

# COMMENTARY ON REPRESSIVE LAWS

[Under construction](#)

## Legislative Survey 2006<sup>1</sup>

### Education Amendment Bill, 2005 [H.B. 6C, 2005]

The purpose of this Bill was to amend the **Education Act [Chapter 25:04]** ("the principal Act") with the view to correct anomalies that had purportedly come to the attention of the Ministry. The Minister of Education sought in this Bill to provide for the charging of school fees and levies based on the Consumer Price Index as published by the Central Statistics Office. This targeted private schools mainly, thus stripping them of their powers charge fees that are realistic to Zimbabwe's hyperinflationary environment. The Bill did not find favour with most private schools as it threatened their capacity to provide quality services to their clients. Most parents were opposed to this idea as well, as they saw how it could infringe on the quality of education to which their children are entitled. In such circumstances, the right to freedom of choice is massively jeopardised.

Worthy of note are the provisions of Clause 5 which sought to substitute Section 21 of the principal Act. The new provision makes it mandatory for every responsible authority to first of all apply to the Permanent Secretary of Education for his approval before charging any fee or levy or making any increase thereto. The Permanent Secretary of Education is in turn obliged to approve the increase applied for where such increase does not exceed the percentage increase in the cost of living from the beginning to the end of the preceding term as indicated by the Consumer Price Index published by the Central Statistics Office. The clause also requires the responsible authority to get the approval of a majority of the parents at a meeting of the School Parents Assembly attended by not less than twenty per centum of the parents. The clause also requires the responsible authority to get the approval of a majority of the parents at a meeting of the School Parents Assembly attended by not less than twenty per centum of the parents, where the responsible authority seeks to increase fees or levies in excess of the level specified under subsection (2). The provision also outlines the details that are to be included in the application and the various decisions the Secretary can make.

The Bill also sought to give the Minister additional powers in dealing with appeals school authorities challenging the refusal or grant of fees by the Permanent Secretary of Education. The constitution of a School Parents Assembly by parents with children at any school was also dealt with under this Bill. The School Parents Assembly was to in turn establish a School Development Committee whose composition, functions and duties would be as prescribed by the minister.

The Minister, under this Bill was also conferred with the power to prescribe the minimum qualifications of all teachers to be employed in all schools. The provision also gave the Permanent Secretary in the Minister's office power to vet the qualifications of all teachers to be employed by all schools and direct any responsible authority to terminate the service of any teacher who is not properly qualified. This provision was necessitated by the fact that some non-government schools were employing teachers who were

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<sup>1</sup> This survey is the product of Zimbabwe Lawyers for Human Rights: [www.zlhr.org.zw](http://www.zlhr.org.zw)

experienced in certain sporting activities without holding the necessary qualifications. In such a scenario what becomes of the independence of each school to govern its own internal affairs. This scenario was likely to result in unnecessary interference into the activities of each school.

Clause 11 of the Bill sought to substitute Section 60 of the principal Act. The new provision proposed the making of regulations by the Minister to govern the conduct and behavior of all teachers who are not members of the Public Service. Such regulations were to prevail over any other regulations, contract, rules or code of conduct. Clause 12 sought to substitute Section 62 of the principal Act. The new provision proposes the teaching of all the three main languages of Zimbabwe namely English, Shona, Ndebele and such other local language in all schools up to Form Two level on an equal-time basis. Prior to Form One, any of these languages may be used as the medium of instruction depending on which language is better understood by the pupils. There is provision that sign language shall be the priority medium of instruction for the deaf and hard of hearing. This provision is meant to cater for the diverse needs throughout the country. There is also provision for the teaching of foreign languages in schools where the Minister so authorizes. One wonders if the government has adequate resources to effect these changes in the curriculum or it will burden the schools with the responsibility of funding such changes.

Clause 13 seeks to substitute section 68 of the principal Act and proposes the recognition of more than one association of teachers. This has been necessitated by the realization that other associations have arisen and there is need to recognize them. This might appear like a welcome move in as much as it allows extensive freedom of association to teachers wishing to form such associations.

Clause 14 proposes to amend section 69 of the principal Act by giving the Minister power to make regulations on school uniforms in schools. This has been a long standing issue in as much as the Minister of Education once proposed the one set of uniforms for all schools in Zimbabwe. This would massively jeopardize freedom of expression as each uniform reflects the beliefs and principles upon which each school is founded.

#### **Acquisition of Farm Equipment or Material Act [Chapter 18:23] Act 7/2004, 6/2005 (s.26)**

The Act provides for the acquisition of farm equipment or material not being used for agricultural purposes. It also amends Section 5 of the **Land Acquisition Act [Chapter 20:10]** It further deepens the breach of fundamental human rights in terms of the Right to property which has been massively eroded due to the Land Reform Process and subsequent legislation which emanated therefrom.

The Act defines an “**acquiring authority**” as the Minister of Special Affairs in the President's Office responsible for Lands, Land Reform and Resettlement or any other Minister to whom the President may from time to time assign the administration of this Act. The fact that the acquiring authority is one designate of the President's Office, gives the acquisition a political color and not an administrative one.

Section 3 of the Act states that “No owner or holder of farm equipment or material shall wilfully demolish, damage, alter or in any other manner impair the farm equipment or

material, or cause any other person to demolish, damage, alter or in any other manner impair it, without the permission in writing of the acquiring authority". The question is does the owner of farm equipment lose his right over his property because of the acquisition. Damage or impairment to property is punishable through Criminal Proceedings, and a fine is payable in the equivalent of the amount of damage done to such property.

Section 4 of the Act allows any duly authorised representative or employee of the acquiring authority to enter any land or premises at any time and do such acts thereon as are reasonably necessary to ascertain—

- (a) whether there is on the land or premises any farm equipment or material not currently being used for agricultural purposes on any agricultural land; and
- (b) The owner or holder of such farm equipment or material; and
- (c) The items of such farm equipment or material on the land or premises; and
- (d) The condition of such farm equipment or material and its suitability for agricultural purposes.

The acquiring authority or his duly authorised designate can enter without authorisation any premises and investigate the existence of farm equipment which he reasonably suspects to be idle. The question is what constitutes reasonable suspicion? He can also compel the farm occupier to carry out an inventory of the existing farm equipment which is not being used for agricultural purposes. The act also criminalises the wilful destruction or demolition of farm equipment. The method of payment for the equipment acquired under this act as it stipulates that such payment commences with the payment of at least **one quarter** of the compensation payable which shall be paid at the time the equipment or material concerned is acquired, or within thirty days thereafter. The balance of the compensation payable shall be paid within **five years** after the acquisition of farm equipment or one year after the acquisition thereof in the case of farm material.

This makes the process all the more unfair as it prejudices the owner by setting up sale conditions for him without his consent. In this case these are forced contracts foisted upon the throats of the farm owners. In the law of contract the concept of ***Consensus ad idem*** is key. The conditions set up by the government are in gross defiance of the principles of contract. Ordinarily it is the seller who must determine the price of his goods on offer. They must also be a willingness to sell. However there is a risk that farm equipment which is kept for future use might forcefully confiscated on the grounds that the state thinks it idle. The payment of the balance within a period of five years is in itself unjust, in that inflation is always at play and it erodes the value of the money payable to the seller.

### **Gazetted Land (Consequential Provisions) Act**

The Act repeals the Rural Land Occupiers (Protection from Eviction) Act and prohibits the contest of all land gazetted for acquisition since 2000 in court. The Act is necessitated by the enactment of section 16B of the Constitution by the Constitution of Zimbabwe Amendment (No. 17) Act, 2005. Section 16B saved in force those provisions of the Land Acquisition Act [*Chapter 20:10*] that were concerned with compensation for improvements to what was called in that Act "agricultural land acquired for resettlement purposes". However, the status of certain other provisions relating to such land was left undetermined, with the result that it was felt desirable to re-enact those provisions or make new provisions in this Act.

Section 3 of the Act states that the occupier of any land gazetted for resettlement shall not hold or use or occupy such land without lawful authority in the form of an Offer Letter after it has been gazetted in accordance with section 16B(2)(a) of the Constitution. Such occupier shall cease to occupy such land 45 days after the gazetting of such land. In this case the 45 days period is unreasonably short. This obviously prejudices one who has planted crops on that designated land. It also obviously leads to a massive loss and no compensation is paid for the loss of such crops. Section 3(b)i states that the occupier of gazetted land can continue in occupation of his living quarters on that land for a period of not more than 90 days after the date that land is identified. A Court can issue an order of eviction to any person who contravenes these provisions. Gazetted Land (Consequential Provisions) Act, was passed," experts said.

It is likely to increase the conflict of ownership of the business on the land and reduce meaningful investment in agriculture. The uncertainty as to when and how one may lose their land can in itself discourage meaningful agricultural activity in that greedy government officials may at any time gazette a farm for acquisition at a time when the farm is at its prime in terms of productivity.

Compensation for improvements to gazetted land can only be issued in accordance with the provisions of the Land Acquisition Act [chapter 20:10]. Of late issues of compensation have not been dealt with satisfactorily as most farmers who lost their property have not received any compensation or have been given inadequate compensation. This only benefits the new occupiers who in most cases are ruling party leaders. Most of who have occupied the properties of most white commercial farmers through force. What is rather mind-boggling is the fact that the Constitution through Amendment Number 17 condones such unjust acts by ousting the jurisdiction of the courts in matters pertaining to land acquired for resettlement.

### **Suppression of Foreign and International Terrorism Bill, 2006**

In essence the Bill came about as a consequence of the new global phenomenon of Terror and Terrorism. The September 11 attacks on the Twin Towers of the World Trade Centre and the pentagon, followed by numerous bombings of public places and public transport such buses and trains in the UK and USA led to the declaration by America of a war on terror and on terrorists. This led to the attack on countries such as Afghanistan which was thought to be the last citadel of terrorists networks such as the Al Qaeda Network led by Bin Laden. The Bill is seen as an attempt by the government of Zimbabwe to seen to be at breast with current international developments while the state skirts around bread and butter issues. In its preamble, The Bill states that,

*“The phenomenon of terrorism that is waged on an international scale is not adequately addressed by our existing laws. Nor is the problem of mercenaries covered in our legislation. Accordingly, this Bill will provide for the suppression of foreign and international terrorism, including mercenary activity.”*

Clause 3 of the Bill, which has extra-territorial effect, provides for the punishment of persons who engage in foreign or international terrorist activity. It states that any person who, whether or not he or she is a member of a foreign or international terrorist organisation, engages or participates in any foreign or international terrorist activity shall be guilty of an offence and liable to imprisonment for life or any shorter period. Under the proposed legislation, it will be an offence to undergo training for foreign or international terrorism, to recruit persons to undergo such training, or to possess weaponry that would be used for the purposes of foreign or international terrorist activity.

Clause 6 of the Bill prohibits the possession of weaponry for the purposes of foreign or international Terrorist activity. The discovery of weaponry allegedly intended for use in assassinating President Robert Mugabe saw many members of the opposition, army officers and police officers being arrested under the **Arms Cache Saga**. In the early 1980s, the government discovered another arms cache at Cold Comfort Farm. The farm belonged to Joshua Nkomo who was opposed to the ZANU PF Party. This led to the massacre of many innocent people in the Matebeleland and Midlands Provinces in what was to be called the Gukurahundi Genocide. Mostly members of ZAPU were the targets on the pretext that they were Dissidents or Terrorists. Such incidents may have prompted the creation of such legislation. The state is known for creating legislation to curtail and criminalize everything and anything which it in its view might lead unrest or its overthrow. In many cases those opposed to the ruling government have often been defined as terrorists. The Clause is also given a generous application in that it provides for alternative criminal offences where one cannot be charged for terrorism. For example, a person charged under Clause 6(1) may be found guilty of the alternative crimes of;

- a. Contravening section 10 (“Possessing weaponry for insurgency, banditry, sabotage or terrorism”) of the Public Order and Security Act [*Chapter 11: 17*] (No. 1 of 2002); or
- b. Contravening section 13 (“Possession of dangerous weapons”) of the Public Order and Security Act [*Chapter 11: 17*] (No. 1 of 2002); or
- c. Contravening section 4 (“Penalty for purchasing firearms or ammunition without firearm certificate”) of the Firearms Act [*Chapter 10:09*];

Once the Bill is passed into law there is a high likelihood that those wrongfully arrested for crimes under the Suppression of Foreign and International Terrorism legislation will be charged with alternative offences if found not to be criminally liable under the Legislation.

### **Criminal Law (Codification and Reform) Act [Chapter 9:23] Act 23/2004 June 03, 2005**

Cited as an act to consolidate and amend the criminal law of Zimbabwe, the Criminal Law Codification and Reform Act brings nothing compliments the array of laws which seek to curtail fundamental rights in Zimbabwe. The Parliamentary Legal Committee also cited the same sentiments as early as the year 2003 when the Act was still a Bill it

issued an adverse report where it stated that the Criminal Law (Codification and Law Reform) Bill, [HB 10, 2003], was in violation of the Bill of Rights contained in the Constitution of Zimbabwe. Sections 22, 33, 37, 46 and 182(2) of the Bill, which have been subsequently been transformed into sections of the Act, were cited as militating against fundamental human rights and freedoms. Unfortunately the Bill was enacted into law despite the presence of clauses that are against human rights. In actual fact it merely brings together some of the detestable aspects of Acts such as the Public Order and Security Act (POSA), Access to information and Protection of Privacy Act (AIPPA) and the Miscellaneous Offences Act MOA with new names and more restrictive clauses.

The Act is the product of years of consolidation of the criminal law of Zimbabwe into one volume which is now referred to in all cases involving criminal offences. One fundamental noticeable element is that even at the time of writing, the Criminal Law Code is still alien to most law enforcement agents as they still struggle to comprehend the Criminal Code. There was no consultation with the public when the Act was still a Bill, neither was there an awareness campaign or education of judicial and legal officers to acquaint them with the Bill and how it ought to be applied and interpreted. When the Act was put into effect, most Judicial Officers were caught unawares. The result was that it became difficult to find proper charges for appearing before the police and the courts. In most instances the Police were still relying on Common Law crimes, which would be overturned in the Courts by Magistrates who had had a glimpse of the Criminal Code. These ambiguities were prejudicial to the individuals charged under the Criminal Code.

Most Lawyers found it difficult to argue out some of the new offences as the elements for Criminal liability had been redefined. For example the mental element of *mens rea* is now referred to as **realization of real risk or possibility**. Even some of the crimes were redefined and the Criminal Code even created 15 new Crimes. By any Standards this is likely to confuse the whole Criminal Legal System, and it militates against the basic legal precept that the law ought to be and must be certain.

The Criminal Law (Codification and Reform) Act [Chapter 9:23] was passed into legislation on the 3<sup>rd</sup> of June 2005 but it was later given effect on the 1<sup>st</sup> of June 2006 a date fixed by the President by notice in a statutory instrument. The act is currently in force and thousands people have been charged and convicted in terms of the Code. However there is widespread contention as to the constitutionality of the Code as it has been challenged in the case of ***Blessing Mahwire v. The Minister of Justice, Legal and Parliamentary affairs and the Attorney General (Citation)***. Mahwire argues that it is not possible for an Act of Parliament to repeal a section of the constitution, as this has to be done through a constitutional amendment. It is contended by Mahwire that the Code is invalid as it ousts the application of Roman-Dutch Common Criminal Law. Section 3 of the Criminal law Codification and Reform Act states that;

### **3. Roman-Dutch criminal law no longer to apply**

*(1) The non-statutory Roman-Dutch criminal law in force in the Colony of the Cape of Good Hope on the 10th June, 1891, as subsequently modified in Zimbabwe, shall no longer apply within Zimbabwe to the extent that this Code expressly or impliedly enacts, re-enacts, amends, modifies or repeals that law.*

*(2) Subsection (1) shall not prevent a court, when interpreting any provision of this Code, from obtaining guidance from judicial decisions and legal writings on relevant aspects of—*

*(a) the criminal law referred to in subsection (1); or*

*(b) the criminal law that is or was in force in any country other than Zimbabwe.*

This effectively ousts the application of the customary Roman Dutch Criminal Law where it has been enacted, re-enacted, amended, modified or repealed by the Code. Where the Code is silent, it means the Roman Dutch Criminal Law can apply. Where as Section 89 of the Constitution of Zimbabwe, which is the Supreme law of the land, states that;

### **89. The Law to Be Administered.**

Subject to the provisions of any law for the time being in force in Zimbabwe relating to the application of African customary law, the law to be administered by the Supreme Court, the High Court and by any courts in Zimbabwe subordinate to the High Court shall be the law in force in the Colony of the Cape of Good Hope on 10th June, 1891, as modified by subsequent legislation having in Zimbabwe the force of law.

The law in force in the Colony of the Cape of Good Hope on 10th June, 1891 is Roman-Dutch-Common Law. This is a constitutional provision which is buttressed in the supremacy of the constitution. The Provisions of Section Three of the Criminal Law Codification and Reform Act are inconsistent with the provisions of Section 89 of the Constitution, which renders the Code *Ultra Vires* the Constitution. For Roman Dutch Common Law to fall into disuse there is need to first amend the Constitution, and this requires a special two thirds majority of parliamentarians voting in favour of the constitutional amendment. This was not the case when the Code was promulgated. Subordinate legislation cannot oust the application of constitutional provisions as happened in this case. Roman Dutch Common Law has been relegated to the fringes of being merely persuasive as courts can consult Roman Dutch law principles in trying to arrive at judgements. Mahwire's matter is still awaiting determination by the Supreme Court. In the vent that the Code is found to be unconstitutional, then parliament must effect a constitutional amendment to give force and effect the Criminal Code. All persons convicted under the Code will have been incarcerated under an unconstitutional piece of legislation.

The Code does not in any way improve the laws of Zimbabwe as it merely in most instances consolidate the various draconian laws which existed in other smaller statutes such as the Public Order and Security Act (**POSA**), the Access To Information And Protection of Privacy Act. (**AIPPA**) Miscellaneous Offences Act (**MOA**). Apart from consolidating these draconian pieces of legislation, the Code also allows the application of other legislation which specifies criminal offences as it states that nothing in this Code shall affect the liability, trial and punishment of any person for a crime in terms of any other enactment. Of particular concern are the provisions of Chapter III styled CRIMES AGAINST THE STATE: They are merely extensions of the provisions of the Public Order and Security Act.

Apart from consolidating the various criminal offences into one volume styled the Criminal Law (Codification and Reform) Act, the Code also renames some of the criminal offences and proceeds to give them permissible or alternative verdicts as follows; In its **Fifth Schedule** the Code also highlights in full the correspondence between crimes as enshrined in the Code and as they appear or appeared under Common Law as follows;

**CORRESPONDENCE OF COMMON LAW CRIMES WITH CODIFIED CRIMES**

<b><u>Common law crime</u></b>	<b><u>Corresponding crime in Code</u></b>
<b>Abduction</b>	<b>Kidnapping or unlawful detention</b>
<b>Abortion</b>	<b>Unlawful termination of pregnancy</b>
<b>Administering a poisonous or noxious substance</b>	<b>Assault</b>
<b>Arson</b>	<b>Malicious damage to property</b>
<b>Assault with intent to inflict grievous bodily harm</b>	<b>Assault</b>
<b>Bestiality</b>	<b>Bestiality</b>
<b>Bigamy</b>	<b>Bigamy</b>
<b>Blasphemy</b>	<b>Causing offence to persons of a particular race, religion, etc.</b>
<b>Bribery</b>	<b>Bribery</b>
<b>Common assault</b>	<b>Assault</b>
<b>Compounding</b>	<b>Defeating or obstructing the course of justice</b>
<b>Contempt of court</b>	<b>Contempt of court</b>
<b><i>Crimen injuria</i></b>	<b>Criminal insult</b>
<b>Criminal defamation</b>	<b>Criminal defamation</b>
<b>Culpable homicide</b>	<b>Culpable homicide</b>
<b>Defeating or obstructing the course of justice</b>	<b>Defeating or obstructing the course of justice</b>
<b>Exposing an infant</b>	<b>Exposing an infant</b>
<b>Extortion</b>	<b>Extortion</b>
<b>Forgery</b>	<b>Forgery</b>
<b>Fraud</b>	<b>Fraud</b>
<b>Housebreaking with intent to commit a crime</b>	<b>Unlawful entry into premises</b>

Incest	Sexual intercourse within a prohibited degree of relationship
Indecent assault	Aggravated indecent assault Indecent assault
Kidnapping	Kidnapping or unlawful detention
Malicious injury to property	Malicious damage to property
Murder	Murder Infanticide
Offence against nature (unnatural offence)	Sodomy
Perjury	Perjury
Public indecency	Public indecency
Public violence	Public violence
Rape	Rape
Receiving stolen property knowing it to be stolen	Receiving stolen property knowing it to have been stolen
Robbery	Robbery
Sedition	Subverting constitutional government Public violence
Sodomy	Sodomy
Subornation of perjury	Incitement of or being an accomplice to perjury
Theft	Theft Stock theft
Theft by false pretences	Theft
Treason	Treason Concealing treason
Uttering	Fraud
Violating a dead body	Violating corpses
Violating a grave	Violating graves

Some of the Criminal offences have been widened in scope and some of them are ambiguous in as far as they go to great lengths in creating a crime where there seems no crime. For example the scope of **Sodomy** has been widened to mean, "not only acts of anal sexual intercourse, but also... *any act involving physical contact between males that would be regarded by a reasonable person as an indecent act*". As such, it noted, "a seemingly intimate embrace or hug between two men would presumably be construed as a crime". It not clear if the mischief aimed at by the legislature is curbing

sodomy or intimate behaviour amongst the male sex. **Witchcraft** is now recognised as a criminal offence. **Section 98** of the Criminal Code states as follows;

98. Any person who engages in any practice knowing that it is commonly associated with witchcraft shall be guilty of engaging in a practice commonly associated with witchcraft if, having intended thereby to cause harm to any person, such practice inspires in the person against whom it was directed a real fear or belief that harm will occur to that person or any member of his or her family, and be liable to a fine not exceeding level ten or imprisonment for a period not exceeding five years or both.

The **Suppression of Witchcraft Act** of colonial times outlawed belief in witchcraft and prohibited the traditional chiefs from conducting trials in cases involving of witchcraft. It then made it a criminal offence to accuse another person of practicing witchcraft. However this position is changed by the insertion of Section 89 of the Criminal Law Code. This may have been prompted by the widespread belief in witchcraft by most Africans and the fact that some people have confessed to practicing witchcraft while some have been caught in the act. Belief in witchcraft is now a mitigating factor in cases where one indicates a witch or a practitioner of such unnatural arts.

#### **Interception of Communications Bill, 2006 (H.B. 4, 2006)**

No Bill could have been more unpopular for its spying attributes and the desires by the government to legislate for the spying of communications. The Bill if passed into law will further strengthen the government's capacity to trample upon the **rights and freedoms of speech**, and **the right to privacy**. It also infringes on the right to access to information. Seen as an attempt to fight terror, the proposed legislation resonates with the provisions of the **Suppression of Foreign and International Terrorism Bill, 2006**.

The purpose of this Bill is to establish a centre to be known as the **Monitoring of Interception of Communication Centre** (MICC) which shall serve the purpose of monitoring and intercepting communications in the course of their transmission through a telecommunications, postal or any other related service system. The Bill provides that the Minister of Transport and Communication or any other Minister to whom the President may from time to time assign the administration of this Act; shall be responsible for the establishment of the Centre. The fact that the Minister is a designate of the President gives the Interception of Communications Centre a political colour. The communication which is likely too be targeted is that which pertains to issues such as governance and democracy or any other which the government may deem subversive. The likelihood is evidenced by the insertion of Clause 5 which arrogates power to the **Chief of the Defence Intelligence**, the **Director-General of the President's department on national security**, the **Commissioner of the Zimbabwe Republic Police** and the **Commissioner-General of the Zimbabwe Revenue Authority**, to apply for interception of communication, all of whom have been proven to key political players

in the Zimbabwean scenario and in respect them being members of the Ruling party. Likelihood is they will target the opposition political parties. The authority applying for interception of communication simply needs to have reasonable suspicion to believe that a serious offence has been or is being or will probably be committed or that there is a threat to safety or national security of the country. The warrant issued by the Minister shall be valid for a period not exceeding three months and must specify the name and address to which the interception shall take place.

Clause 13 of the Bill makes it mandatory for a Telecommunication Service Provider to install hardware and software facilities and devices to enable interception of communication. The telecommunication service provider must also store communication-related information. It is also a requirement that the Telecommunications Service Provider should connect the devices to the Communication Monitoring Centre so as to re-route the information to the monitoring centre. Compensation or assistance is given to the Service Provider who complies with this requirement.

It is highly unlikely that the state will honor its obligation to compensate and assist any Service provider who complies with Clause 13. The government does not have the resources with which to effect this project, neither does it have the funding with which to establish the MICC, let alone refund service providers. Not with the way it has dismally failed the economy and has failed to pay compensation to commercial farmers.

Upon harbouring reasonable grounds of suspicion that a postal article contains anything in respect of which an offence or attempted offence is being committed or is likely to be committed, an authorized person can apply to the Minister a detention order for that particular postal article. Any postal articles belonging to perceived enemies and opponents of the state may be seized and detained, causing undue prejudice to the owner of such postal articles.

Clause 20 states that any person who may be aggrieved by a warrant, directive or order issued to or by the Authority, authorised person or the agency may appeal to the Minister and the Minister may confirm, vary or set aside the warrant, directive or order appealed against. If an aggrieved person is not satisfied with the decision of the Minister, he or she may appeal against it to the Administrative Court. Appeals to the Minister are tantamount to arrogating to him judicial powers; hence there is **no clear separation of powers** between the Minister who is part of the Legislature and part of the Executive. The Hearing of appeals gives to him powers of the Judiciary, and the result is he will not be impartial. The position in various other jurisdictions, such as South Africa, the USA, the United Kingdom, New Zealand and Australia is that appeals are against an interception order are heard by the judiciary. Appeals to the administrative court as the court of last resort will only lengthen the process and cause undue delay to the aggrieved party.

### **Domestic Violence Bill 2006**

The Bill seeks to curb domestic violence in all its various manifestations and to give victims of domestic violence the maximum protection from domestic violence that the law can provide. It is all inclusive in its definition of victims of domestic violence, in that it

protects people of both sexes. It gives relief and protection to victims of same. The Bill has been widely welcome by most civic groups, in particular, women's rights groups.

The Bill is seen as an attempt to conform to international standards such as the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** to which Zimbabwe is a party. The Bill has a bias towards women and children in that these are the most vulnerable groups in society as they in almost all cases, have to endure the violence meted upon them by men who are the stronger and powerful human beings in society.

Domestic violence is through this Bill made a common law offence. The Bill widens the scope of domestic violence to include physical abuse, sexual abuse, emotional, verbal and psychological abuse, economic abuse, intimidation, harassment, stalking, damage to property, entry into complainant's place without consent where the parties do not share the same residence, depriving or hindering the complainant from access to his or her place of residence, depriving the complainant of a reasonable share of the use of the facilities associated with his or her place of residence. Also considered as domestic violence is the abuse derived from cultural or customary rites or practices that discriminate or degrade women such as forced virginity testing, female genital mutilation, pledging of women and girls for purposes of appeasing spirits, abduction, child marriages, forced marriages, forced wife inheritance and other such practices. The abuse perpetrated on the complainant by virtue of his or her age, physical or mental incapacity are also considered as domestic violence under this Bill.

In the Bill every Police is mandated to have a section on Domestic Violence. This Section of the Police is specifically tasked with attendance to domestic violence issues and it shall be composed of officers who are trained on how to handle domestic violence cases and issues. The police are also given the power to arrest forthwith, without a warrant any person reasonably suspected to have committed or who is threatening to commit an act of domestic violence on a complainant. Any person so arrested is to be brought before a magistrate within forty-eight hours. However there is a danger that each time people have a simple misunderstanding they will resort to reporting to the police as a matter of sour grapes or vengeance. This is likely to increase cases of arrests on false information.

The proposed legislation provides for the appointment of anti-domestic violence counsellors and also spells out their functions. The establishment of an Anti-Domestic Violence Committee whose members shall be representatives of various government ministries and departments and those private voluntary organisations specializing in issues related to domestic violence, children's rights and women's rights. Customary Courts and Local Courts are also given jurisdiction to try cases of Domestic Violence.

**Presidential Powers (Temporary Measures) (Currency Revaluation) Regulations, 2006 - SI 199 of 2006** July 31, 2006 [Chapter 10:20]

These Regulations are reputed as having brought about some of the worst violations of rights and infringements ever witnessed in Zimbabwe. Cited as the Presidential Powers (Temporary Measures) (Currency Revaluation) Regulations, 2006 - SI 199 of 2006.

The Regulations sought to issue new bearer cheques, in the following denominations— one cent; five cents; ten cents; fifty cents; one dollar; ten dollars; twenty dollars; fifty dollars; one hundred dollars; five hundred dollars; one thousand dollars; ten thousand dollars; one hundred thousand dollars all of which became legal tender on the 1st August, 2006, and were deemed to have been issued in terms of section 42A of the Reserve Bank of Zimbabwe Act [Chapter 22:15].

All these denominations were in the form of notes, which raised the question of rationale as the cost of printing notes in smaller denominations was way above the value of those small denominations. The replacement of old bearer cheques with new bearer cheques saw the cancellation of three zeros from all old denominations. This was said to be a move aimed at creating ease, convenience and security in that it reduced the amount of notes to be carried around by an individual. The move to cancel three zeros was seen as a method of appeasing the nation as it did not in any way reduce inflation.