

## KEY LITIGATION IN THE AFRICAN COMMISSION ON HUMAN AND PEOPLES RIGHTS ON ZIMBABWE<sup>1</sup>

The African Commission on Human and Peoples Rights has ruled on a number of matters that communications submitted against the state party of Zimbabwe were admissible implying that in those cases there were no effective domestic remedies for the human rights violations alleged. Such decisions are an indictment to the judiciary as well as an unequivocal and significant indicator that the judiciary and the justice delivery system in Zimbabwe no longer guarantees enjoyment of universally recognised human rights and fundamental freedoms by people in Zimbabwe. This also further denotes the absence of the protection of the law for victims of human rights violations and gives credence to the allegations that there exists a practice of state sponsored impunity in Zimbabwe. With these findings by the African Commission, Zimbabwe Lawyers for Human Rights argues that it has now established empirically through a very critical African organ that the judiciary in Zimbabwe is seriously compromised and is no longer the guarantor and protector of fundamental human rights and freedoms.

### 1. ***Zimbabwe Lawyers for Human Rights and Associated Newspapers of Zimbabwe (ANZ) vs. The Republic of Zimbabwe (AFRICAN COMMISSION ON HUMAN AND PEOPLES RIGHTS (ACHPR) Communication 284/03***

**Brief Issues in case:** Equal protection of the law; Propriety of the application of rules of equity in cases relating to constitutional and fundamental rights; Right to freedom of expression in Zimbabwe; Media freedom in Zimbabwe;

#### **Process Matters:**

35<sup>th</sup> Session of ACHPR- **Siezure**; 36<sup>th</sup> Session of ACHPR **Provisional measures** directing the return of the printing equipment of the ANZ were granted but defied/ignored by the Zimbabwean government. Arguments on admissibility made; 38<sup>th</sup> Session matter **declared admissible** by the ACHPR; 40<sup>th</sup> Session to be argued on the merits. (for further information contact the projects lawyer international litigation at zlhr : [www.zlhr.org.zw](http://www.zlhr.org.zw))

### 2. ***Andrew Meldrum & Zimbabwe Lawyers for Human Rights vs. The Republic of Zimbabwe ACHPR Communication 294/2004***

**Brief Issues in case:** Equal protection of the law; Discrimination; free practise of journalism in Zimbabwe; Right to freedom of expression and

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<sup>1</sup> This summary has been prepared by Arnold Tsunga drawing from cases that ZLHR are litigating in the international sphere mainly the African Commission on Human and Peoples Rights capturing the work of Otto Saki the project lawyer for International Litigation at ZLHR. [www.zlhr.org.zw](http://www.zlhr.org.zw)

media freedom in Zimbabwe; defiance of court orders by the government in deporting Mr Meldrum; the right to appeal to competent and independent tribunals in resolving disputes and the right of foreign nationals to be removed from Zimbabwe in accordance with the African Charter on Human and Peoples Rights.

**Process Matters:** 37<sup>th</sup> Session of ACHPR **Seizure**; 38<sup>th</sup> Session declared **admissible**; 40<sup>th</sup> Session to be argued on the **merits**. ([see the case documents in the folder titled International Litigation](#))

3. ***Zimbabwe lawyers for Human Rights on 2000 Parliamentary Election Petitions & the Government of Zimbabwe, ACHPR Case Communication No 293/04***

**Brief Issues in case:** The meaning of the notion of the protection of the law; right to fair trial (content and meaning and bare essentials for realisation thereof), the right to effective participation in civic affairs and governance issues of the nation; Meaning of legislative and administrative measures for enjoyment of rights in the Charter (What needs to be done for compliance with this treaty law obligation); implications of failure to adjudicate on matters of national importance within a reasonable time; interrogation of the independence of national and judicial institutions of protection when they fail to resolve critical national disputes.

**Process Matters:** 37<sup>th</sup> Session of ACHPR **Seizure**; 38<sup>th</sup> Session declared **admissible**; 40<sup>th</sup> Session to be argued on the **merits**. ([see the case documents in the folder titled International Litigation](#))

4. ***Independent Journalists Association of Zimbabwe, ZLHR and MISA-Zimbabwe vs. The Republic of Zimbabwe ACHPR Case 297/2005***

**Brief Issues in case:** constitutionality of various sections of the Access to Information and Protection of Privacy Act (AIPPA) that seemingly violated the right to freedom of expression and the right to equal protection of the law; Whether compulsory accreditation of media practitioners by a seemingly partisan and Executive controlled Media Information Commission violated the right to freedom of expression in the context of the African Charter on Human and Peoples Rights and international human rights law.

**Process Matters:** 37<sup>th</sup> Session of ACHPR **Seizure**; 38<sup>th</sup> Session from 21<sup>st</sup> November 2005 to 5<sup>th</sup> December 2005 declared **admissible**; 40<sup>th</sup> Session to be argued on the **merits**. ([see the case documents in the folder titled International Litigation](#))

5. ***The Roy Bennett cases and The Republic of Zimbabwe ACHPR Case COMMUNICATION 298/2005***

**Brief Issues in case:** constitutionality of various sections of the Access to Information and Protection of Privacy Act (AIPPA) that seemingly violate the right to freedom of expression and the right to equal protection of the law; Whether compulsory accreditation of media practitioners by a seemingly partisan and Executive controlled Media Information Commission violated the right to freedom of expression in the context of the African Charter on Human and Peoples Rights and international human rights law.

**Process Matters:** 37<sup>th</sup> Session of ACHPR **Seizure; Provisional measures sought but decision deferred;** 38<sup>th</sup>, 39<sup>th</sup> and 40<sup>th</sup> Sessions matter not dealt with and request for provisional measures seemingly ignored by the ACHPR. Roy Bennett now hounded out of Zimbabwe by the Zimbabwean Government and is now living in exile in South Africa while the ACHPR drags its feet. ([see the case documents in the folder titled International Litigation](#))

6. ***Zimbabwe Lawyers for Human Rights, Human Rights Trust of Southern Africa vs. The Government of Zimbabwe Forced Evictions Hopley- Porta Farm and Hatcliffe Communities ACHPR Case COMMUNICATION No. 314/05***

**Brief Issues in case:** Are forced evictions violations of human rights? How forced evictions violate socio-economic rights of affected and vulnerable people; right to health and access to public health facilities; right to anti-retrovirals and to treatment for chronic ailments for displaced communities; right to education for children in displaced communities; pre-requisites before any forced evictions; right to protection of the law for communities facing forced evictions; meaning of right to shelter after 700 000 people were rendered homeless by the government of Zimbabwe in Operation *murambatsvina* (drive away the filth)

**Process Matters:** 38<sup>th</sup> Session of ACHPR from 21<sup>st</sup> November 2005 to 5<sup>th</sup> December 2005 **Seizure; Provisional measures granted** but ignored/defied by the Government of Zimbabwe; 40<sup>th</sup> Sessions matter to proceed on admissibility; ([see the case documents in the folder titled International Litigation](#))

7. ***Zimbabwe Lawyers for Human Rights vs The Government of Zimbabwe Muzerengwa Buhera ACHPR Case COMMUNICATION 306/05***

**Brief Issues in case:** 190 families were forcibly ejected from their land in 2003 in Manicaland Province Zimbabwe; Are forced evictions violations of

human rights? Discrimination on the basis of perceived political beliefs; How forced evictions violate socio-economic rights of affected and vulnerable people; right to health and access to public health facilities; right to protection of the law for communities facing forced evictions.

**Process Matters:** 38<sup>th</sup> Session of ACHPR from 21<sup>st</sup> November 2005 to 5<sup>th</sup> December 2005 **Seizure;** 40<sup>th</sup> Sessions matter to proceed on admissibility. ([see the case documents in the folder titled International Litigation](#))

8. ***Zimbabwe Lawyers for Human Rights, SADC Lawyers Association, Law Association of Zambia, Tanzania Law Society and Others vs. the Government of Zimbabwe ACHPR Case***  
ACHPR/LPROT/COMM/ZIM/321

**Brief Issues in case:** Joint petition of law societies and law based organisations within the SADC region and beyond focusing on constitutional amendment No.17 of Zimbabwe which ousts the jurisdiction of the courts to deal with land and property related disputes; Ouster of the jurisdiction of the Courts in domestic legislation and impact on the independence of the judiciary; Ouster of the jurisdiction of the courts and impact on the right to equal protection of the law; ouster of the jurisdiction of the court and impact on the obligation of the state to have national independent and impartial tribunals to resolve disputes; ouster of jurisdiction and impact on right to a fair trial and to an effective remedy

**Process Matters:** 38<sup>th</sup> Session of ACHPR from 21<sup>st</sup> November 2005 to 5<sup>th</sup> December 2005 **Seizure;** 40<sup>th</sup> Sessions matter to proceed on admissibility. ([see the case documents in the folder titled International Litigation](#))

9. **Chinhamo –vs- Zimbabwe, Communication 307/2005: ACHPR**

**Brief Issues in case:** Equal protection before the law; Selective application of the Law; persecution of human rights defenders; false prosecution; defiance of court orders; impunity

**Process Matters:** Seizure stage 38<sup>th</sup> Session from 21<sup>st</sup> November 2005 to 5<sup>th</sup> December 2005.

**10. *Dutch Farmers Association, in conjunction with UK-based Agric-Africa, (case on behalf of dispossessed Zimbabwe farmers) –vs- Zimbabwe: Case at the International Centre for the Settlement of Investment Disputes (ICSID) Washington DC USA***

**Brief Issues in case:** Whether President Mugabe's government should be compelled to uphold Bilateral Investment Promotion and Protection Agreements (Bippas); compensation in respect of confiscated land claiming more than US\$15 million; disputes between member countries of ICSID and investors who qualify as nationals of other member countries; compensation for improvements, land (title deed value) and expropriated moveable assets

**Process Matters:** JUDGE Gilbert Guillaume of France, Ronald Cass, former dean at the Boston School of Law, and former Pakistan Justice minister Mohammad Wassi Zafar, have been appointed to preside over a Dutch farmers' case. Judge Guillaume, a former president of the International Court of Justice and a designee of the government of France to the ICSID panel of arbitrators, will preside as the casting vote in the case.

Dutch farmers legal representatives are Wiley Rein & Fielding in Washington, Bishop & Sewell in London, and by Coghlan Welsh & Guest in Harare ([www.cwg.co.zw](http://www.cwg.co.zw))