

A CITIZENS' GUIDE TO UNDERSTANDING THE ZIMBABWE HUMAN RIGHTS COMMISSION



W/O 3/93 Campaigners for Human Rights



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Published in June 2020

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FOREWORD

The Zimbabwe Human Rights Commission is one of the five independent commissions provided for in Chapter 12 of the Constitution of Zimbabwe. In line with the United Nation's Principles relating to the Status of National Institutions (The Paris Principles), the ZHRC is meant to play a critical role in the promotion and protection of fundamental rights in Zimbabwe. The ZHRC is mandated to ensure citizens are aware of their rights in terms of its promotional mandate and to also provide redress for violations of human rights as part of its role to protect human rights. However, several years after the establishment of the ZHRC, public awareness concerning the existence of the ZHRC, its mandate, and how it works, remains very limited.

Consequently, the Zimbabwe Human Rights Association (ZimRights), for the benefit of its members and the people of Zimbabwe has compiled this guide which explains in a simplified manner the structures, procedures, and functions of the ZHRC. ZimRights publishes this guide as part of its 'Taking the Zimbabwe Human Rights Commission (ZHRC) to the People Campaign' which seeks to capacitate its members and citizens to know and fully understand the role and functions of the Zimbabwe Human Rights Commission, and to empower them to meaningfully engage with ZHRC. The guide is designed with ZimRights' 'Pyramid of Engagement' strategy in mind, which aims to cultivate a culture of human rights activism in grassroots communities through human rights awareness to empower citizens to be able to demand and seek the protection of their fundamental rights.

The guide serves as a handy training manual that can be used for self-learning, peer-to-peer training, and community awareness-raising initiatives concerning the ZHRC. ZimRights hopes that after reading

the guide citizens will be able to also share it with their communities and also educate those around them concerning the ZHRC. We also hope that every Zimbabwean will be empowered to join ZimRights in calling for 'The Zimbabwe Human Rights Commission We Want!' by actively campaigning for the further strengthening and capacitation of the ZHRC so that it fully complies with the standards set for it in Chapter 12 of the Constitution of Zimbabwe.

Dzikamai Bere National Director June 2020

STRUCTURE AND METHODOLOGY

The content of the guide has been compiled mainly through desk-based research. However, to verify the correctness and accuracy of the information gathered, key informant interviews were conducted through correspondence with ZHRC personnel.

The guide is divided into four substantive sections, listed from A to D. Section A begins by introducing independent commissions to the reader by explaining what an independent commission is and what role it serves. The section also gives a summary of the purpose of each of the five independent commissions which are provided in Chapter 12 of the Constitution of Zimbabwe. In the same section, the duties of commissioners will also be discussed.

Section B of the guide discusses how the ZHRC was established and its mandate or purpose. The main aim of this section is to unpack the legal framework establishing and governing the ZHRC. Information will be provided concerning what the ZHRC is meant to do, as well as its jurisdiction, which is the extent to which it can exercise its functions.

The guide in section C looks more closely at how the ZHRC works by focusing on the operational units of the ZHRC and the work which they do. Section C examines the inner workings of the ZHRC to ensure that the reader is made aware of the daily operations of the ZHRC.

Section D of the guide, which is the last substantive section provides guidelines on how citizens can access the ZHRC to file their complaints and also gives a step-by-step guide on how citizens' complaints are handled by the ZHRC.

At the beginning of each section a 'question to think about' will be

posted, as a thought-provoking problem type inquiry which will be answered within the respective section. Also, to assist the reader to assess their uptake and understanding of the content presented in the guide, a set of revision questions are provided at the end of each section, whilst a compilation of answers to these questions is given at the end of the guide.

Finally, a summary of the main points discussed throughout the guide is presented as a conclusion to the guide to remind the reader of the key 'take-home messages' to be derived from the guide.

TABLE OF CONTENTS

	_	\sim	_			
•	-			O		ΙЛ
	_	_			410	

INTRODUCING INDEPENDENT COMMISSIONS IN ZIMBABWE	1			
1. What is an Independent Commission and What Purpose				
Does It Serve?	1			
2. Chapter 12 Independent Commissions	2			
2.1. Common Objectives of Independent Commissions	3			
2.2. Different Mandates of Independent Commissions	4			
2.3. Do Independent Commissions Report to Anyone?	5			
3. Commissioners	6			
3.1. How is a Commissioner Selected and Appointed?	7			
3.2. What is Expected of a Commissioner?	7			
3.3. How are Commissioners Paid?	8			
3.4 Removal of Commissioners from Office	8			
SECTION B				
THE STRUCTURE AND MANDATE OF THE ZHRC	11			
1. The Legal Framework of the ZHRC	11			
2. The Composition and Structure of the ZHRC	12			
3. The Mandate Of The ZHRC	13			
3.1. What is a Human Rights Violation?	14			
3.2. What is Maladministration?	15			
4. The Functions of the ZHRC	16			
5. The Jurisdiction of the ZHRC				
SECTION C				
THE PROGRAMMES OF THE ZHRC	18			
1. The Units of the ZHRC	18			
1.1. The Complaints Handling and Investigations Unit				
	18			
1.2. The Education, Promotion and Research Unit	18 19			
1.2. The Education, Promotion and Research Unit				
	19			

TABLE OF CONTENTS

SECTION D

ACCESSING THE ZHRC	22
1. ZHRC's Offices	23
2. Filing a Complaint to the ZHRC	24
2.1. Who can file a complaint to the ZHRC	24
2.2. Sample Complaint Registration Form	26
2.3. Important information to including when filing a complaint.	29
2.4. Where should I file my complaint?	30
2.5. I have a complaint but I am afraid of reprisal.	
What can I do?	31
2.6. I cannot read or write. How can I file my complaint?	31
3. Processing of Complaints by the ZHRC	32
3.1. Step 1: Lodging	32
3.2. Step 2: Acknowledgment of receipt of the complaint	33
3.3. Step 3: Assessment of a complaint	33
3.4. Step 4: Investigation of Complaint	34
3.5. Step 5: Formal Hearing	35
3.6. Step 6: Findings and conclusion of a complaint	35
MAIN POINTS TO REMEMBER	38
A NISTA/EDS	20

SECTION A:

INTRODUCING INDEPENDENT COMMISSIONS IN ZIMBABWE

Question to think about [1]

Mrs Moyo is unhappy about a radio program which airs on a local radio station every Wednesday night at 10pm. She strongly feels that the radio program in not suitable for listeners as it is immoral and promotes bad practices such as adultery and prostitution. Which independent commission will be best placed to hear her concerns and provide her with assistance?



In this section, you will learn what an independent commission is and the reason why it is important to have independent commissions in Zimbabwe. You will also get to know the five independent commissions provided in Chapter 12 of the Constitution of Zimbabwe and relevant information concerning commissioners, such as, how they are appointed, what they are expected to do, and how they are removed from office.

1. WHAT IS AN INDEPENDENT COMMISSION AND WHAT PURPOSE DOES IT SERVE?

An independent commission is a body, organization, or institution that is created by the law to work separate from government influence or political control, to achieve specific national goals or purposes. An independent commission is expected to be impartial, which means it should not show favour or bias in its work. Independent commissions serve a very important purpose as they

provide checks and balances to government conduct, which means that independent commissions work to ensure that the government does not abuse its powers. Independent commissions also work to ensure that all citizens are treated equally, fairly and without discrimination which is ill-treatment based on a person's colour, race, tribe, sex, the political party they support, or any other reason.

In addition to this, independent commissions also work to provide redress or help persons who might have been wronged by the government or by any other person. However, it is important to always remember that each independent commission has its specific purpose which is called its *mandate*. This means that before a person approaches an independent commission, he or she needs to know and understand the mandate or purpose of the independent commission. Help or redress can only be received from an independent commission with a mandate that addresses the problem faced by the person concerned. More information about this is provided in the next subsection.

An independent commission is expected to be impartial.

2. CHAPTER 12 INDEPENDENT COMMISSIONS

The constitution is called 'the supreme law of the land' because it is the highest law in Zimbabwe and all other laws must be in line with the constitution. The importance of the ZHRC and other independent commissions can be seen in their inclusion in Chapter 12 of the Constitution of Zimbabwe.

Even though the guide is focused on the ZHRC, it is important before

focusing on the mandate of the ZHRC, for the reader to know that the ZHRC is not the only independent commission in Zimbabwe. Chapter 12 of the Constitution of Zimbabwe provides for five independent commissions which are listed below:

- i. Zimbabwe Electoral Commission (ZEC)
- ii. Zimbabwe Human Rights Commission (ZHRC)
- iii. Zimbabwe Gender Commission (ZGC)
- iv. Zimbabwe Media Commission(ZMC)
- v. National Peace and Reconciliation Commission(NPRC)

Besides the five Chapter 12 independent commissions we have just discussed above, the Constitution also provides for other independent commissions such as the Zimbabwe Anti-Corruption Commission (ZAC) which works to fight against corruption and the Zimbabwe Land Commission which is meant to ensure fairness and openness in the administration of agricultural land that belongs to the state.

2.1. Common Objectives of Independent Commissions

These five independent commissions have a common purpose of supporting democracy which means they work to make sure that we all live in our country freely, as equals and in peace.

The Constitution of Zimbabwe states that all independent commissions including the ZHRC are not under the control or influence of anyone; they must always do their work in terms of the constitution without fear, favour or bias; the government and all its departments must not interfere with independent commission instead it must assist commissions to do their work. The five independent commissions including the ZHRC also share the following general objectives:

- i. To make sure that all human rights are respected and protected
- ii. To protect our freedom and interests as the people of Zimbabwe
- iii. To ensure that everyone, including the government, respects the constitution
- iv. To make sure that all government departments are run openly and work in a fair and honest way
- v. To ensure that the government operates at all levels in a fair manner and treats everyone equally
- vi. To provide help to any person wronged by the government or by any other person

2.2. Different Mandates of Independent Commissions

The constitution however also states that even though the independent commissions share common general objectives, each commission has its different purpose or mandate. This guide will discuss in more detail the mandate of the ZHRC but for the other independent commissions a summary of each commission's mandate is provided below:

i. Zimbabwe Gender Commission (ZGC)

The ZGC works to ensure that men and women are treated equally in all affairs. It receives complaints from anyone who feels that they have been discriminated against or ill-treated based on their gender.

ii. Zimbabwe Electoral Commission (ZEC)

The ZEC is the commission responsible for managing all affairs related to national elections in Zimbabwe, including preparing for, conducting and supervising all elections to national office. ZEC handles complaints from members of the public concerning any election-related misconduct.

iii. Zimbabwe Media Commission (ZMC)

The ZMC works to ensure freedom of the media and to promote and enforce good practices and ethics in the media. ZMC receives, considers and acts upon complaints received from the general public concerning the conduct of media and broadcasting practitioners.

iv. National Peace and Reconciliation Commission (NPRC)

The NPRC is entrusted with the mandate to work towards achieving national healing and reconciliation by dealing with conflicts of the past and encouraging people to tell the truth about the past. It also works to prevent conflicts by mediating between disputing communities, organizations, groups, individuals and political parties. The NPRC is open to all Zimbabweans who have any issues related to its mandate.

v. Zimbabwe Human Rights Commission (ZHRC)

The mandate of the ZHRC will be more fully discussed below but in summary, the ZHRC works to promote awareness of and respect for human rights and freedoms at all levels in society. The ZHRC receives, considers and acts on complaints received from the public concerning human rights violations and abuse of power by public officials.

Every Zimbabwean needs to know about all the independent commissions established by the constitution and their respective mandates as they are all created to serve and assist the general public. All citizens should take ownership of the independent commissions, by making use of them and jealously guarding the integrity of every one of them including the ZHRC.

2.3 Do Independent Commissions Report to Anyone?

The independent commissions are distinct and separate from the government and should act without influence or interference from

any institution or individual. However, to ensure the commissions are functioning properly, the constitution provides for parliamentary oversight. Parliamentary oversight means that all Independent commissions report to the Parliament of Zimbabwe. Each commission is required to submit a report to Parliament before the end of March each year. The annual reports submitted by the independent commissions describe the operations and activities of the commission for the year.

Solution [1]

Mrs Moyo's complaint relates to the work of a radio station which falls in the category of media and broadcasting practitioners. In light of this, the best Chapter 12 independent commission to address her concern is the Zimbabwe Media Commission (ZMC) which has a mandate to deal with issues related to the conduct of media and broadcasting practitioners.

3. COMMISSIONERS

A *Commissioner* is an individual selected and appointed to serve as a member of any of the commissions stated in the new constitution.



3.1. How is a Commissioner Selected and Appointed?

i. A parliamentary committee called the Committee of Standing Rules and Orders advertises that there is a vacancy for people to apply to become commissioners in any of the independent commissions.

ii. The Committee of Standing Rules and Orders invites members of the public to nominate or suggest names of people whom they think are fit to be selected as commissioners.

iii. The Committee of Standing Rules and Orders holds public interviews of the persons nominated by the people.

iv. Based on how the nominated persons performed during the interviews as well as other factors related to their qualifications and suitability, the Committee of Standing Rules and Orders compiles a list of names of eligible applicants and submits it to the President who will appoint an appropriate number of commissioners from the list of nominees submitted to him.

3.2. What is Expected of a Commissioner?

i. A commissioner must be a person of integrity, which means that the individual concerned must be honest and trustworthy. This does not only mean that the person ought to be morally upright but also that the individual concerned must have public trust. If for instance, a person insists that he or she is a person of integrity but has a bad public reputation, such a person should not be appointed as a commissioner as it will be difficult for members of the public to trust them.

ii. A commissioner must have knowledge, understanding and experience relating to the particular mandate of the commission which they intend to work for. The constitution provides for specific requirements relating to commissioners of each commission. For

instance, concerning the ZHRC, all commissioners are expected to have knowledge and understanding of, and experience in, the promotion of human rights, whilst the Chairperson of the ZHRC must be a person who has been qualified for at least seven years to practise as a legal practitioner in Zimbabwe.

iii. A commissioner must not be actively involved in politics.

Commissioners should not be members of any political party and are not supposed to act in a manner that seems to suggest they support any political party. If a person who is a member of any political party at the time they are appointed as a commissioner, they must resign from being a member of any political party within thirty (30) days of their appointment as commissioner. If they fail or refuse to resign from their political party within thirty (30) days of their appointment, they will automatically lose their position as a commissioner.

3.3. How are Commissioners Paid?

To ensure that the integrity and independence of commissioners are not compromised, the constitution provides that commissioners' salaries and allowances are set by Parliament and are paid out of the Consolidated Revenue Fund.

The Consolidated Revenue Fund is an account into which all fees, taxes, and other forms of monies generated by the government are kept.

In terms of the constitution, Parliament has a duty to make sure the commissioners' salaries and allowances are paid up and that the commissions have enough resources for them to do their work.

3.4 Removal of Commissioners from Office

Commissioners are protected by the constitution from manipulation by any other person. One of the measures provided in the constitution to safeguard commissioners from undue influence relates to their removal from office. In terms of the constitution, a commissioner can only be removed from office because of any of the following four reasons:

- i. The commissioner is too physically or mentally ill, or too frail due to advanced age or any other reason to be able to do their job.
- ii. The commissioner has shown a serious lack of knowledge and skills which has led them to fail dismally in doing their work.
- iii. The commissioner has been found guilty of committing serious misconduct.
- iv. The commissioner has assumed membership in a political party or has for any other reason become ineligible for appointment as a commissioner.

The protection provides to commissioners by the constitution can also be seen in how commissioners are given the same status as judges concerning the procedure for their removal from office. The procedure for the removal of a commissioner which also equally applies to judges involves the following:

- i. The President sets up a special tribunal to investigate the alleged reasons why a commissioner should be removed from office. As part of the inquiry conducted by the special tribunal, the concerned commissioner may be called for a hearing before the special tribunal.
- ii. After the special tribunal has completed its investigations and inquiry it informs the President of its recommendations.
- iii. The President is bound by law to act in accordance with the recommendations of the special tribunal.

A commissioner must be a person of integrity, which means that the individual concerned must be honest and trustworthy.

Test your knowledge

[The answers to these revision questions can be found at the end of this guide]

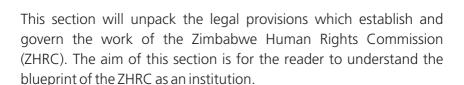
- 1. What are the names of the five Chapter 12 independent commissions?
- 2. Do independent commissions report to anyone?
- 3. Which parliamentary committee is responsible for holding the public interviews of persons nominated to become commissioners?
- 4. Can a commissioner be an active member of a political party?
- 5. The procedure to be adopted for the removal of commissioners if similar to which groups of public officials?

SECTION B:

THE STRUCTURE AND MANDATE OF THE ZHRC

Question to think about [2]

The Gavanga family has lived in Chipisi Village for over ten years. Last year, the youngest daughter in the Gavanga family, Eunice, contested as an independent candidate in the local government elections. In an effort to force Eunice to withdraw from the elections, some members of political party X raided the Gavanga family home. These members of party X stole cattle and other livestock belonging to the Gavanga family, assaulted Eunice's father and forced the Gavanga family to flee from their rural home. Even though, Eunice has reported this matter to the police, no investigations have been undertaken and no arrests made for over six months now. Can Eunice and her family approach the ZHRC for help? If so which violations should be part of their complaint to the ZHRC?



1. THE LEGAL FRAMEWORK OF THE ZHRC

The ZHRC was first introduced in the constitution through Constitution Amendment 19 which was made into law as part of the measures to give effect to the 2008 Global Political Agreement (GPA).

The Parliament of Zimbabwe on the 12th of October, 2012 made a law called the Zimbabwe Human Rights Commission Act (Chapter 10:30), which still governs the operations of the ZHRC. The current constitution provides for the ZHRC in Chapter 12 as already discussed. The procedures of how the ZHRC works are stated in the Zimbabwe Human Rights Commission (General) Regulations, 2016. In this regard, the *three principal legal instruments* which govern the ZHRC are listed below in descending order of priority:

i. *The Constitution of Zimbabwe (2013)* - provides the most important provisions and all other legal instruments relating to the ZHRC have to be compliant with the constitution.

ii. The Zimbabwe Human Rights Commission Act (Chapter 10:30) - is referred to as the ZHRC's enabling legislation which means it is the law that makes the ZHRC operational. The ZHRC Act should be in line with what the constitution says.

iii. The Zimbabwe Human Rights Commission (General) Regulations, 2016 - in terms of the Zimbabwe Human Rights Commission Act, the ZHRC is empowered to make its regulations to clarify its procedures and other pertinent issues. However, it is important to note that all the provisions of the regulations have to be consistent with the provisions of the Zimbabwe Human Rights Commission Act and the Constitution of Zimbabwe.

2.THE COMPOSITION AND STRUCTURE OF THE ZHRC

The ZHRC is composed of *nine commissioners* with one commissioner leading the commission as a *Chairperson*. As stated above, the Chairperson must be a person who has been qualified for at least seven years to practise as a legal practitioner in Zimbabwe. One other

commission is also appointed to the position of *Deputy Chairperson* of the ZHRC and is empowered to act as the Chairperson if he is absent from duty or the position of Chairperson is vacant for any reason.

In addition to the nine commissioners, the ZHRC Act also provides for the ZHRC to appoint an *Executive Secretary* who must be *qualified to* be appointed as a judge of the High Court or the Supreme Court or have a graduate or postgraduate qualification in human rights law or humanitarian law. The Executive Secretary is answerable to the commissioners and is entrusted with the day-to-day management and administration of the affairs, staff and property of the Commission.

The *staff* or *secretariat* of the ZHRC led by the Executive Secretary are very important in ensuring that the ZHRC can do its work as the nine commissioners alone would not be able to attend to all the work the commission has to do. The ZHRC is also empowered by law to engage consultants to also assist with the work of the commission. However, the commission is required by law to consult the Minister of Finance, to ensure that adequate public funds are available for the recruitment of commission staff and engagement of consultants.

3. THE MANDATE OF THE ZHRC

The mandate of the ZHRC is focused on two important issues, which are human rights violations and maladministration. It is important to understand these two issues which form the mandate of the ZHRC because as discussed in section A of the guide, the commission's mandate tells us its purpose. As a result before approaching the ZHRC, one should know whether the problem they have falls under any of the two categories of human rights violations and maladministration which form the purpose or mandate of the ZHRC.

However, when in doubt concerning how to classify the complaint, there is no harm in approaching the ZHRC as the ZHRC personnel can advise the complainant concerning which other commissions or institutions are best placed to assist. Nonetheless, it saves time and resources for the complainant to know beforehand that their complaint relates to human rights violations or maladministration so that they can approach the ZHRC directly and receive assistance.

3.1. What is a Human Rights Violation?

A human rights violation is any act or omission by a state official or any other person or body that results in a violation of any of the fundamental rights provided for in *Chapter 4 of the constitution*.



Some of the many rights provided in Chapter 4 of the constitution include the right to life, freedom from torture or cruel, inhuman or degrading treatment or punishment, rights of accused persons, right to property, right to education and right to health care, among several others. It is therefore important for every Zimbabwean to read Chapter 4 of the constitution to know and understand their rights.

3.2. What is Maladministration?

The coming into force of the 2013 Constitution of Zimbabwe, which is the current constitution, resulted in the ZHRC assuming the responsibilities formerly held by the Public Protector's office and its predecessor the Ombudsman's office. The Ombudsman and later the Public Protector were all empowered by law to receive and act on complaints relating to actions taken by any employees of the government. However, the powers of these two offices were very limited as they could not investigate members of the Defence Forces, Police Force or employees of local authorities. The ZHRC, on the contrary, has the power to investigate *maladministration by any State and public institutions and by officers of those institutions*.

Maladministration refers to wrong administrative practices, which include abuse of power; incorrect action or failure to take any action; unjustifiable delays; failure to follow procedures or the law, or similar acts or omission which result in an injustice to members of the public.

Solution [2]

Eunice and her family should seek help from the ZHRC as their matter concerns human rights violations and maladminstration. Eunice's political rights and her family's right to property, right to person security among other rights have been violated. In addition, the refusal or failure by the police to investigate the matter is a serious case of maladminstartion which the ZHRC can assist with by directing the police to investgate and arrest the perpetrators.

4. THE FUNCTIONS OF THE ZHRC

In line with this mandate, which we discussed above, relating to addressing human rights violation and maladministration, the ZHRC is empowered by law to do the following:

- i. To promote awareness of and respect for human rights and freedoms at all levels in society.
- ii. To promote the protection, development and attainment of human rights.
- iii. To monitor, assess and ensure observance of human rights.
- iv. To receive, consider and act on complaints received from the public concerning human rights violations.
- v. To protect the public against abuse of power and maladministration in state institutions.
- vi. To investigate any person or body believed to be violating the human rights of people and to recommend the prosecution of such person or body.
- vii. To direct the Commissioner-General of Police to investigate criminal cases of human rights violations.
- viii. To recommend to Parliament policies and laws to protect the human rights of the public.
- ix. To visit and inspect places of detention, like prisons, refugee camps, and places were the intellectually handicapped are kept to ensure that these people are being held in are habitable.

5. THE JURISDICTION OF THE ZHRC

Jurisdiction refers to the extent of powers a particular body or institution possesses. The ZHRC has the power to order investigation and prosecution of offenders and take any other appropriate action relating to cases of human rights violations and maladministration in Zimbabwe. However the ZHRC according to the law may NOT receive complaints and take any action in the following circumstances:

- i. The complaint was made more than three (3) years after the violations occurred.
- ii. The complaint relates to events which occurred before the 13th of February 2009.
- iii. The matter is being dealt with already by courts in Zimbabwe.
- iv. The offender has already been pardoned by the President of the acts complained of
- v. Where the action or omission complained of involves relations or dealings between the Government and a foreign government unless there has been an allegation of a human rights violation by a citizen or resident of Zimbabwe.

Test your knowledge

[The answers to these revision questions can be found at the end of this guide]

- 1. What are the three main legal instruments which govern the ZHRC?
- 2. How many commissioners does the ZHRC have?
- 3. What are the two main issues which form the mandate of the ZHRC?
- 4. Does the ZHRC have the power to direct the Commissioner General of Police to investigate criminal cases of human rights violations?
- 5. Can the ZHRC handle complaint made more than three (3) years after the violations occurred?

SECTION C: THE PROGRAMMES OF THE ZHRC

Question to think about [3]

You are a community human rights champion and you are have set up a human rights information resource centre at your house. You want to address a letter to the ZHRC to request Information, Education and Communication (IEC) materials concerning human rights as well as the ZHRC and its work. Which particular unit of the ZHRC should you address your request to?



This section will discuss the inner workings of the ZHRC, for citizens to understand how the different programmatic arms of the ZHRC and the work which they do.

1. THE UNITS OF THE ZHRC

The ZHRC has three units or programmes which are namely,

- i. Complaints Handling & Investigations;
- ii. Education, Promotion and Research;
- iii. Monitoring & Inspection.

These units all work to implement the mandate of the ZHRC in their different ways as will be shown below:

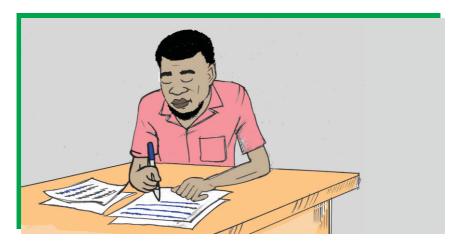
1.1. The Complaints Handling and Investigations Unit

As you might recall, in *section B (4)* above, we discussed that the ZHRC has the mandate to receive, consider and act on complaints received from the public. In line with what we discussed before, the

Complaints Handling and Investigations Unit has two main functions which are, to receive all complaints that come to the ZHRC, and to investigate all reported cases. As we also discussed before, the ZHRC deals with human rights violations and maladministration; therefore the Complaints Handling and Investigations Unit is the ZHRC's arm entrusted with receiving and investigating these matters. Besides investigating cases arising from complaints received from members of the public, the Complaints Handling and Investigations Unit is also empowered by the law to carry out investigations on its initiative.

1.2. The Education, Promotion and Research Unit

In section B (4) above we discussed that part of the functions of the ZHRC include promoting awareness of and respect for human rights and freedoms at all levels in society. The Education, Promotion and Research Unit's work can be divided into three main functions, which are, educating people about their rights; promoting the work of the ZHRC; and carrying out research on issues relating to human rights, freedoms and social justice.



The Education, Promotion and Research Unit does its education and promotional work through various media channels, conducting

community outreach programmes, seminars and training workshops. It is also responsible for developing and distributing pamphlets, flyers and other materials which are termed as *Information*, *Education* and *Communication* (*IEC*) materials, meant to teach people about their rights and the work of the ZHRC.

1.3. The Monitoring & Inspection Unit

As stated in section B (4) previously, the ZHRC has the responsibility to monitor the observance of human rights, as well as to visit and inspect places of detention such as prisons, refugee camps and mental institutions in Zimbabwe. The ZHRC does its monitoring and inspection work through the Monitoring & Inspection Unit. As is apparent from its title, the Monitoring & Inspection Unit serves two main purposes, which are to keep track of the human rights situation in Zimbabwe and to look closely into all detention centres to ensure that persons being held in these facilities are treated humanely.

Solution [3]

The Education, Promotion and Research Unit is best placed to assist you in getting IEC material relating to human rights and the work of the ZHRC.

The Complaints Handling and Investigations Unit is also empowered by the law to carry out investigations on its initiative.

2. THEMATIC WORKING GROUPS (TWGs) OF THE ZHRC

Thematic working groups are groups comprised of experts or persons with special skills or knowledge who come together to focus and work on specific needs or topics. The TWGs of the ZHRC are provided for in the Zimbabwe Human Rights Commission Act, as a means to improve the exercise ZHRC's functions. Even though, the TWGs are chaired by at least one member of the ZHRC, the other persons who may be appointed to join the TWGs are not members of the Commission. In this way, the ZHRC can benefit from the input, knowledge and skills of people outside the ZHRC, including civil society. The ZHRC is empowered by law to establish TWGs on any themes it deems necessary and currently the ZHRC has eight TWGs, namely, Economic, Social, and Cultural Rights; Civil and Political Rights; Environmental Rights; Children's Rights; Gender Equality and Women's Rights; International Agreement and Treaties; Capacity Building; and Special Interest: Elderly, Youth, and Persons Living with Disabilities.

Test your knowledge

[The answers to these revision questions can be found at the end of this guide]

- 1. What are the three main units of the ZHRC?
- 2. Which of the three units of ZHRC is responsible for receiving complaints from the public?
- 3. Which of the three units of ZHRC is responsible for visiting and inspecting detention facilities?
- 4. Which of the three units of ZHRC is responsible for educating the public about human rights?
- 5. Is it true or false that Thematic Working Groups (TWGs) of the ZHRC are made up of ZHRC staff only?

SECTION D: ACCESSING THE ZHRC

Question to think about [4]

Jack is a police officer, based at Zvemoyo Police Station in Gorikingo Township, Masvingo. He is however notorious for leading a gang responsible for terrorizing people in the area by demanding what he calls 'protection fees' which they collect weekly from vendors selling their wares in the area. This has been going for some time and no one has had the courage to report Jack to the authorities because he boasts that because of his position as a police officer, he is well connected and is above the law. Your aunt is a vendor in the area and she has complained to you about being incessantly harassed by Jack and his gang, who loot her wares, and forecibly demand protection fees from her. Your aunt is afraid for her safety and of reprisal if she reports Jack to the authorities. How can you help report the matter to the ZHRC and which regional office should you address the complaint to?

This section will provide information concerning how members of the public can access the commission. The section also presents the administrative procedures involved in the process of filing complaints with the ZHRC. A sample of the 'Complaint Registration Form' will be provided together with an explanation of the critical information required as part of a complaint before the ZHRC. A step-by-step guide will also be provided on how the ZHRC processes the complaints it receives.

1. ZHRC's OFFICES

The ZHRC in terms of the law is required to have national coverage throughout Zimbabwe, by establishing regional and district offices. However, due to resource constraints the ZHRC currently has no district offices but has two regional offices, in Harare and Bulawayo. The regional office in Harare is responsible for serving the Northern Region, comprising the provinces of Harare, Manicaland, Mashonaland Central, Mashonaland East and Mashonaland West; whilst the Bulawayo office serves the Southern Region, comprising the provinces of Bulawayo, Masvingo, Matabeleland North, Matabeleland South and Midlands.

The current addresses and contact details of the regional offices of the ZHRC are listed below:

Harare (Head Office)

144 Samora Machel Avenue, Harare Tel: +263 24 2705268/426 or 2703596/616 or 2701811

TOLL-FREE: 08080245

Call/WhatsApp: 0771838654-6

Bulawayo Office

49 J.M Nkomo (between 3rd and 4th Avenue), Bulawayo Tel: +263 29 2264170-73

TOLL-FREE: 08080245

Call/WhatsApp: 0771838654-6

It is apparent that the current two regional offices of the ZHRC are not enough to ensure that every Zimbabwean has access to the commission. Therefore, it is important to keep calling upon the government of Zimbabwe to avail more resources for the ZHRC to extend its presence to cover more provinces and districts in Zimbabwe.

^{*}Please note that these contact details of the ZHRC offices may change over time

2. FILING A COMPLAINT TO THE ZHRC



2.1. Who can file a complaint to the ZHRC

A complaint to the ZHRC can be filed by:

- i. the person who has been wronged.
- ii. or by any other person including relatives or lawyer representing the aggrieved person.
- iii. a civil society organisation or association such as ZimRights on behalf of the aggrieved individual(s), its members or in the interests of the public.

The complaint can be transmitted to the ZHRC through a variety of way such as:

i. physically visiting the ZHRC office to file a complaint with the Complaints Handling and Investigations Unit as discussed in section C(1) above.

ii. writing to the ZHRC using the addresses provided above in section D(1).

iii. calling the ZHRC offices using the telephone and cell phone line provided above in section D(1).

iv. electronically by sending an email, Whatsapp or by directly registering the complaint on the ZHRC's website which is accessible on the following link: http://www.zhrc.org.zw

If the complainant chooses to register their complaint orally, the ZHRC staff will record it in a special form called the *'Complaint Registration Form'*. However, it is also possible for the complainant or anyone acting on behalf of an aggrieved individual to complete the form and then submit it to the Complaints Handling and Investigations Unit of the ZHRC for processing.

Complaint Registration Forms can be requested from ZHRC offices or downloaded from the ZHRC's website on this link:

http://www.zhrc.org.zw/wp-content/uploads/2017/11/Complaintform.pdf.

A sample of the Complaint Registration Form is provided on the next page.





For Hawan Dignity COMPLAINT REGISTRATION FORM

	File Number	Date	of Re	ceipt
СНІ		DD	MM	ΥΥ
ZHRC	I I	DD	MM	ΥΥ

PART A: E	Bioda	ta (Pleas	e Mark with	a√ or 2	X where a	propri	iate)	
1. Title Mr/Mrs/Miss/M Other	s	2. First Na	ameM	iddle N	ame	Last	Name	Other Names
3. Sex 4. Da	te of	Birth 5. N	lationality _	_6. Oc	cupation	7. Pho	one Numb	er 8. Email Address
المتعال المتعا	101101			·				
9. Marital St	atus	10. Ident				xt of k	in details	
Single		-==	ty Card		Name			
Married		Pass			Relation			
Widowed		- =	r's Licence		Addres	SS		
Divorced		- 	·					
Separate	d 	Identif	ication Num	iber	Contact Phone			
Other					Email			
12. Physical Address Alternative Address				ddroce	Postal Address			
12. I Hysical	Addi	C33	Aiteii	Alternative Address			''	stal Additess
13. City	14	Province	15. Neare	st Scho	ool 16 V	/illage	17 Ward	18. Languages Spoken
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			[□ Press			□Radio	☐From a Friend
19. How did y	19. How did you know about ZHRC Social Media STV Other						Other	
20. Have you		-				\square N	0	
			Reference N					
								edical, physical) which
may limit y	our p	articipatior	n/ participatio	on of the	se involve	d in the	proceedir	igs:
22. In what ca	nacity	are you fi	ling the com	nlaint? /	nlease ma	rk with	av or XI	
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1 4111 1110 11		г	maladmin					
I am subm	itting	on behalf	of a victim of			ıuman ı	rights viola	tion.
	3						inistration.	

	person agreed to you representing him/her? Yes No					
c) Please explain why you are representing the person:						
d) Full nam Title:	e and contact details of the victim of the human rights violation:					
First name:	Middle name:					
Last name:						
	dress:					
Postal addr	ess:					
Contact pho	one number: LANDLINE:MOBILE PHONE:					
	ess:					
Ziliali adare						
	of Complaint					
Resp	ondent (the complaint is against whom?) State (Public/Government)					
_	State (Fubilic/Government)					
п						
	Individual					
_	Individual Private company					
	Individual					
Detai	Individual Private company Other (please specify)					
Detai	Individual Private company Other (please specify) Is of respondent (name, phone number, email address and physical addresses). mary of complaint (please include all relevant details and dates, in order of					
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Detai	Individual Private company Other (please specify) Is of respondent (name, phone number, email address and physical addresses). mary of complaint (please include all relevant details and dates, in order of					

4. Details of witnesses	(name, contact deta	ails including phone, email and	l physical address):
5. Supporting documen	its provided (in copy	y): 	
·	aken by those autho	u have reported this matter to a	•
7. What do you want th	ne ZHRC to do for yo	ou (remedy)? :	
8. Signature and date ((or thumb print):		
Zimbabwe Human Right all information received my/our failure to mainta	a Complainant hts Commission, do d and shared during ain confidentiality m	hereby accept the responsibil	,
Signed:	I.D	Place:	Date://
FOR OFFICIAL USE C	ONLY		
		RIGHTS OFFICER (HRO)/PA	
		Date:	
26. CLASSIFICATION	OF THE HUMAN F	RIGHTS VIOLATION/ MALAD	MINSTRATION:
27. ADMISSIBILITY BY	Y A SUPERVISOR		
The case is admissible			
Determined by (Name)		Data	
Signature:		Date:	

2.3. Important information to including when filing a complaint

Whether you are filing your complaint or doing so on behalf of another person, there are some very important details which you should always include in your complaint. It should be noted the details listed below are not only important when completing the Complaint Registration Form but should be including even when making a complaint to the ZHRC orally or through any other medium. The ZHRC regulations require that when registering a complaint with the ZHRC you must include the following information:

v. your full names and national registration number (even if you do not have a national I.D. you can still make your complaint and state this fact).

vi. your physical and postal address and telephone or cell phone number.

vii. If you are acting on behalf of an organization, you need to state the name of the organization you are representing and describe the nature of its business or activities.

viii. If you are acting on behalf of another person you should this and also give reasons why the aggrieved person is unable or unwilling to make the complaint themselves.

ix. the nature of the human rights violation(s) or maladministration you are complaining about.

x. the date on which and place at which the violation, maladministration or abuse occurred or arose (if you cannot recall the exact date when the violations occurred it is advisable to inform the ZHRC and provide an estimation to the ZHRC).

xi. particulars of the perpetrators or person(s) responsible for the human rights violation(s) or maladministration (if you do not know the perpetrators it is still possible to file your complaint and the ZHRC can assist in investigating to try and ascertain the identity of the perpetrators).

xii. particulars of any person who may serve as a witness or provide information relevant to the complaint.

xiii. any steps you have taken, if any, to try and get redress for the complaint before approaching the ZHRC (This does not mean you have to try other measures before approaching the ZHRC, instead this information enables the ZHRC to give you better advice and assistance by helping you to follow up on the complaint you registered with the police for instance).

xiv. the remedy or redress you seek (this does not mean that you need to know the legal remedies available to you. It is sufficient to indicate simple measures as the return of property taken from you, the arrest of perpetrators or compensation for harm suffered. You also allowed to indicate as many remedies as you want).

2.4. Where should I file my complaint?

To ensure that the ZHRC can expeditiously process your complaint, you should file your complaint with the relevant regional office for the place where the violation or maladministration complained of occurred as we discussed above in *section D(1)*. However, if a complaint is lodged to the wrong regional office, the same regional office can still send it to the correct regional office for processing.

2.5. I have a complaint but I am afraid of reprisal. What can I do?

The law acknowledges that a person can be unwilling to disclose their identity when making a complaint to the ZHRC because they are afraid that the perpetrators may attack him or her as retaliation for reporting them. In such a situation, the law allows the complainant to not give their personal details. The ZHRC will still process the complaint whilst keeping the identity of the complainant confidential.

It is also possible to approach a reputable civil society organisation such as ZimRights or a trustworthy relative or individual in your community to file the complaint on your behalf with the ZHRC.

2.6. I cannot read or write. How can I file my complaint?

As stated above, the complainant has a choice whether they want to complete the Complaint Registration Form or to report their complaint orally or in any manner which suits them. The ZHRC is mandated by the law to ensure that one of their officers is on hand to assist you to either complete the form if you want or to record the complaint you make orally or through other means on the form on your behalf. ZHRC staff will also advise you concerning further information or documents needed to support your case.

The ZHRC also process complaints whilst keeping the identity of the complainants confidential.

Solution [4]

You can file a complaint with the ZHRC office in Bulawayo which caters for Masvingo province.

You can file the complaint on behalf of your aunt through any of the ways discussed above, that include:

- physically visiting ZHRC offices,
- calling the ZHRC telephone lines,
- sending a letter or email,
- lodging the complaint on the ZHRC website.

In order to safeguard your aunt and yourself from reprisal, you can request the ZHRC to keep your identities confidential.

When filing your compaint you should remember all the relevant details concerning the case.

3. PROCESSING OF COMPLAINTS BY THE ZHRC

Below is a simple step-by-step guide of how the ZHRC processes the complaints it receives:

3.1. Step 1: Lodging

As we already discussed above there are numerous ways one can transmit their complaint to the ZHRC. The submission of a complaint is what is referred to in legal terms as lodging of the complaint. In terms of the law, a complaint is regarded as lodged if:

- i. It is made orally or by telephone to the ZHRC's offices
- ii. It is submitted in a written manner to the ZHRC's offices
- iii. It is sent to the ZHRC's offices via post on electronically
- iv. It is submitted on the ZHRC website

3.2. Step 2: Acknowledgment of receipt of the complaint

Acknowledgement of receipt of complaint refers to a formal confirmation by the ZHRC that it has received the complaint. The acknowledgement of receipt of the complaint is signified by the ZHRC sending a written note within seven days after the complaint has been lodged. The acknowledge note from the ZHRC will indicate to complainant their unique case reference number, which they can use to follow up on their complaint as the case progresses. The complainant should request for the name of the ZHRC officer assisting them to lodge their complaint, so that, they can be able to check with the ZHRC if no acknowledgment of receipt of the complaint is issued within the prescribed seven days.

3.3. Step 3: Assessment of a complaint

The assessment of the complaint involves consideration by an officer of the ZHRC of the case reported to the commission.

During the assessment stage, the ZHRC can accept the complaint and proceed to investigate the case or it can reject the complaint based on any of the following four reasons:

i. if the ZHRC has no jurisdiction over the complaint as we discussed earlier in section B(5).

ii. if the complaint is not related to the two main issues which form the mandate of the commission as indicated earlier in section B (3) i.e. human rights or maladministration.

iii. if the main issues raised in the complaint have already been decided by the courts.

iv. if the ZHRC is convinced that the complaint would be best dealt with by another commission or body.

If the ZHRC decides to reject the complaint because of any of the reasons listed above, the complainant will be informed of this fact and the reasons for the decision as well as their right to appeal against the rejection of their complaint.

3.3.1. How does one appeal against a decision by an officer of the ZHRC to reject their complaint?

A complainant who wishes to appeal against the rejection of their complaint by an officer of the ZHRC is required by law to write to the ZHRC within three months of being told of the rejection of their application. In the written communication addressed to the ZHRC, the appealing complainant must state the reasons why they think their complaint should have been accepted by the ZHRC.

To arrive at its decision the ZHRC may invite the appealing complainant to come and explain their case further. After considering the appeal, the ZHRC will communicate its decision to the appealing complainant within seven days. The ZHRC can decide to accept the complaint if it considers that the officer who assessed the complaint erred or it may uphold the decision to reject the complaint.

3.4. Step 4: Investigation of Complaint

If the ZHRC accepts the complaint, then an officer of the Complaints Handling and Investigations Unit which we discussed in section C (1.1.) above commences investigations. The complaint will be notified by the investigating officer of the ZHRC that the complaint is under investigation and the law requires the officer to keep the complainant updated on the progression of the investigations. When undertaking investigations, the ZHRC officer has powers to *interview any person;* visit and inspect any place; receive or make a copy of any document; and receive any article pertinent to the investigations.

In addition to the above, the ZHRC officer investigating the matter may call for an *informal hearing* which brings the complainant and the alleged wrongdoers or perpetrators privately before the ZHRC. During the informal hearing, the investigating officer can ascertain more information concerning the complaint or try to help the complainant and the perpetrators to resolve the complaint amicably.

However, if the ZHRC officer investigating the complaints decides not to call for an informal hearing or if after an informal hearing is held, the matter is still not resolved, the ZHRC can call the complainant, the perpetrators and any other relevant parties, to a *formal hearing*.

3.5. Step 5: Formal Hearing

In general, a formal hearing is open to members of the public, unlike the informal hearing which is usually a private meeting. A formal hearing is presided over or run by the ZHRC, or a panel of three or more Commissioners selected by the ZHRC or by the Chairperson of the Commission. However to ensure that the persons presiding over the formal hearing are objective, any ZHRC officers involved at any stage of steps 1-4 above are not allowed by law to preside over the formal hearing. Before making their findings, the presiding officers hear from the complainant, alleged wrongdoers and any other interested parties.

3.6. Step 6: Findings and conclusion of a complaint

After arising at their decision, the ZHRC commissioners and officers presiding over a formal hearing announce their findings, the reasons for their findings, as well as, the remedial actions they propose to address the complaint. However, after the formal hearing, the presiding officer may also dismiss a complaint if they find that there is no substance in the complaint. The decision of the presiding officers is communicated to all parties involved in the formal hearing and each of them is afforded an opportunity within a reasonable time to

respond in writing. If the commission considers that there is merit in any of the submissions they receive from any of the parties to the formal hearing, they can call for the hearing to be reconvened.

However, if the ZHRC deems that the written submissions received from the parties are of no consequence or if no party submits written submissions, it can issue a report of the case. The report of the ZHRC captures a summary of the evidence produced by both parties during the formal hearing, the findings of the commission concerning the complaint and remedial action ordered by the Commission. The ZHRC has to send a copy of its report within seven days of its issuance to all parties to the dispute and also ensure that the report is filed for record purposes.

It is based on the ZHRC's report about the complaint, that the ZHRC takes appropriate action to address the complaint, including but not limited to recommending the criminal prosecution of the perpetrators and directing the Commissioner-General of Police to investigate the matter as a criminal case; recommending that the complainant be compensated; or take the complaint for resolution in a court of law in its name or on behalf of any complainant(s).

Test your knowledge

[The answers to these revision questions can be found at the end of this guide]

- 1. Is it possible to file a complaint with the ZHRC on behalf of some else?
- 2. It is not possible to file a complaint with the ZHRC without disclosing one's name. True or False?
- 3. What are some of the different ways one can file a complaint with the ZHRC?
- 4. How does one get to know that their compliant has been lodged with the ZHRC?
- 5. Can the ZHRC take the complaint to court for resolution?

MAIN POINTS TO REMEMBER

This guide has provided introductory and simplified information concerning the ZHRC and its work. For further information concerning the ZHRC, the reader is encouraged to further study the Constitution of Zimbabwe, the Zimbabwe Human Rights Commission Act, and the Zimbabwe Human Rights Commission. The main points to remember concerning the ZHRC are as follows:

- The ZHRC is of the five independent commissions provided for in Chapter 12 of the Constitution of Zimbabwe.
- It is mandated to provide redress to the public for human rights violations and maladministration.
- The ZHRC is not allowed by law to deal with matters which are reported to it three years after the incidence complained of occurred; any matters currently before or already dealt with by the courts; any matter arising from events that occurred before the 13th of February 2009; in cases where the offenders have already been pardoned by the President; or the complaint relates to dealings between the Government and a foreign Government.
- Anyone can file a complaint with the ZHRC concerning wrongdoing they suffered or on behalf of another person.
- The ZHRC has the power to direct the police to investigate a matter and to make a complaint to the court in its name or on behalf of a complaint.
- The ZHRC belongs to the people of Zimbabwe and all citizens must make use of it, serve as watchdogs to preserve its integrity, and call upon the government of Zimbabwe to further strengthen and capacitate it

ANSWERS

Section A

1. *Q: What are the names of the five Chapter 12 independent commissions?*

A: Zimbabwe Human Rights Commission (ZHRC); Zimbabwe Electoral Commission (ZEC); Zimbabwe Gender Commission (ZGC); Zimbabwe Media Commission (ZMC); and National Peace and Reconciliation Commission (NPRC)

- Q: Do independent commissions report to anyone?
 A: Independent commissions only report to parliament
- 3. *Q: Which parliamentary committee is responsible for holding the public interviews of persons nominated to become commissioners?*

A: The Committee of Standing Rules and Orders

4. *Q:* Can a commissioner be an active member of a political party?

A: No. A person appointed to be a commissioner must resign from being a member of any political party within 30 days of appointment

5. Q: The procedure to be adopted for the removal of commissioners if similar to which groups of public officials?

A: Judges

Section B

1. *Q: What are the three main legal instruments which govern the ZHRC?*

A: The Constitution of Zimbabwe (2013); the Zimbabwe Human Rights Commission Act (Chapter 10:30); and the Zimbabwe Human Rights Commission (General) Regulations, 2016

- Q: How many commissioners does the ZHRC have?A: 9 (nine)
- 3. *Q: What are the two main issues which form the mandate of the ZHRC?*

A: human rights violations and maladministration

- 4. Q: Does the ZHRC have the power to direct the Commissioner-General of Police to investigate criminal cases of human rights violations?

 A: Yes
- 5. *Q: Can the ZHRC handle complaint made more than three (3) years after the violations occurred?*A: No

Section C

Q: What are the three main units of the ZHRC?
 A: Complaints Handling & Investigations; Education,
 Promotion and Research; and Monitoring and
 Inspection units

- Q: Which of the three units of ZHRC is responsible for receiving complaints from the public?A: Complaints Handling & Investigations unit
- Q: Which of the three units of ZHRC is responsible for visiting and inspecting detention facilities?A: Monitoring & Inspection unit
- 4. Q: Which of the three units of ZHRC is responsible for educating the public about human rights?A: Education, Promotion and Research unit
- 5. Q: Is it true or false that Thematic Working Groups (TWGs) of the ZHRC are made up of ZHRC staff only?

A: False. The TWGs are chaired by commissioners of the ZHRC but also include outsiders including civil society

Section D

- 1. *Q: Is it possible to file a complaint with the ZHRC on behalf of some else?*
 - A: Yes
- Q: It is not possible to file a complaint with the ZHRC without disclosing one's name. True or False?
 A: False. A complaint can request the ZHRC to keep their identity confidential or opt to file a complaint anonymously

- Q: What are some of the different ways one can file 3 a complaint with the ZHRC?
 - A: visiting or calling the ZHRC office; sending a letter through the post; using email; or submitted the complaint on the ZHRC website
- Q: How does one get to know that their complaint 4. has been lodged with the ZHRC?

A: You will receive a written acknowledgement from the ZHRC within 7 (seven) days of lodging the complaint

Q: Can the ZHRC take the complaint to court for 5. resolution?

> A: Yes, it can do so in its name or on behalf of the complainant



W/O 3/93 **Campaigners for Human Rights**

Registered as a Welfare Organization in Zimbabwe. W/O 3/93

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