gives authorities great power to restrict human rights and even opens the possibility of imposing the death penalty on people who are critical of the government. The Act establishes that a person guilty of "wilfully damaging the sovereignty and national interest of Zimbabwe"¹⁴ will be liable with "the same penalties as for treason" when the "accused knows or has reasonable grounds for believing involves the consideration of or the planning for [...] military or other armed intervention in Zimbabwe by the foreign government concerned or another foreign government, or by any of their agents, proxies or entities."¹⁵ Treason in Zimbabwe's Criminal Code is punishable by death.¹⁶
6. The Criminal Law Codification and Reform Amendment Act is inconsistent with Zimbabwe's Constitution, which limits the death penalty to murder committed in "aggravating

⁷ See Human Rights Watch, *Zimbabwe: Dire lack of Clean Water in the Capital*, 2021, <https://www.hrw.org/news/2021/09/22/zimbabwe-dire-lack-clean-water-capital>; Human Rights Watch, *A bitter harvest. Child Labor and Human Rights Abuses on Tobacco Farms in Zimbabwe, 2018*, <https://www.hrw.org/report/2018/04/05/bitter-harvest/child-labor-and-human-rights-abuses-tobacco-farms-zimbabwe>; Human Rights Watch, *You will get Nothing. Violations of Property and Inheritance Rights of Widows in Zimbabwe, 2017*, <https://www.hrw.org/report/2017/01/24/you-will-get-nothing/violations-property-and-inheritance-rights-widows-zimbabwe>.

⁸ Veneranda Langa, *Zimbabwe: New law to have 'chilling effect' on opposition*, (June 8, 2023), <https://www.theafricareport.com/311880/zimbabwe-new-law-to-have-chilling-effect-on-opposition/>.

⁹ <https://www.hrw.org/news/2023/02/21/zimbabwes-president-shouldnt-sign-repressive-ngo-bill>

¹⁰ Bridget Wadzanal Mavhimira, Silas Nkala, *Shock as Parly passes "Patriotic Bill"*, (June 2, 2023), <https://www.newsday.co.zw/local-news/article/200012364/shock-as-parly-passes-patriot-bill>; Civic Rights News, Zimbabwe, *"Patriotic Bill" is a threat to democracy and the future of Zimbabwe*, (June 8, 2023), <https://www.southernafricalitigationcentre.org/2023/06/08/patriotic-bill-is-a-threat-to-democracy-and-the-future-of-zimbabwe/>; Amnesty International, *Zimbabwe: Parliament's passing of 'Patriotic Bill' is a grave assault on the human rights.*, (June 9, 2023), <https://www.amnesty.org/en/latest/news/2023/06/zimbabwe-parliaments-passing-of-patriotic-bill-is-a-grave-assault-on-the-human-rights/>

¹¹ Veritas Zimbabwe, Email, Aug. 7, 2023, on file with The Advocates for Human Rights.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Zimbabwe Criminal Law Codification and Reform Amendment Bill, 2022 [H.B. 15, 2022.]

¹⁵ Zimbabwe Criminal Law Codification and Reform Amendment Bill, 2022 [H.B. 15, 2022]

¹⁶ Zimbabwe Criminal Law (Codification and Reform) Act, art. 20.

circumstances.”¹⁷ The organization Citizens Coalition for Change (CCC) explains: “Did you know a person convicted under the ‘Patriot Bill’ can potentially face a death sentence? This is a violation of the right to life under section 48 of the Constitution, which says the death penalty can only be imposed for murder committed by men between 21-70 years old.”¹⁸ A non-governmental organization is planning to file a legal challenge with the Constitutional Court on the grounds that the law is not consistent with section 48 of the Constitution.¹⁹

Status of the death penalty in Zimbabwe

7. Zimbabwe has not carried out any executions since 2005, and the country was undertaking political measures to abolish the death penalty before the government adopted the above-described regressive measures earlier this year. Currently, people under sentence of death are facing a *de facto* life sentence. In 2018, President Emmerson Mnangagwa stated that the death penalty was “an affront to human dignity” and commuted the death sentences of all individuals who had been on death row for over ten years.²⁰ Further, in 2019, the Ministry of Justice, Legal and Parliamentary Affairs recommended abolishing the death penalty. Reports suggested that the Government of Zimbabwe was in the process of implementing policies with a view toward abolition.²¹

II. Detentions conditions, including for people sentenced to death, fail to fulfill the rights to an adequate standard of living and to the highest attainable standard of health (arts. 11& 12).

8. The Government of Zimbabwe lacks transparency regarding people on death row. One non-governmental organization researching the topic reported that it was unable to find out how many people were under sentence of death or the names of those people.²² This absence of transparency poses challenges for human rights defenders seeking to promote the economic, social and cultural rights of people under sentence of death.²³
9. In Zimbabwe, detention practices violate the rights to health and the right to an adequate standard of living because the cells are crowded, and people endure unsanitary conditions. Detention facilities often are unsanitary and overcrowded and lack necessities such as running water in prison cells,²⁴ sufficient food (detainees experience food shortages in general and

¹⁷ Zimbabwe’s Constitution, art. 48

¹⁸ Bridget Wadzanal Mavhimira, Silas Nkala, *Shock as Parly passes “Patriotic Bill”*, (June 2, 2023), <https://www.newsday.co.zw/local-news/article/200012364/shock-as-parly-passes-patriot-bill>.

¹⁹ Veritas Zimbabwe, Email, Aug. 7, 2023, on file with The Advocates for Human Rights.

²⁰ Carolyn Hoyle, *Death Penalty Project: Time to Abolish the Death Penalty in Zimbabwe: Exploring the Views of its Opinion Leaders* (2020), <https://www.deathpenaltyproject.org/wp-content/uploads/2020/06/ZimbabweOpinion-Leaders-Report-2020.pdf>.

²¹ Amnesty International, *Amnesty International Global Report: Death Sentences and Executions 2019*, (2020), 51. <https://www.amnesty.org/download/Documents/ACT5018472020ENGLISH.PDF>.

²² Veritas Zimbabwe, Email, Aug. 7, 2023, on file with The Advocates for Human Rights.

²³ *Ibid.*

²⁴ *Prisoners in Zimbabwe at Grave Risk of Covid-19 Spread*, Human Rights Watch, (July 29, 2020), <https://www.hrw.org/news/2020/07/29/prisoners-zimbabwe-grave-risk-covid-19-spread>.

insufficient protein in particular),²⁵ adequate access to medications²⁶ and hygiene products, and sufficient warm clothing and blankets.²⁷

10. Prison authorities house people sentenced to death primarily at Harare Central Prison, but due to overcrowding they house others at Chikurubi Maximum Prison.²⁸ According to one local non-governmental organization, people under sentence of death are kept in solitary confinement for 23 hours each day, and are authorized only two half-hour breaks for exercise in a small courtyard.²⁹ Local media outlets have reported that the Harare Central Prison is characterized by inadequate access to basic sanitation and food, with arbitrary beatings administered by prison guards.³⁰ Cells are dirty have only buckets for human waste, and those buckets are emptied infrequently.³¹ Local organizations such as Veritas have reported that people sentenced to death are **“kept alone in their cells – and have very little opportunity for exercise or reading. They are not told when they will be hanged, so they never know from one day to the next whether it will be their last. They are kept like this for years on end. Their relatives do not know they are still alive.”**³²
11. The Chikurubi Maximum Prison also lacks adequate conditions of detention. The case of two human rights defenders detained in that facility, Hopewell Chin’ono and Jacob Ngarivhume, exemplify such conditions, with reports that the prison officials “refused to allow [their attorneys] to give their clients warm clothing and food from outside the prison, even though, for medical reasons, the two cannot eat the Sadza (maize meal) provided in prison. As a result, the two men have no access to food and a diet prescribed along with their medication.”³³
12. Conditions in detention are often life-threatening and have led to the spread of disease such as HIV and tuberculosis.³⁴ Diarrhea is also reportedly prevalent in most prisons.³⁵ According to reports on prison conditions “diarrhoea [...] occurred mainly due to the limited supply of

²⁵ News Day, *Zim prison conditions, a recipe for disaster*, April. 14 2023, <https://www.newsday.co.zw/editorials/article/200010122/zim-prison-conditions-a-recipe-for-disaster> ; Freedom House, *Freedom in the World 2017: Zimbabwe*, <https://freedomhouse.org/country/zimbabwe/freedom-world/2017>.; Freedom House, *Freedom in the World 2019: Zimbabwe*, <https://freedomhouse.org/country/zimbabwe/freedom-world/2019>.

²⁶ United States Department of State, *2019 Country Reports on Human Rights Practices: Zimbabwe*, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/zimbabwe/>.

²⁷ United States Department of State, *2019 Country Reports on Human Rights Practices: Zimbabwe*, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/zimbabwe/>.

²⁸ The Death Penalty Project, *12 Years Without an Execution: Is Zimbabwe Ready for Abolition?* Mai Sato, (2018), at 12. <https://www.deathpenaltyproject.org/wp-content/uploads/2018/05/12-Years-Report-1.pdf>.

²⁹ Veritas Zimbabwe, Email, Aug. 7, 2023, on file with The Advocates for Human Rights.

³⁰ <https://www.businesslive.co.za/fm/features/africa/2023-03-30-zimbabwe-prisoners-endure-conditions-not-fit-for-animals/#:~:text=Detainees%20in%20Harare%27s%20remand%20prison,arbitrary%20beatings%20by%20prison%20guards>

³¹ Veritas Zimbabwe, Email, Aug. 7, 2023, on file with The Advocates for Human Rights.

³² Veritas, *Should Zimbabwe abolish the death penalty? The Facts The case for Abolition. 2019*, at 4, https://www.veritaszim.net/sites/veritas_d/files/Should%20Zimbabwe%20Abolish%20the%20Death%20Penalty%20-%20The%20Facts-%20The%20Case%20for%20Abolition.pdf

³³ Human Rights Watch, *End Inhuman Prison Conditions of Activists in Zimbabwe, 2020*, <https://www.hrw.org/news/2020/08/11/end-inhuman-prison-conditions-activists-zimbabwe>

³⁴ Freedom House, *Freedom in the World 2019: Zimbabwe*, <https://freedomhouse.org/country/zimbabwe/freedom-world/2019>.; United States Department of State, *2019 Country Reports on Human Rights Practices: Zimbabwe*, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/zimbabwe/>.

³⁵ <https://www.newsday.co.zw/editorials/article/200010122/zim-prison-conditions-a-recipe-for-disaster>

detergents and anti-bacterial products.”³⁶ Lice have spread among detained people at prisons such as Mutare Farm Prison.³⁷ As COVID-19 cases increased in Zimbabwe, detention conditions caused an increased risk of infection and endangered the health of individuals in detention.³⁸ One non-governmental organization reports that people on death row develop mental and physical health problems, and people with preexisting conditions find they are exacerbated while on death row.³⁹ Treatment for health issues is limited.⁴⁰

13. The Government of Zimbabwe also reported to UN human rights mechanisms that it was coordinating efforts with civil society organizations to improve conditions of detention,⁴¹ but due to the new restrictions on civil society resulting from the Patriotic Bill, civil society’s role will likely diminish or end altogether.
14. Overcrowding in Zimbabwe’s prisons is a systemic human rights issue. In March 2020, the Government of Zimbabwe acknowledged that 22,000 individuals were detained in facilities that have a capacity for only 17,000.⁴² President Mnangagwa issued an amnesty order that led to the release of 4,208 individuals from detention between March and June of 2020.⁴³
15. In March 2023, President Emmerson Mnangagwa pardoned about a fifth of all people in prison, resulting in the release of 4,270 out of the more than 20,000 people detained.⁴⁴ The government again cited concerns that prisons remained overcrowded well above the capacity for 17,000 persons.⁴⁵ Individuals are often held in pre-trial detention alongside convicted individuals, a practice that exacerbates overcrowding.⁴⁶

16. Suggested questions:

- What steps has Zimbabwe taken to ensure that its Criminal Law Codification and Reform Amendment Act legislation is not implemented to persecute and criminalize human rights defenders?

³⁶Zimbabwe Human Rights NGO Forum, *Rights Behind Bars, A Study of Prison Conditions in Zimbabwe*, (2018, Veritas), at 23, https://www.veritaszim.net/sites/veritas_d/files/Rights%20Behind%20Bars%20-%20A%20Study%20of%20Prison%20Conditions%20in%20Zimbabwe-.pdf

³⁷ Zimbabwe Human Rights NGO Forum, *Rights Behind Bars, A Study of Prison Conditions in Zimbabwe*, (2018, Veritas), at 24, https://www.veritaszim.net/sites/veritas_d/files/Rights%20Behind%20Bars%20-%20A%20Study%20of%20Prison%20Conditions%20in%20Zimbabwe-.pdf

³⁸ *Prisoners in Zimbabwe at Grave Risk of Covid-19 Spread*, Human Rights Watch, (July 29, 2020), <https://www.hrw.org/news/2020/07/29/prisoners-zimbabwe-grave-risk-covid-19-spread>.

³⁹ Veritas Zimbabwe, Email, Aug. 7, 2023, on file with The Advocates for Human Rights.

⁴⁰ Ibid.

⁴¹ Human Rights Council, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Zimbabwe*, (Aug. 22, 2016), U.N. Doc. A/HRC/WG.6/26/ZWE/1, ¶ 97.

⁴² *Prisoners in Zimbabwe at Grave Risk of Covid-19 Spread*, Human Rights Watch, (July 29, 2020), <https://www.hrw.org/news/2020/07/29/prisoners-zimbabwe-grave-risk-covid-19-spread>.

⁴³ *Prisoners in Zimbabwe at Grave Risk of Covid-19 Spread*, Human Rights Watch, (July 29, 2020), <https://www.hrw.org/news/2020/07/29/prisoners-zimbabwe-grave-risk-covid-19-spread>.

⁴⁴ DW, Zimbabwe frees over 4,000 prisoners from cramped jails, 2024 <https://www.dw.com/en/zimbabwe-frees-over-4000-prisoners-from-cramped-jails/a-65679554>

⁴⁵ <https://apnews.com/article/zimbabwe-prisoners-amnesty-overcrowding-death-penalty-6139e07b80bee20d51bd5e762f6a708a>

⁴⁶ United States Department of State, *2018 Country Reports on Human Rights Practices: Zimbabwe*, <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/zimbabwe/>. ; United States Department of State, *2019 Country Reports on Human Rights Practices: Zimbabwe*, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/zimbabwe/>.

- What steps has Zimbabwe taken to ensure effective access to justice and effective remedies for human rights defenders and organizations facing criminalization, including within judicial and administrative proceedings?
- What steps has Zimbabwe taken to provide effective and timely measures to effectively prevent acts of violence against human rights defenders, especially people working on economic, social and cultural rights?
- What steps has Zimbabwe taken to ensure that authorities do not criminalize human rights defenders and civil society organizations working on economic, social, and cultural rights for carrying out their work?
- Provide information about the steps the State Party has taken to implement the 2019 recommendation of the Ministry of Justice, Legal and Parliamentary Affairs to abolish the death penalty.
- What procedures are in place to promote public transparency with respect to criminal proceedings relating to the Patriotic Bill in which a person may be sentenced to death and with respect to death sentences and executions more generally?
- Please provide a list of all persons currently under sentence of death, disaggregated by sex/gender, national origin, racial or tribal affiliation, crime of conviction, date of conviction, relationship to any codefendants, relationship to any victims, status of any appeals or requests for commutation or pardon, and current location.
- What measures has Zimbabwe taken to ensure access to food, water, sanitation facilities, and health care for people in prison, particularly for people under sentence of death?
 - What steps have authorities taken to ensure that detention conditions for persons under sentence of death comply with Rules 24-35 of the Nelson Mandela Rules?
- Please describe the medical and health facilities and medical and health services available to people under sentence of death and explain how they differ from facilities and services available to other persons in custody and from facilities and services available in the community.
- To what extent does access to reading materials and exercise differ for people under sentence of death compared with other people in detention, and what is the basis for these differences?
- What educational or vocational training is available to people in detention? Is such training available to people under sentence of death?
- How do prison authorities facilitate contacts and meetings between people under sentence of death and their family members?
- What health care and other psychosocial supports do prisons provide to people under sentence of death who experience trauma and distress at the possibility that they could be executed at any moment?

- What measures has Zimbabwe taken to solve the systemic and remaining overcrowding in prisons and other detention centers in the country?