

Human Rights and Business Country Guide

Zimbabwe

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THE DANISH
INSTITUTE FOR
HUMAN RIGHTS



Zimbabwe Environmental
Law Association

How to Use this Guide

This Human Rights and Business Country Guide contains information regarding the potential and actual human rights impacts of businesses. The information in this Guide is gathered from publicly available sources, and is intended to help companies respect human rights and contribute to development in their own operations and those of their suppliers and business partners.

About the Human Rights and Business Country Guide

The Human Rights and Business Country Guide provides country-specific guidance to help companies respect human rights and contribute to development.

For companies to manage their potential human rights impacts, they must have comprehensive information about the local human rights context in which they operate. The Country Guide provides a systematic overview of the human rights issues that companies should be particularly aware of. For each issue, it provides guidance for companies on how to ensure respect for human rights in their operations or in collaboration with suppliers and other business partners.

The Country Guide is not only a resource, but a process. This Guide was produced through a systematic survey carried out by the Danish Institute for Human Rights (DIHR) and the Zimbabwe Environmental Law Association (ZELA). The aim of this Guide is to improve the human rights practices of companies, including through facts-based dialogue regarding the issues presented here.

How the Human Rights and Business Country Guide can be used by companies

- Develop company policies and procedures related to human rights issues in the local environment.
- Assess and track the potential human rights impacts of your own operations or in suppliers, business partners and investments.
- Raise awareness among staff, suppliers and other business partners.
- Engage with workers, potentially affected communities, consumers and other stakeholders whose human rights might be affected by your operations.
- Engage with civil society organisations, government bodies or international organisations on human rights-related issues.
- Provide background information for auditors.
- Establish or collaborate with mechanisms for workers, communities and other whose human rights might be affected by your operations.
- Contribute to development initiatives that align with human development needs and priorities in the local context.

How the Human Rights and Business Country Guide can be used by governments

- Review and reform public policy and legislation relevant to the human rights impacts of business, including in the areas of labour, environment, land, equal treatment, anti-corruption, taxation, consumer protection or corporate reporting.

- Ensure respect for human rights in the state's own business affairs such as state-owned companies, sovereign wealth funds and other investments, public procurement, development assistance, export credit and other activities.
- Build awareness and capacity on human rights and business issues within relevant areas of public administration.
- Provide targeted advice to domestic companies.
- Inform the development of trade policy, trade and investment agreements and trade and investment promotion.
- Improve effective access to judicial and non-judicial remedies for victims of business-related human rights abuses.
- Enhance the contribution of the private sector in national and regional development programmes relevant to human rights.

How the Human Rights and Business Country Guide can be used by civil society organisations

- Inform human rights research and monitoring related to business operations.
- Work with affected workers and communities to define human rights and human development priorities related to the role of business.
- Provide capacity-building to government, business and civil society stakeholders on human rights and business.
- Work with local stakeholders to provide recommendations to business and government.
- Facilitate dialogue and engagement with, including multi-stakeholder forums, with state agencies and businesses.

The Country Guide aims to work with all stakeholders to promote, monitor and expand the activities described above. We request that all stakeholders who use the findings of the Country Guide in their work notify the Country Guide team of their activities and lessons learned. These experiences will be included in the Country Guide website, HRBCountryGuide.org.

Country Guide Process

Zimbabwe is currently at step 3 in the Country Guide process.

The Zimbabwe Country Guide was produced by the Danish Institute for Human Rights (DIHR) and the Zimbabwe Environmental Law Association (ZELA)

The Country Guide is a compilation of publicly available information from international institutions, local NGOs, governmental agencies, businesses, media and universities, among others. International and domestic sources are identified on the basis of their expertise and relevance to the Zimbabwean context, as well as their timeliness and impartiality.

The initial survey of publicly available, international sources was carried out by DIHR and ZELA from January to December 2013. The draft was consulted through a series of multi-stakeholder forums held in Harare throughout 2013 and 2014, and published in December 2014. The current draft was updated in March 2016.

The completed Country Guide aims to provide a comprehensive overview, on the basis of the information available, of the ways in which companies do or may impact human rights in Zimbabwe. The current Country Guide is not meant as an end product, or a final determination of country conditions. It is intended to be the basis, and the beginning, of a process of dissemination, uptake and modification.

DIHR and ZELA seek further engagement with local stakeholders, and intend to update the Country Guide on that basis.

Country Guide Content

The Country Guide contains the following information:

Areas for Attention

Each section of the Country Guide identifies areas for particular attention by businesses. The Country Guide identifies these areas through an analysis of the country's legal framework for human rights protection; enjoyment of human rights in practice; and the proximity of third-party human rights violations to company operations.

The headline and risk description describe the relevance of each issue for businesses. The text that follows the risk description presents the quantitative and qualitative information upon which this determination was based.

Background & Context gives an overview of economic, political and demographic characteristics.

Rights Holders at Risk identifies groups that may be vulnerable to workplace discrimination or community impacts.

Labour Standards identifies areas for attention related to employees and working conditions. This section includes child labour, forced labour, trade unions, occupational health & safety and working conditions.

Community Impacts identifies areas for attention related to communities whose human rights may be affected by company operations. This section includes impacts related to environment, land & property, revenue transparency & management and security & conflict.

Sector Profiles identifies human rights and business impacts related to a particular industry sector, such as extractive operations, manufacturing or agriculture.

Region Profiles identifies regions of the country where the risk of adverse human rights impacts differs markedly from the national profile. This may include underdeveloped regions, export processing zones or conflict areas.

Cases

Each rights issue includes cases from media and law where the rights issue in question has been allegedly violated. These cases are drawn from the Business and Human Rights Resource Centre, international and local NGOs and stakeholder consultations. The cases presented here should not be considered comprehensive.

Access to Remedy

Victims of corporate human rights abuses have the right under international law to mechanisms that provide for remedy. The UN Guiding Principles on Business and Human Rights explicitly obligate governments and businesses to provide and/or participate in such mechanisms.

The Country Guide includes information under each rights area about the remedy mechanisms available to redress violations of the right. Where possible, this also includes practice information about the effectiveness of such bodies, and the number of cases they have heard and redressed.

Human Rights Guidance for Businesses

This section includes guidance for businesses to prevent and mitigate their adverse human rights impacts. This guidance is drawn from the Danish Institute for Human Rights' (DIHR) existing library of human rights due diligence recommendations, as well as international frameworks, principles and guidelines. Where available, this section includes recommendations issued by local NGOs and directed specifically at companies operating in the country.

This section also includes examples of initiatives carried out by companies to mitigate their human rights impacts. These are organized into Due Diligence Initiatives—activities that aim to meet the company's responsibility not to violate human rights—and Beyond Compliance Initiatives—activities that aim to contribute to development beyond this baseline obligation.

Engagement Opportunities

Companies have a responsibility to prevent negative human rights impacts, but they also have an opportunity to contribute to positive human rights impacts. Each section of this Guide includes information for companies to link their policies and community engagement processes to ongoing governmental and institutional efforts to promote and fulfil human rights.

This includes Public Sector Initiatives—activities where the government is aiming to fulfil or promote the right in question through discrete programmes—as well as Development Priorities—themes identified by international institutions as warranting deliberate attention, or where companies could have the greatest impact with their development initiatives.

The purpose of the information in this section is to inspire further efforts and engagement by businesses, as well as to identify existing programmes that companies could support or take part in.

About DIHR

The Danish Institute for Human Rights is a National Human Rights Institution accredited under the UN Paris Principles, and carries out human rights and development programmes in Denmark and around the world. Since 1999, the Danish Institute has worked closely with the business and human rights communities to develop tools and standards for better business practice.

For more information, see humanrights.dk.

About ZELA

Formed in 2000 and legally constituted as a Trust in November 2001, the Zimbabwe Environmental Law Association (ZELA) is a premier public interest environmental law group in Zimbabwe. As a public interest non-governmental organisation, ZELA seeks to promote environmental justice, sustainable and equitable use of natural resources and democracy and good governance in the natural resources and environment sector.

ZELA accomplishes this mission through legal and policy research, advocacy, impact litigation, conflict resolution and civic education. ZELA also seeks to ensure that environmental and natural resources management policies, strategies and legal frameworks respond positively to the needs of marginalised women, men and youths living in urban and rural communities.

ZELA projects cut across environmental sectors such as mining, forest management, wildlife management, water management and provision of adequate social and environmental services in urban areas (i.e. safe and adequate drinking water, shelter, energy, waste management services and land for

urban agriculture, among others). Direct and indirect beneficiaries of ZELA's public interest legal services include rural and urban communities, community-based organisations, local authorities, parliamentarians, government departments, industry and civil society organisations.

ZELA firmly believes that government and private sector operators have a duty to uphold democratic values, human rights and be transparent and accountable to the people in the extraction and exploitation of natural resources as well as the management of revenues and payments for the benefit of affected communities and the whole nation.

ZELA currently has four operational programme areas:

- Extractive Industries (Mining) Programme
- Urban Environment Programme
- Rural Communities Programme
- Transboundary Natural Resources Management Programme

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Background & Context

Overview of political and socio-economic conditions in which businesses operate. This information is designed to inform businesses of the broader political and development trends in the country.

Demographics & Economy	
Population	14,229,541 (July 2015 est.)
Ethnic Groups	African 99.4% (predominantly Shona; Ndebele is the second largest ethnic group), other 0.4%, unspecified 0.2% (2012 est.)
Religious Groups	Protestant 75.9% (includes Apostolic 38%, Pentecostal 21.1%, other 16.8%), Roman Catholic 8.4%, other Christian 8.4%, other 1.2% (includes traditional, Muslim), none 6.1% (2011 est.)
Languages	Shona (official; most widely spoken), Ndebele (official, second most widely spoken), English (official; traditionally used for official business), 13 minority languages (official; includes Chewa, Chibarwe, Kalanga, Koisan, Nambya, Ndau, Shangani, sign language, Sotho, Tonga, Tswana, Venda, and Xhosa)

Political, Economic & Development Statistics

Quantitative indicators and country rankings

Country Rankings & Ratings			
	2013	2014	2015
Reporters Without Borders: Press Freedom Index <i>(Where 1 indicates the highest degree of freedom)</i>	133	135	131

Freedom House: Map of Freedom - Political Rights <i>(On a scale of 1 through 7, where 1 indicates the highest level of freedom)</i>	6	5	5
Freedom House: Map of Freedom - Civil Liberties <i>(On a scale of 1 through 7, where 1 indicates the highest level of freedom)</i>	6	6	6
Form of government	Parliamentary Democracy		
Most recent general election	31 July 2013		
Current head of state	Robert Mugabe		
Ruling party	Zimbabwe African National Union – Patriotic Front		
Other major parties	• African National Party • Freedom Party • Movambo Kusile Dawn • Movement for Democratic Change • Transform Zimbabwe • United Parties • Zimbabwe African National Union – Ndonga • Zimbabwe African Peoples Union		

Development Indicators & Trends			
	2012	2013	2014
GDP growth	10.6 %	4.5 %	3.3
GDP growth Sub-Saharan Africa	4	3.8	4.5
GDP per capita (PPP) US\$	1,900	2,000	2,100
Human Development Index rank	172	156	155
Human Development Index score	0.39	0.49	0.49
Human Development Index score – Sub-Saharan Africa	0.47	0.5	0.5
HDI discounted for inequality	0.45	0.35	0.37
Gini coefficient	49.1 (1998)	n/a	n/a

Percentage of population below national poverty rate	72.3 (2011)	n/a	n/a
Percentage of population below absolute poverty rate (\$1.25 per day)	n/a	n/a	n/a

Political Context

Governance structures and political developments

In 1979, after almost 15 years of armed conflict, Zimbabwe became independent and established a national constitution. Robert Mugabe, of the Zimbabwe African National Union Patriotic Front (ZANU-PF) party, was elected as head of state. President Mugabe's ZANU-PF party governed alone from 1980 until March 2008, when the Movement for Democratic Change (MDC)—an opposition party established by trade union members—won a majority of Parliamentary seats. During the presidential runoff election that year, Mugabe was declared winner over MDC candidate Morgan Tsvangirai,¹ a result that was disputed by election observers from the Southern Africa Development Community (SADC) and the Pan African Parliament.²

With the assistance of SADC, a government of national unity was set up in 2009 under the global political agreement (GPA) signed on September 2008, which stipulated that power would be shared between ZANU-PF and MDC.³

The latest presidential elections were held on 31 July 2013 and President Mugabe was declared the winner with 61 percent of the votes and ZANU-PF won a two-thirds majority in Parliament.⁴ President Mugabe won his seventh-five year term.⁵ SADC and the African Union declared the elections to be free and fair, though local NGOs have reported irregularities in voter registration and voting procedures.⁶

A new constitution was approved by parliament on 9 May 2013 and came into force after the presidential election. The constitution imposes term limits on the president, improves recognition of women's rights and increases the power of parliament.⁷

The new constitution also recognises freedom of expression and the media.⁸ In practice, Freedom House reported in 2015 that journalists were required to register, and that laws limited what journalist may publish and imposed severe penalties for violations.⁹ Journalists reportedly faced verbal intimidation; physical attacks; arbitrary arrest and detention; interception of communications; and financial pressure at the hands of the police, government officials and supporters of both political parties.¹⁰

The government reportedly controlled the two most important daily newspapers.¹¹ Human rights defenders were also target of harassment by the government.¹²

Freedom of Assembly was recognised. In 2015 the UK Foreign and Commonwealth Office reported episodes of police brutality against anti-Mugabe protesters and human rights defenders.¹³ Amnesty International noted intra-party violence within the ruling ZANU-PF and the main opposition party MDC.¹⁴

Socio-Economic Context

Human development indicators and trends

Zimbabwe was a low-income and food-deficit country as of 2015.¹⁵ Its Human Development Index rank for 2014 was 155, which placed it among the low human development category countries and below the Sub-Saharan Africa regional average.¹⁶

Approximately 73 percent of the population lived below the national poverty line as of 2015.¹⁷ The United Nations Development Programme noted in 2014 that 41 percent of the population lived in multidimensional poverty, and that 24 percent were vulnerable to multiple deprivations in health, education and living standards.¹⁸ The latest survey, from 2011, showed that 12.2 percent of the population was in severe poverty.¹⁹

In terms of the Millennium Development Goals, the government reported that universal primary education and gender equality and in schools were on track, though challenges remained in eradicating extreme poverty and reducing levels of maternal mortality.²⁰ The HIV prevalence rate was 15 percent, which was considered high, although figures from 1998 showed a 40 percent prevalence rate.²¹ According to Avert, Zimbabwe was one of the few countries where prevalence rates declined by more than 50 percent between 2001 and 2011.²²

Zimbabwe's 15-year long economic crisis has forced the closure of hundreds of companies, leaving thousands of workers without jobs.²³ The Supreme Court adopted in July 2015 a judgement allowing companies to terminate contracts of employment upon a three months' notice.²⁴ This ruling reportedly resulted in companies avoiding the payment of terminal benefits to employees, and since the ruling, 7,000 workers had been laid off, according to an article by Nehanda Radio.²⁵ As a result, people were forced to be employed in the informal sector where working conditions were precarious and no social benefits were awarded.²⁶

Since 2003, the European Union and the United States have maintained economic sanctions against numerous members of the government of Zimbabwe, as well as a number of Zimbabwean companies and organizations. The UN High Commissioner for Human Rights has urged the lifting of these sanctions because of their detrimental effects on the country's poorest and most vulnerable populations.²⁷ In March 2013 the EU removed the visa ban and asset freeze on all but 10 Zimbabweans (including President Mugabe) after a referendum on a new constitution was organised.²⁸ Nevertheless, as a result of trade sanctions, Zimbabwe started to develop alliances with eastern countries, including the adoption of policies that gave priority to investors from China. Chinese-owned companies reportedly controlled 80 percent of all mining and manufacturing companies as of 2014.²⁹ Various sources have indicated that workers in Chinese-owned companies were vulnerable to precarious working conditions.³⁰

Additionally, as of 2015, many international organizations, including the African Development Bank and the International Fund for Agriculture Development, suspended their cooperation programs with Zimbabwe as a result of outstanding debts and non-payment of arrears.³¹

Development Frameworks

Companies should consult affected communities and align their development initiatives with national and local priorities. The following section identifies existing strategies for poverty alleviation and community empowerment.

The Zimbabwe Agenda for Sustainable Socio-Economic Transformation 2013-2018

The objective of the agenda is to achieve sustainable development and social equity anchored on indigenisation, empowerment and employment creation through the exploitation of the country's human and natural resources.³²

The agenda was developed through a consultative process including the government, the ZANU PF party, the private sector and other stakeholders.

Four strategic clusters were identified:

- Food Security and Nutrition;
- Social Services and Poverty Eradication;
- Infrastructure and Utilities;
- Value Addition and Beneficiation.

The government invites the private sector to work together in the implementation of the Agenda through Public Private Partnerships in areas such as energy and power development, roads, rail, aviation, telecommunications, water and sanitation.³³

Medium Term Plan 2011-2015

The overall goal of the MTP is to transform the economy, reduce poverty, create jobs, maintain macroeconomic stability and restore the economy's capacity to produce goods and services competitively. At the same time, its target is to ensure that the economy remains on a sustainable growth path.

The MTP recognises the following strategic areas:

- Private Sector, seen as the engine of the economic recovery and growth;
- Employment creation and poverty reduction;
- Human development and social security strategy;
- Infrastructure rehabilitation and development (energy, water and sanitation, transport, housing and construction, information communication and technology, science, innovation and SMEs infrastructure).

Cross-cutting issues are gender, youth development, HIV and AIDS mainstreaming, empowerment, indigenisation, and environment and regional integration.³⁴

African Development Bank

There was no strategy with Zimbabwe due to its outstanding debts to the Bank. However, the Bank remained engaged through policy dialogue, technical assistance and capacity building, and knowledge and advisory service through the Fragile States Facility.³⁵

United Nations Development Assistance Framework 2012-2015

The UNDAF seeks to support national development priorities and the achievement of the Millennium Development Goals. The UNDAF identifies the following seven priority areas:

- Good governance for sustainable development;
- Pro-poor sustainable growth and economic development;
- Food security at household and national levels;
- Sound management and use of the environment;
- Access to and utilisation of basic social services for all;

- Universal access to HIV prevention, treatment, care and support;
- Women's empowerment, gender equality and equity.

The UNDAF was developed through a consultative planning process with the participation of donors and civil society organizations, and was led by the government of Zimbabwe and the UN Country Team.

The UNDAF invites the participation of the private sector to operationalise its assistance.³⁶

The World Bank Interim Strategy Note Supporting Economic Recovery for Inclusive Growth 2013-2015

The ISN seeks to promote an enabling environment for inclusive growth from continuing recovery after the stabilisation phase, while recognising the unpredictable political environment. It has two objectives: confidence-building, by demonstrating early gains for citizens and business through enhance service delivery and private sector opportunities; and incremental institution-building, through demonstratives interventions in core public and economic systems.

It identifies three priority areas:

- Private sector development and job creation;
- Strengthening core systems for public sector management and service delivery;
- Reducing vulnerabilities, improving resilience and strengthening human development.

The ISN contemplates foresting the private sector-led growth, competitiveness and employment to improve Zimbabwe's business environment and the agriculture sector, infrastructure constrains and improving overall growth conditions.³⁷

International Labour Organization Decent Work Programme for Zimbabwe 2012-2015

The IDWP aims to provide lasting solutions to the unemployment challenge that the country has experienced over recent years.

The Ministry of Labour, together with representatives from employers and employees associations, and with the collaboration of the ILO, developed the Programme.

The IDWP identifies the following priorities:

- Promote productive employment and decent jobs;
- Improve the application and implementation of international labour standards;
- Strengthen social dialogue capacities and processes for sustainable socio-economic development;
- Increase coverage of social protection through mainstreaming elements of the social protection floor.³⁸

International Legal Commitments

Accession and ratification of international human rights instruments

UN Conventions	
International Covenant on Economic, Social and Cultural Rights	ACCEDED
International Covenant on Civil and Political Rights	ACCEDED
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty	NOT SIGNED
Convention Against Corruption	RATIFIED
Convention Against Torture	NOT SIGNED
Convention on the Elimination of All Forms of Racial Discrimination	ACCEDED
Convention on the Elimination of All Forms of Discrimination Against Women	ACCEDED
Amendment to article 20, paragraph 1 of the Convention on the Elimination of All Forms of Discrimination against Women (1995)	NOT SIGNED
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999)	NOT SIGNED
Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity (1968)	NOT SIGNED
Convention on the Prevention and Punishment of the Crime of Genocide (1948)	ACCEDED
Amendment to article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination (1992)	ACCEPTED
Convention on the Rights of Persons with Disabilities	NOT SIGNED
Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006)	ACCEDED
Convention on the Rights of the Child	RATIFIED
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	NOT SIGNED
Optional Protocol on the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	NOT SIGNED
International Convention for the Protection of All Persons from Enforced	NOT SIGNED

Disappearance (2006)	
International Convention on the Protection of All Migrant Workers and Members of Their Families	NOT SIGNED
Convention Against Transnational Organized Crime	RATIFIED
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime	NOT SIGNED
Regional Instruments	
African Charter on Human and People's Rights	RATIFIED
Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa	SIGNED
African Convention on the Rights and Welfare of the Child	RATIFIED
African Convention on Nature and Natural Resources	NOT SIGNED
African Union Convention on Preventing and Combating Corruption	RATIFIED
International Labour Organization Conventions	
ILO Hours of Work (Industry) Convention (C1, 1919)	NOT RATIFIED
ILO Forced Labour Convention (C29, 1930)	RATIFIED
ILO Hours of Work (Commerce and Offices) Convention (C30, 1930)	NOT RATIFIED
ILO Night Work of Young Persons (Non-Industrial Occupations) Convention (C79, 1946)	NOT RATIFIED
ILO Labour Inspectors Convention (C81, 1947)	RATIFIED
ILO Freedom of Association and Protection of the Right to Organise Convention (C87, 1948)	RATIFIED
ILO Night Work of Young Persons Employed in Industry Convention (C90, 1948)	NOT RATIFIED
ILO Protection of Wages Convention (C95, 1949)	NOT RATIFIED
ILO Right to Organise and Collective Bargaining Convention (C98, 1949)	RATIFIED
ILO Equal Remuneration Convention (C100, 1951)	RATIFIED
ILO Social Security (Minimum Standards) Convention (C102, 1952)	NOT RATIFIED

ILO Abolition of Forced Labour Convention (C105, 1957)	RATIFIED
ILO Discrimination (Employment and Occupation) Convention (C111, 1958)	RATIFIED
ILO Social Policy (Basic Aims and Standards) Convention (C117, 1962)	NOT RATIFIED
ILO Equality of Treatment (Social Security) Convention (C118, 1962)	NOT RATIFIED
ILO Employment Policy Convention (C122, 1964)	NOT RATIFIED
ILO Minimum Age (Underground Work) Convention (C123, 1965)	NOT RATIFIED
ILO Medical Care and Sickness Benefits Convention (C130, 1969)	NOT SIGNED
ILO Minimum Wage Fixing Convention (C131, 1970)	NOT SIGNED
ILO Holidays with Pay (Revised) Convention (C132, 1970)	NOT SIGNED
ILO Workers' Representatives Convention (C135 of 1971)	RATIFIED
ILO Minimum Age Convention (C138, 1973)	RATIFIED
ILO Migrant Workers (Supplementary Provisions) Convention (C143, 1975)	NOT RATIFIED
ILO Working Environment (Air Pollution, Noise and Vibration) Convention (C148, 1977)	NOT RATIFIED
ILO Occupational Safety and Health Convention (C155, 1981)	RATIFIED
ILO Workers with Family Responsibilities Convention (C156, 1981)	NOT RATIFIED
ILO Termination of Employment Convention (C158, 1982)	NOT RATIFIED
ILO Indigenous and Tribal Peoples Convention (C169, 1989)	NOT SIGNED
ILO Night Work Convention (C171, 1990)	NOT RATIFIED
ILO Prevention of Major Industrial Accidents Convention (C174, 1993)	RATIFIED
ILO Worst Forms of Child Labour Convention (C182, 1999)	RATIFIED
ILO Maternity Protection Convention (C183, 2000)	NOT RATIFIED
Environmental Instruments	
Stockholm Convention on Persistent Organic Pollutants (2001)	RATIFIED
Kyoto Protocol (1997)	ACCEDED
United Nations Convention on Biological Diversity	RATIFIED

United Nations Framework Convention on Climate Change	RATIFIED
Montreal Protocol on Substances that Deplete the Ozone Layer, 1987	ACCEDED
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes, 1989	ACCEDED
Other International Instruments	
Declaration on the Rights of Indigenous Peoples	SIGNED
Rome Statute of the International Criminal Court	SIGNED
UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	RATIFIED

Rights Holders at Risk

Societal groups particularly vulnerable to employment-related discrimination or poor development outcomes

Operating Environment		
	Zimbabwe	Sub-Saharan Africa
HIV/AIDS prevalence (ages 15-49)	16,7 (2014)	4.7 (2012)
Female labour participation rate	70,5 (2012)	63.5 (2012)
Percentage urban population	32.4 (2015)	37.2 (2013)
Percentage rural population	68 (2013)	62.8 (2013)
Human Development Index score	0.492 (2013)	0.502 (2013)
HDI adjusted for inequality	0.358 (2013)	0.334 (2013)
HDI Gender Equality Gap Index score	0.56 (2013)	0.578 (2013)
Population below PPP US\$1.25 per day (%)	73 (2011)	n/a
Literacy rate, 15-24 years old (%)	94 (2012)	69.6 (2010)
Maternal mortality ratio (per 100,000 births)	470 (2013)	510 (2013)
Seats held by women in national parliament (%)	31.5 (2015)	22.3 (2013)
OECD Social Institutions and Gender Rank	0.14 (2014)	
Labour force	5,636 million (2014)	
Percentage of population who are 15-24 years	21.6 (2015)	
Law prohibits discrimination on the grounds of	nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, political affiliation, opinion, custom, culture, sex, gender, marital status,	

	age, pregnancy, disability or economic or social status, or whether they were born in or out of wedlock.
Major ethnic groups	African 99.4% (predominantly Shona; Ndebele is the second largest ethnic group), other 0.4%, unspecified 0.2% (2012 est.)
Recognition of indigenous groups in law	No
Major Indigenous groups	Tshwa (Tyua, Cuaa) San and Doma (Vadema)
Major religious groups	Protestant 75.9% (includes Apostolic 38%, Pentecostal 21.1%, other 16.8%), Roman Catholic 8.4%, other Christian 8.4%, other 1.2% (includes traditional, Muslim), none 6.1% (2011 est.)
Major migrant worker countries of origin	South Africa, Mozambique and Malawi
Persons with disabilities	1.4 million
Relevant legislation	• The Constitution, 2013 • The Disabled Persons Act, 1992 • The Labour Act, 2002 • Criminal Code, 2008 • The Domestic Violence Act, 2006
Responsible agencies	• Ministry of Public Services, Labour and Social Welfare • Ministry of Women Affairs, Gender and Community Development • Ministry of Youth, Indigenisation and Economic Empowerment • Department of Immigration • Department of Social Welfare • National Council of Disabled Persons
Local NGOs addressing this issue	• Disabled Women Support Organization • Communal Areas Management Programme for Indigenous Resources • Gays and Lesbians from Zimbabwe • Sexual Rights Centre • Zimbabwe Albino Association • Gender Links for Equality and Justice • Women of Zimbabwe Arise

- Zimbabwe Lawyers for Human Rights
- Zimbabwe Human Rights Association

Country Context

Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.

The constitution guarantees that all persons are equal before the law and have the right to equal protection and benefit of the law. It is prohibited any discrimination on grounds of nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, political affiliation, opinion, custom, culture, sex, gender, marital status, age, pregnancy, disability or economic or social status, or whether they were born in or out of wedlock.³⁹

The constitution further establishes that the state and its agencies must endeavour to secure the removal of restrictions that unnecessarily inhibit or prevent people from working and otherwise engaging in gainful economic activities.⁴⁰

The Labour Act prohibits discrimination on the grounds of race, tribe, place of origin, political opinion, colour, creed or gender.⁴¹

Albinos

The latest Census from 2012 reported that there were an estimated 15,000 albinos in Zimbabwe.⁴²

Albinos reportedly faced discrimination and marginalization.⁴³ According to the Zimbabwe Human Rights Commission in 2015, companies were reluctant to hire albinos.⁴⁴

Albinos faced prosecution including by the belief that some of their body parts could transmit magic powers.⁴⁵ Albino women in particular have been the target of rape because of the myth that having sex with an albino will cure HIV, according to a 2015 News Day article.⁴⁶

Ethnic Minorities

The constitution recognises the rights of ethnic, racial, cultural and linguistic groups.⁴⁷

The Ndebele people were the largest minority in Zimbabwe, and primarily lived in Matabeleland in the western area of the country and accounted for an estimated 14 percent of the population in 2008.⁴⁸

Bulawayo News stated in 2013 that the government considered Ndebele as South Africans invaders living in Zimbabwe who must be expelled back to South Africa.⁴⁹

This group was subjected to higher rates of unemployment and poverty, according to the latest report from Minority Rights Group International in 2008.⁵⁰

Though there were no restrictions to high offices for Ndebeles, the U.S. Department of State reported in 2015 that historical tension between the ruling party and the Ndebele minority resulted in a limited representation of Ndebele in the government.⁵¹

It was further noted that the government reportedly encouraged hatred against whites through public speeches and other broadcasts.⁵²

Internally Displaced People

There was no legislation protecting the rights of internally displaced people (IDP).⁵³

Floods, droughts, storms, development initiatives and political instability were reportedly reasons for displacement in Zimbabwe. The Internal Displacement Monitoring Center reported in 2014 that IDPs were among the most vulnerable groups in Zimbabwe, with diminished possibilities to earn a living and disrupted access to social services, including health and education.⁵⁴ They were also more vulnerable to eviction and relocation due to poor tenure security and the lack of documentation.⁵⁵

Migrant Workers

Zimbabwe has a large migrant population, primarily from neighboring countries, many of whom originally migrated to Zimbabwe for work and have been living in the country for decades. The latest survey, from 2014, reported that there were 207,000 migrants in Zimbabwe, of which 78,000 constituted migrant workers.⁵⁶ South Africans represented the great majority of migrants at 40 percent, followed by Mozambicans at 22 percent and Malawians at 15 percent.⁵⁷

Approximately 77 percent of migrant workers reportedly had a job while only 20 percent were employed in the formal economy. Only 4 percent had social security benefits.⁵⁸

According to the government, 33 percent of migrants were unskilled while most skilled migrants were employed in the agriculture, forestry and fishery sectors, and to a lesser extent in services and sales.⁵⁹

Migrant women workers in particular were employed as technicians or associate professionals, clerical support and as skilled agriculture, forestry and fishery workers.⁶⁰

The government further noted in 2014 that approximately 45 percent of migrant workers had long working hours.⁶¹

According to a 2015 report published by Corporate Strategy and Industrial Development, Chinese companies generally did not respect the legislation that restricted the import of low-level skilled workers.⁶² Stakeholders consulted in Harare in June 2013 noted that Chinese workers employed by Chinese-operated mines in Zimbabwe worked long hours, were not paid overtime wages and were not allowed to leave employment at will.⁶³ There were 126,000 Chinese nationals in Zimbabwe either as investors or workers at Chinese-operated companies, according to allAfrica in 2014.⁶⁴

Persons with Disabilities

The constitution recognises the rights of persons with physical or mental disabilities, including their right to be treated with respect and dignity.⁶⁵ The law also requires that all institutions develop programmes for the welfare of persons with physical or mental disabilities, especially work programs consistent with their capabilities.⁶⁶ The Disabled Persons Act protects persons with disabilities from discrimination in employment while the Labour Act protects employees on the basis of disability.⁶⁷ However, according to the African Disability Rights Yearbook (ADRY) in 2014, the law does not give an obligation to the state to promote, protect and fulfill the right to employment of persons with disabilities.⁶⁸

There were an estimated 1.4 million persons with disabilities in Zimbabwe, according to the 2014 ADRY report.⁶⁹ Two-thirds of persons with disabilities lived in rural areas.⁷⁰

Persons with disabilities were reportedly subjected to stigmatisation, which impacted in their access to employment.⁷¹ The Chronicle noted in 2015 that public transportation was not accessible to persons with disabilities, impacting on their access to employment and education. The Chronicle also reported on episodes of bus drivers denying their access to the bus because they thought they waste space and delayed its schedule.⁷²

The U.S. Department of State noted in 2015 that persons with disabilities faced harsh societal discrimination and exclusion.⁷³ Women with disabilities were subjected to harassment, sexual abuse and exploitation.⁷⁴ ACRY further noted that access to health and education in rural areas was limited.⁷⁵ Persons with disabilities were reportedly more vulnerable to starvation.⁷⁶

Persons Living with HIV/AIDS

Labour regulations and the National HIV/AIDS Policy prohibit discrimination against HIV-positive people.⁷⁷ A new regulation adopted in 2014 prohibits HIV screening at the workplace.⁷⁸

An estimated 1.7 million people were living with HIV/AIDS in 2014, with an adult prevalence rate of 16.7 percent, placing Zimbabwe as one of the countries in Sub-Saharan Africa most affected by the epidemic, according to UNAIDS.⁷⁹ Infection rates were reportedly particularly high in border districts, growth points, small scale mining areas, fishing camps and commercial farming settlements.⁸⁰ Metabeleland South was the province with the highest prevalence rate (20 percent), followed by Midlands (17 percent) and Harare (16 percent), according to a 2014 government survey.⁸¹

High HIV prevalence rates in mining towns were related to prostitution, since most mineworkers were separated from their families, according to the Zimbabwe Environmental Law Association (ZELA).⁸²

A 2014 survey on persons living with HIV/AIDS conducted by Stigma Index showed that 20 percent of the respondents indicated that they had lost their job or another source of income and 12 percent were denied employment or work opportunities due to their condition.⁸³ Two-thirds reported that they had experienced one or more forms of discrimination, while 31 percent noted that they had been verbally insulted, harassed or threatened as a result of their HIV status.⁸⁴

Anti-retroviral treatment was provided to 77 percent of patients as of 2014.⁸⁵

Human Rights Defenders

Human rights defenders reporting on corruption and on the negative impacts of mining company operations faced verbal harassment and were threatened with arrest and physical harm, including by extractive companies, according to ZELA in 2014.⁸⁶

Episodes of harassment against NGOs working for the rights of LGBTs were also reported.⁸⁷

Indigenous Peoples

The constitution does not recognise any indigenous people, though two peoples self-identified as indigenous, the Tshwa (Tyua, Cuaa) San and Doma (Vadema), amounting to approximately 0.03 percent of the population, according to the International Work Group of Indigenous Affairs in 2015. The Tshwa lived in western Zimbabwe while the Doma in the north-central region.⁸⁸

The two groups were reportedly the poorest communities in the country, and lacked access to social services and sources of food.⁸⁹

Sexual Minorities

Homosexuality is illegal in Zimbabwe.⁹⁰ The constitution does not prohibit discrimination on grounds of sexual orientation.⁹¹ The definition of sodomy in the criminal code includes 'any act involving physical contact between males that would be regarded by a reasonable person to be an indecent act.'⁹²

Public authorities generally made statements against the rights of the LGBT community, and the President reportedly described homosexuality as 'inhuman', according to various news sources in 2014.⁹³

The U.S. Department of State reported in 2015 that the LGBT community faced societal discrimination and higher rates of unemployment.⁹⁴ The Committee on the Elimination of Discrimination against Women (CEDAW), on its latest report from 2012, reported on acts of violence perpetrated by the state and non-state actors against lesbians, bisexual and transgender women.⁹⁵

Women

The constitution provides that the state must promote the full participation of women in all spheres of the society on the basis of equality with men.⁹⁶ CEDAW noted in 2012 that the application of customary law was discriminatory against women in relation to personal laws.⁹⁷

The constitution further states that women and men have the right to equal remuneration for similar work, and that women employees have a right to fully paid maternity leave for a period of at least 3 months.⁹⁸ The Labour Act also prohibits discrimination on the grounds of pregnancy and provides for equal remuneration for male and female employees for work of equal value.⁹⁹ It further stipulates that a female employee who has served for at least one year is entitled to maternity leave for a period of 98 days with full pay.¹⁰⁰ Women are limited to three paid maternity leaves per employer.¹⁰¹ According to labour experts, that provision was unconstitutional.¹⁰² The law does not specify whether a stillbirth is eligible for maternity leave, and paternity leave is not recognised.¹⁰³ Pregnant and nursing mothers are not protected from hazardous work.¹⁰⁴

Approximately 60 percent of women were employed, compared to 74 percent of men, according to a 2015 African Economic Outlook report.¹⁰⁵ Women represented only 25 percent of formal employment.¹⁰⁶ CEDAW also reported a low level of women participation in the private sector as a result of negative cultural attitudes and lack of quota systems, among others.¹⁰⁷ However, firms with female participation in ownership were more prevalent than the regional average (56 percent compared to 33 percent in Sub-Sahara Africa), according to the latest Gender Enterprise Survey from 2011.¹⁰⁸ CEDAW further reported a wage gap between men and women.¹⁰⁹

Zimbabwe ranked 64 out of 148 countries in the 2014 Gender Gap Index, with a 0.7 female to male wage ratio.¹¹⁰ A 2012 survey conducted by CV People Africa in partnership with Datasol reported that Zimbabwean women employed in the formal sector were paid an average of US\$3,500 less than their equivalently qualified male counterparts.¹¹¹

Approximately 67 percent of workers in the informal sector were women, according to a 2015 News Day report.¹¹² They were mostly employed in the agriculture sector,¹¹³ comprising about 1.4 million female workers, and followed to a lesser extent by the public administration, education and health, trade, restaurants and hotels, and manufacturing, according to the Danish Trade Union Council for International Development Cooperation (LO/FTF Council) in 2014.¹¹⁴ Women in agriculture did not reportedly have access to key productive resources and assets, including irrigation equipment and boreholes, and they lacked access to credit, which resulted in low productivity.¹¹⁵

In relation to the mining sector in particular, only 7,000 women were registered miners, compared to 30,000 in case of men,¹¹⁶ and 95 percent of women in gold mining worked in the informal sector.¹¹⁷ However, according to International Women in Mining Community in 2014, women's participation rate in the sector has increased considerable over the last couple of years.¹¹⁸

Media reports have also highlighted that women associated with the informal mining sector were used to provide sexual services. Women living near mines were allegedly used as 'conduits' for stealing

minerals and security guards solicited sexual favours from them in return for allowing them into diamond or gold fields to look for minerals.¹¹⁹

Legislation prohibits sexual harassment in the workplace and an employer may be liable for civil remedies.¹²⁰ The newspaper Sunday Mail reported in 2015 that sexual harassment at the workplace was common.¹²¹

In 2006 the government adopted the Domestic Violence Act. CEDAW noted, however, that the law was not efficiently implemented and cases of violence against women were common.¹²² A study conducted by the government in 2013 found that 68 percent of women had experienced some form of gender-based violence in their lives and one in four reported an experience of violence during the 12 months prior to the study.¹²³ Most cases went underreported due to traditional sensitivities, victim's fear of abandonment without support and police reluctance to intervene.¹²⁴

Despite the absence of de jure discrimination, there was no legislation in place to compensate women and others for social inequalities.¹²⁵ Discriminatory practices against women such as polygamy, bride dowries (*lobola*), and in certain regions, virginity testing and witch hunting were further reported by CEDAW.¹²⁶ Women also had limited access to quality and reproductive health services. Rural women were particularly vulnerable to high levels of poverty.¹²⁷ Maternal mortality rates were higher than the global average.¹²⁸

Women reportedly did not have the right to inherit or acquire land as a result of discriminatory customs and traditional practices.¹²⁹ Widows and orphans were evicted from their land by in-laws upon the death of their husband or fathers, according to the Food and Agriculture Organization in 2015.¹³⁰

Youth

The constitution establishes that the state must take reasonable measures to ensure that youth are given opportunities, including employment and other avenues of economic empowerment, and are protected from harmful cultural practices, exploitation and all forms of abuse.¹³¹ The law defines youth as citizens between 15 and 35,¹³² which comprised 36 percent of the total population in 2012.¹³³

According to the 2014 Labour Force Survey, the youth unemployment rate was 16.5 compared to 11.3 for the general population.¹³⁴ Though the survey indicated those figures, the government further reported that 87 percent of youth employed during 2012 were considered to be in the informal sector.¹³⁵

Youth were reportedly employed in activities such as car washing and car watching, making and selling simple crafts, and had precarious working conditions with low wages and long working hours, according to the government in 2014.¹³⁶

Approximately 300,000 students graduated each year while the formal economy could only absorb 10 percent of them.¹³⁷ One of the main reasons indicated by the government for lack of job opportunities was their lack of skills.¹³⁸ The lack of employment creation and continued cutbacks by companies has significantly impacted youth employment.¹³⁹

Cases

Reports of business-related human rights issues from NGOs, multilateral institutions and the media.

- *2015, Southern Africa Litigation Centre:* A nurse was allegedly illegally dismissed from her work due to her HIV status.¹⁴⁰
- *June 2015, Video News:* A 23-year-old Albino woman faced constant discrimination and harassment at the University of Zimbabwe by fellow classmates, who reportedly called her by different names.¹⁴¹
- *June 2015, The Guardian:* 44 members of an LGBT community were arrested, beaten and ill-treated by the Police on grounds of their sexual orientation.¹⁴²
- *October 2014, allAfrica:* An estimated 312,000 school leavers were working for Chinese shop-owners, with reportedly low pay and under precarious working conditions.¹⁴³

Company Initiatives

Private-sector programmes that aim to ensure respect for human rights or contribute to development

Company Due Diligence Initiatives

Tongaat Hulett: Holistic and comprehensive HIV/AIDS management programmes include awareness, prevention and encouraging employees to know their status through voluntary counselling and testing. Treatment includes antiretrovirals, care and support.¹⁴⁴

Lafarge Cement Zimbabwe: The company is committed to its people through the implementation of programs related to inclusion, diversity, skills development and career management. The company does not discriminate on grounds of age, gender, nationality, ethnic origin, language, religion or physical inability. The company also made efforts to empower women and as of 2014, the Executive Committee had three female members, representing 37.5 percent of the committee.¹⁴⁵

Elpitiya Plantations PCL: The company, which cultivates and manufactures tea, rubber, oil palm and coconut, provides with training to its employees under a collaboration with the Tea Research Institute, the Rubber Research Institute, the Planters' Association, the National Institute of Plantation Management and the Group HRD Division of Aitken Spence PLC in order to develop their skills and knowledge.¹⁴⁶

Company Development Initiatives

Securico: The company is involved in workplace and national HIV/AIDS education and has established networks with other organisations to battle the disease. The company has also established its own Women Empowerment Day.¹⁴⁷

Murowa Diamond Company: The company implements a capacity building and skills transfer programme by which it provides farmer training; health and hygiene training; agro-forestry training; and operator training in order to create a skilled workforce.¹⁴⁸

Tongaat Hulett: The company's Socio-Economic Development (SED) initiatives are aimed at developing sustainable farms to support and grow rural communities in the areas where the company operates.

SED is mainly directed at education, health, basic needs and sports, arts and culture. During the latest reporting period, R 104,7 million (US\$98,000) were spent on initiatives, including in the purchase of exercise, textbooks and new chairs in the state schools of Zimbabwe.¹⁴⁹

Zimplats: The company reportedly used a quantitative survey for identifying and prioritising community preferences for development projects in the communities where it operates.¹⁵⁰

DHL: The company adopted an Economic Empowering Programme through which it supports the Chaminuka Vocational Training Center by donating computers, setting an Information Technology Department and applying the Go Teach programme in which visiting lecturers impart various skills to students. The company also offers an internship programme for students from the Centre.¹⁵¹

Stakeholder Recommendations

Parliamentary Portfolio Committee on Mines and Energy: The Committee recommends that mining companies develop strategies to integrate community participation into the diamond sector so as to empower local communities.¹⁵²

Zimbabwe Environmental Law Association (ZELA): ZELA recommends the use of the Community Management Programme for Indigenous Resources (CAMPFIRE) model in Zimbabwe's mining sector. This model advocates for community participation management of resources and ensures that communities in the areas where resources exist derive economic benefit.¹⁵³ Moreover, recommends that royalties from natural resource revenue be paid directly to affected communities.¹⁵⁴

Multi-Stakeholder Forum Recommendations

On June 20, 2013, and April 30, 2014, the Danish Institute for Human Rights and the Zimbabwe Environmental Law Association convened stakeholders from business, government and civil society in Harare to discuss human rights and business challenges and jointly devise recommendations. The following recommendations were produced from those forums:

- Ensure that all senior management understand the basic tenets of human rights.
- Engage the ministry of mines in a joint effort to improve human rights practices by mining companies.
- Carry out human rights impact assessments.
- Engage local leadership as a way to address human rights abuses.
- Request training by civil society organisations where knowledge among employees or managers is lacking.
- Companies' missions should explicitly embrace human rights, including training and orientation materials.
- Develop a human rights policy based on the UN Guiding Principles. Work with other stakeholders to help guide business implementation of the Principles.
- Create an operational-level grievance mechanism where communities and employees can voice their human rights concerns to company management.
- Establish networks or forums for business sharing of best practices and challenges in respecting human rights.
- Measure the success of business units by the extent to which they have enhanced human right

- respect. Give accolades to units that perform well.
- Businesses should increase their compliance with existing policies on revenue distribution and remittance

Human Rights Guidance for Businesses

Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context

Due Diligence Library

The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies

Discrimination

Does the company ensure that employment-related decisions are based on relevant and objective criteria?

- The company identifies different types of discrimination, including those rooted in formal structures and cultural traditions.
- It is company policy to ensure that decisions concerning hiring, wages, promotion, training, discipline, retirement and termination are based only on unbiased criteria, and are not linked to any of the discriminatory characteristics listed in the description for this question.
- Each job category in the company has a written description stating the salary level and the qualifications required for that job category.
- The company ensures that employment advertisements do not reference discriminatory criteria, such as race, gender or age (unless listed as part of a legal equal opportunities promotion).
- The company ensures that job applicants are not asked to give information about their marital status, pregnancy, intent to have children, number of dependents, or similar information that may lead to discriminatory hiring decisions.
- All hiring managers receive training regarding the company's non-discrimination policies.
- The company has established a procedure, accessible and known to all workers, where workers can safely report incidents of workplace discrimination.
- The company takes reasonable steps to enable qualified persons with disabilities or health conditions to gain employment opportunities with the company, for example by providing wheel chair access, flexible working hours, longer breaks etc.

Fair Treatment

Does the company protect workers from workplace harassment including physical, verbal, sexual or psychological harassment, abuse, or threats?

- The company has a commitment to prevent workplace harassment.
- The company actively informs workers of their obligations to refrain from violent, threatening or abusive conduct.

- Managers receive training on how to identify and deal with instances of harassment in the workplace.
- The company investigates all complaints of workplace harassment and takes appropriate preventative and disciplinary action including reporting of criminal actions to the appropriate authorities.

Privacy

Does the company respect the privacy of its employees whenever it gathers private information or monitors the workplace?

- The company has a procedure stating which kinds of workplace monitoring are allowed; what kind of personal worker information is retained; where it is stored; who has access; and why the information is necessary.
- Workers are made aware of all workplace monitoring, including cameras and Internet or e-mail monitoring, and the specific purpose of the monitoring.
- The company obtains the worker's prior written consent before gaining information from an individual with whom the worker has a privileged relationship, including a former employer, doctor or lawyer.
- Workers have access to all personal data collected about them, including data concerning disciplinary decisions and data obtained through monitoring, but excluding confidential management specific information related to performance evaluations, salary negotiations, promotions, rotation and similar employment decisions.

Community Engagement

Does the company engage with local communities on the actual or potential human rights impacts of its operations?

- The company has a commitment to engage openly with communities in and around its area of operations, prior to, during and after commencing activities that may negatively impact their access to resources (e.g. water, food, land) or livelihoods (e.g. fishing or hunting grounds).
- The company communicates and consults with local communities prior to, during and after commencing activities to prevent, reduce and mitigate impacts.
- The company takes steps to remedy the legitimate concerns of local communities regarding any negative impacts of the company's operations on the access to resources or livelihoods.

Country Risk

Does the company seek to avoid involvement in human rights abuses owing to government or societal practices?

- If operating in a country or region with systematic human rights abuses, the company seeks to become aware of and avoid the risk of contributing to, endorsing or benefiting from such abuses.
- Where the company risks involvement in systematic human rights abuses owing to government or societal practices, the company seeks to identify solutions through dialogue with other businesses, civil society organisations, experts and other relevant stakeholders, including where possible with the authorities.
- The company ensures that it does not endorse any state imposed discriminatory limitations on the right to vote, and does not pass along information concerning religious, racial, political affiliations or

other characteristics of employees which could be used by the government as a reason to restrict the right to vote.

Standards & Guidance

NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre

- International Labour Organization Core Labour Standards on Non-discrimination and the ILO Bureau for Gender Equality: Non-discrimination comprises one of the four core areas of the ILO Declaration on Fundamental Principles and Rights at Work, which comprises the ILO core labour standards. The ILO integrates gender throughout its work, with the objective of achieving gender equality as an essential feature of decent work. This can include advisory services, research and information dissemination, training and capacity building.
- Oxfam Australia: Women, Communities and Mining: The Gender Impacts of Mining and the Role of Gender Impact Assessment (2009): This Guide is intended to inform mining company staff of potential gender impacts of mining projects and introduces some tools and approaches that can be used to conduct a gender impact assessment.
- Women's Empowerment Principles (2010): Developed in collaboration between UN Women and the UN Global Compact, the Women's Empowerment Principles are a set of principles for businesses offering guidance on how to empower women in the workplace, marketplace and community.
- The Forest Peoples Programme: Established in 1990, the Programme is dedicated to supporting Indigenous Forest Peoples protect their land rights and human rights. The Programme works directly with indigenous communities, assisting them in building their own capacities and exercising their human rights.
- IFC Performance Standard 7: Indigenous Peoples (2012): The IFC PS7 and its accompanying guidance offer directions on how private sector projects can respect the human rights of Indigenous Peoples through following the stated requirements.
- International Council on Mining and Metals Good Practice Guide: Indigenous Peoples and Mining (2010): The ICMM is the industry organisation for the mining and metals sector. The Guidance provides advice to companies on how they can build effective relationships with Indigenous Peoples, as well outlining ways in which companies can effectively engage throughout the lifecycle of a project.
- International Working Group for Indigenous Affairs (est. 1968): IWGIA is an international human rights organization specialising in Indigenous Peoples' rights. IWGIA works to further the understanding, knowledge, and engagement with the rights of Indigenous Peoples through publications, advocacy programmes and support of local projects.
- The Manila Declaration of the International Conference on Extractive Industries and Indigenous Peoples (2009): The Declaration is a statement on behalf of Indigenous Peoples and support organisations from 35 countries that calls on different stakeholder groups, such as extractive companies, communities and civil society organisations, to respect and uphold the recognised rights of Indigenous Peoples.
- Tebtebba Foundation (Indigenous Peoples' International Centre for Policy Research and Education): The Foundation's main purpose is to work for the respect, protection and fulfilment of Indigenous

Peoples' rights and the operationalisation of Indigenous Peoples' self-determined sustainable development. The Foundation offers a number of relevant resources on issues such as traditional knowledge and traditional livelihoods, biodiversity and climate change.

- UN Permanent Forum on Indigenous Issues (est. 2000): The Forum was formed to advise the United Nations Economic and Social Council on a number of Indigenous Peoples' rights issues, such as economic and social development, culture, education, environment, health and human rights.
- UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples (est. 2001): The Special Rapporteur mandate is to advise on and monitor the human rights situation of Indigenous Peoples. This includes country reports, promoting good practice, addressing relevant human rights violations and contributing to thematic study on topics related to Indigenous Peoples.

Engagement Opportunities

Development initiatives by public and private actors that provide opportunities for companies to contribute to human development

Public Sector Initiatives

Skills for Youth Employment and Rural Development Project: The Ministry of Youth, Indigenisation and Economic Power, in cooperation with the Danish government and the technical assistance of the ILO, implements the project that is designed to promote decent and productive employment and income generating opportunities for youth, in particular young unemployed women and men, through skills development initiatives. Among its objectives are the increased capacity of rural community groups to identify local economic opportunities, develop appropriate training programmes to access jobs, and provide post-training support to community and private small-scale enterprises. The project expects to benefit 10,000 young people.¹⁵⁵

Training for Rural Economic Empowerment Programme: The programme is being implemented by the Ministry of Local Governments, the Ministry of Youth, Indigenisation and Economic Power, Tabudirira Vocational Training Centre, the Department of AGRITEX and the Mutoko Rural District Council, in collaboration with the ILO. The programme assists those working in largely informal economies in building the skills and abilities needed to generate additional income. The project uses a systems approach to identify emerging and potential employment, income generation and small business opportunities and delivers training in practical skills and business management. As of 2014, it has benefited 209 people, including 119 men and 90 women.¹⁵⁶

Employee Share Ownership Scheme (ESOP): The Ministry of Youth, Indigenisation and Economic Power implements the initiative that enables workers to participate in sharing profits or income arising from acquisition or management or disposal of the stock, shares or debentures of a company or group of companies. The scheme enables members to set aside funds for their retirement income over and above their normal pension. This income is realised when workers sell their shares at the end of their working life or when they change jobs. The Indigenous Legislation encourages an initial ESOP ownership control of at least 5%.¹⁵⁷

Girls and Young Women Empowerment Framework: The Ministry of Women Affairs, Gender and Community Development adopted the framework that is based on five areas of intervention: education, economic empowerment, reproductive health rights, safety and protection, and leadership development. It also recognises that empowering girls and young women contributes to the transformation of the country's economic future as well as the development of its people.¹⁵⁸

Public Service HIV and AIDS Implementation Strategy (2011-2015): The Ministry of Public Service, Labour and Social Welfare, in collaboration with the ILO, launched the strategy which included a human rights based guidance to prevent and prohibit stigma and discrimination in employment and occupation on the basis of perceived HIV status.¹⁵⁹

NGO Initiatives

Zimbabwe Lawyers for Human Rights: The organisation has the objective to foster a culture of human rights and to encourage the growth and strengthening of human rights at all levels of Zimbabwean society.¹⁶⁰

Child Labour

Work that interferes with the health, development, education or family life of persons under 18

Operating Environment		
	Zimbabwe	Sub-Saharan Africa
Net Enrolment Ratio in Primary Education (% both sexes)	94.3 (2012)	77(2011)
Percentage of pupils starting grade 1 and reaching last grade of primary	62 (2002)	n/a
One-year-old children immunised against measles (%)	93 (2013)	72.1 (2012)
Mortality rate of children under 5 years old (per 1,000 live births)	70.7 (2015)	97.9 (2012)
Percentage of population below 14	37 (2015)	
<u>Legatum Prosperity Index: Education</u>	103 (2015)	
Restrictions on children under 18 from working	Hazardous work	
Minimum age of employment	15	
End of compulsory education	n/a	
Relevant legislation	• Constitution, 2013 • Labour Act, 2002 • Education Act, 2006 • Trafficking in Persons Act, 2014	
Responsible ministries	• Ministry of Health and Child Care • Ministry of Public Services, Labour and Social Welfare – Child Welfare and Probation Services • Ministry of Primary and Secondary Education • National Steering Committee to Address	

	the Worst Forms of Child Labour • Anti-Trafficking Inter-Ministerial Committee
Local NGOs addressing this issue	• Justice for Children Trust

Country Context

Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.

The constitution provides that the state must protect children from exploitative labour practices. Children are not permitted to work if inappropriate for their age and if it places a risk on their well-being, education, physical or mental health or spiritual, moral or social development.¹⁶¹

A child between the 13 and 15 can work as an apprentice or if the work is an integral part of a course or training or technical or vocational education.¹⁶² For light work, work other than apprenticeship or work related to vocational education, the age limit is 15.¹⁶³ The International Labour Organization's Committee of Experts on the Application of Conventions and Recommendations (CEACR) stated in 2014 that employment of apprentice from the age of 13 was not in line with international standards.¹⁶⁴

According to the latest Child Labour Survey, from 2014, there were 6.6 million children in Zimbabwe, of which approximately 50 percent were involved in economic activities, particularly in rural areas.¹⁶⁵

The province of Matabeleland reportedly had the highest rate of child labour, followed by Masvingo, Harare and Bulawayo.¹⁶⁶

The great majority of child labourers did not receive any salary for their work and 55 percent performed night work, according to the 2014 government survey.¹⁶⁷

Worst Forms of Child Labour

The constitution states that every child has the right to be protected from economic and sexual exploitation, from child labour or any form of abuse, and not to be recruited into a militia force or take part in armed conflict or hostilities.¹⁶⁸ The national legislation states that no person under the age of 18 may perform work likely to jeopardize their health, safety or morals,¹⁶⁹ and that work involving contact with hazardous substances and work involving underground mining is prohibited.¹⁷⁰

The U.S. Department of State noted in 2015 that there was no legislation that prohibits hazardous activities for children.¹⁷¹ The government adopted in 2014 the Trafficking in Persons Act, which criminalises trafficking offenses related to child labour and child pornography.¹⁷²

According to the 2014 Child Labour Survey, 96 percent of children between the ages of 5-14 were working in agriculture, hunting and fishing.¹⁷³

High poverty levels were reportedly the main cause of child labour in Zimbabwe.¹⁷⁴ According to the General Agriculture and Plantation Workers' Union of Zimbabwe in 2014, children were working to complete tasks given to their farmer parents, and to supplement their parent's income. The 2014 government survey also showed that 55 percent of child labourers lived in households where the head earned between US\$1 and US\$100 per month.¹⁷⁵ In some households, children's wages made up a third of the family income, as noted by a 2015 The Zimbabwean report.¹⁷⁶

Children were working in the production of tea, cotton, tobacco, and sugarcane. Children were also casting nets, hauling fish loads and sorting fish, according to the U.S. Department of State in 2015.¹⁷⁷ Children working in farms were reportedly exposed to bad weather, dangerous chemicals and the use of heavy machinery.¹⁷⁸

A 2015 Reuters article stated that children were among the 153,000 estimated illegal small-scale miners.¹⁷⁹ Children were reportedly exposed to high levels of mercury, affecting their neurological system.¹⁸⁰ The ILO's CEACR reported in 2014 that children worked in mining, scavenging for minerals.¹⁸¹ Sixty-seven percent of children working in this sector reportedly used chemicals, including mercury and cyanide, as well as explosives, and approximately 24 percent worked more than nine hours a day.¹⁸²

Of the estimated 1.3 million orphans, many were forced to work on tobacco farms, tea and sugar plantations and in mines, in order to support siblings, according to a 2010 UNICEF report.¹⁸³

The U.S. Department of Labor also noted in 2015 that girls from bordering towns with South Africa, Mozambique and Zambia were subjected to forced labour and sex trafficking in brothels catering for long-distance truck drivers on both sides of the border. Children were also subjected to forced labour in agriculture and mining. Orphans were reportedly lured with promises of education or adoption.¹⁸⁴

Girls between the ages of 12-18 were reportedly subjected to internal trafficking for domestic work in towns and cities and were subjected to physical and sexual abuses from their employers.¹⁸⁵

Education

The constitution establishes that the state must promote free and compulsory basic education for children.¹⁸⁶ It also states that everyone has the right to a basic State-funded education.¹⁸⁷

The U.S. Department of State noted in 2015 that the national legislation does not provide free schooling or establish a compulsory age for children's education.¹⁸⁸ The government however, in a statement made to the ILO in 2013, reported that the Education Act of 2006 provides compulsory primary education for every child. The ILO's CEACR reported in 2014 that the minimum age of employment left children between 12 and 14 vulnerable to economic exploitation.¹⁸⁹

According to the 2014 Child Labour Survey, 62.8 percent of working children aged 5-14 were attending school.¹⁹⁰

Children dropped out of school because of increasing school fees, mostly impacting on girls.¹⁹¹ Although the government adopted a regulation stating that no child would be refused education for not paying school fees, the U.S. Department of State reported in 2015 that it was not generally implemented.¹⁹² According to the United Nations Development programme, a key reason behind the high drop-out rates may also be poor nutrition, since few children had enough to eat to attend school.¹⁹³

Girls reportedly faced sexual abuse and harassment at school by both teachers and classmates.¹⁹⁴

According to a 2014 African Disability Rights Yearbook report, one in three children with disabilities did not attend school while 75 percent never completed primary education.¹⁹⁵ Most schools reportedly lacked infrastructure to accommodate students with disabilities.¹⁹⁶ Albino children faced discrimination in schools and teachers sometimes did not give them the attention they needed, as noted by the Zimbabwe Human Rights Commission in 2015.¹⁹⁷

Cases

Reports of business-related human rights issues from NGOs, multilateral institutions and the media.

- *September 2015, The Zimbabwean:* A 13 year old boy was working at a grocery store 15 hours a day, with a salary of US\$50 a month.¹⁹⁸
- *September 2015, African Arguments:* Children as young as 12 years old were allegedly working long hours and receiving low payments at Taganga Tea Company. The children were reportedly not provided with protective equipment, suffering from septic wounds and respiratory diseases due to long exposure to heavy rain and cold.¹⁹⁹ The company denied the allegations, stating that children were benefitting from the 'Earn and Learn scheme programme', implemented by the company, where children could work on the fields during the day in return for educational support. The programme however ended due to criticism and pressure from NGOs and the media.²⁰⁰
- *July 2015, The Chronicle:* Parents of children with disabilities in Binga reportedly conceded that they hide them and did not enroll them at schools out of fear of being shunned by the community or being accused of practicing witchcraft.²⁰¹
- *May 2014, News Day:* A Harare-based women was arrested on charges of luring two minor girls to her apartment where they were exposed to prostitution.²⁰²

Company Initiatives

Private-sector programmes that aim to ensure respect for human rights or contribute to development

Company Due Diligence Initiatives

Zimplats: The company has developed policies and agreements with unions covering, among other things, the prevention of child labour.²⁰³

Company Development Initiatives

Murowa Diamond Company (2014): The company implemented the Access to Education programme by which it donated 6,000 text books to approximately 3,000 school children in the proximities of its operations.²⁰⁴

Asa Resource Group- Freda Rebecca Mine: The company provides on-site primary school education, funds secondary schooling and grants a number of scholarships to higher education institutions for the children of employees. The mining company assisted local scholars to complete their tertiary education by providing them with a 6-month vocational placement and sponsored four students to complete their degree at the School of Mines.²⁰⁵

Stakeholder Recommendations

Multi-Stakeholder Forum Recommendations

On June 20, 2013, and April 30, 2014, the Danish Institute for Human Rights and the Zimbabwe Environmental Law Association convened stakeholders from business, government and civil society in

Harare to discuss human rights and business challenges and jointly devise recommendations. The following recommendations were produced from those forums:

- Business associations should give their members guidance on addressing the needs and challenges of child informal miners.

Human Rights Guidance for Businesses

Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context

Due Diligence Library

The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies

- The company does not employ workers under 15 years of age for full-time work, 13 years of age for light work and 18 years of age for hazardous work (please see the question description for exceptions).
- If the company employs minors below the age of 18, the company has a list of job functions that can safely be performed by minors.
- The company is aware of local age-levels for completion of compulsory education and does not employ workers under that age for work that may interfere with such education.
- The company has a reliable procedure to check the age of young job candidates by birth certificate, other official forms of identification, or by alternative means such as physical appearance or knowledge of historic events.
- Company apprenticeship programmes do not constitute the main portion of the workforce, are limited in duration, are performed in conjunction with a school programme (or supervised by Labour Ministers or Labour Organisations), and do not interfere with the child's compulsory education.
- If the company becomes aware that it is employing young workers below minimum age, it ensures that they are enrolled in education programme, and that their dependents are compensated for the resulting loss of income.

Standards & Guidance

NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre

- Business and Human Rights Resource Centre, Business & Children Portal: The Portal is an information hub developed to give practical assistance to people from all business sectors in their work and decision-making, leading to better protection of the rights and welfare of children. The Portal has sections on: issues, positive initiatives, alleged abuses, lawsuits and guidance.
- Children's Rights and Business Principles (2012): Developed by UNICEF, UN Global Compact and Save the Children, these Principles are the first comprehensive set of principles to guide companies

on the full range of actions that they can take in the workplace, marketplace and community to respect and support children's rights.

- ILO Programme on the Elimination of Child Labour (est. 1992): The Programme has the overall goal of the progressive elimination of child labour, to be achieved through strengthening the capacity of countries to address it and promoting a worldwide movement to combat child labour.
- UN Committee on the Rights of the Child General Comment No.16 on State obligations regarding the impact of the business sector on children's rights (2013): The Committee is the body of independent experts that monitors the implementation of the Convention on the Rights of the Child and the Optional Protocols. In April 2013, the Committee issued a general comment on business and children's rights. The objective of General Comment No.16 is to provide States parties with a framework for implementing the CRC, particularly with regard to the business sector.
- Children's Rights in Impact Assessment – A Tool For Companies (2013): Developed by UNICEF and the Danish Institute for Human Rights, this checklist is a practical tool intended to help companies to identify and manage their impact on children's rights. The checklist contains a set of questions and indicators covering the 10 Children's Rights and Business Principles, addressing different aspects of company policies and operations and the impact on children's rights.
- Better Work (ILO, IFC): Guidance Sheet on Child Labour (2009)

Engagement Opportunities

Development initiatives by public and private actors that provide opportunities for companies to contribute to human development

Public Sector Initiatives

National Action Plan for Orphans and Vulnerable Children (2011-2015): The Ministry of Public Service, Labour and Social Welfare, in collaboration with UNICEF, implements the Plan that includes a focus on equity and access to quality education for children. It also provides for a cash transfer programme that encourages families to keep children in school, and offers protection service to children victim of abuse, violence and exploitation.²⁰⁶ The Plan was estimated to reach out to about 250,000 households annually with cash transfers.²⁰⁷

Basic Education Assistance Module: The government implements the initiative, supported by the UK Department of International Development. It aims to provide basic financial assistance to families for education cost such as tuition and examination fees.²⁰⁸ The initiative was expected to benefit with school fees to about 550,000 primary-school children and 200,000 secondary-children annually.²⁰⁹

NGO Initiatives

Justice for Children Trust: The organisation provides with legal services to children including in civil and criminal matters. It also conducts research, document and public findings on children's legal issues.²¹⁰

Forced Labour

Debt bondage, human trafficking or other coercion that makes workers unable to freely leave employment

Operating Environment	
U.S. Department of Labour Trafficking in Persons: Tier Placement	Tier 3
Relevant laws	• Constitution, 2013 • Labour Act, 2002 • Trafficking in Persons Act, 2014
Responsible agencies	• Ministry of Public Services, Labour and Social Welfare • Ministry of Home Affairs

Country Context

Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.

The constitution guarantees freedom from slavery or servitude, and prohibits forced or compulsory labour.²¹¹ The Labour Act also prohibits forced labour in accordance with international standards.²¹²

According to the 2014 Global Slavery Index, there were an estimated 61,500 enslaved in Zimbabwe, corresponding to a 0.4 percent of the population.²¹³

Chinese citizens were reportedly forced to work in restaurants in Zimbabwe.²¹⁴ Chinese mining companies also used slave-like practices, including verbal, physical, and sexual abuse and various means of coercion to induce work in unsafe or otherwise undesirable conditions, according to the U.S. Department of Labor in 2015.²¹⁵

Trafficking

In 2014 the government adopted the Trafficking in Persons Act, which provides protection, prevention and prosecution of the crime of trafficking in persons and the protection of victims. The Act states penalties of up to 10 years imprisonment. According to the U.S. Department of Labor in 2015, the law does not include a definition of trafficking according to international standards as it defines trafficking in persons as essentially a crime of transportation.²¹⁶

Zimbabwe was a source and destination country for forced labour and sex trafficking. The U.S. Department of Labor noted in 2015 that women from bordering towns with South Africa, Mozambique and Zambia were subjected to forced labour and sex trafficking in brothels catering for long-distance truck drivers on both sides of the border, while men were trafficked for forced labour in the agriculture sector.²¹⁷ Zimbabwe was also a transit country for people from Somalia, Ethiopia and the Democratic Republic of Congo wanted to reach to South Africa, according to a 2014 News Day report.²¹⁸

Human trafficking cartels located at bordering points, including in Nyamapanda and Tongogara refugee camps, reportedly lured refugees to pay as much as US\$300 to secure an alleged employment in Harare.²¹⁹

According to members of the opposition party, the Inter-Ministerial Anti-Trafficking Committee lacked a designated chair and did not meet regularly or inform on its activities to combat the crime of trafficking in persons, as of July 2015.²²⁰

Cases

Reports of business-related human rights issues from NGOs, multilateral institutions and the media.

- *September 2015, Bulawayo24 News:* A former worker at the fertiliser manufacturer Omnia reported slavery-like working conditions.²²¹
- *May 2014, News Day:* A Harare-based women was arrested on charges of recruiting 22 young Zimbabwean women for alleged employment as maids in Saudi Arabia.²²²

Company Initiatives

Private-sector programmes that aim to ensure respect for human rights or contribute to development

Company Due Diligence Initiatives

Zimplats: The mining company is committed to the UN Guiding Principles on Business and Human Rights and it has adopted a Human Rights Policy, extended to its contractors and supply chain, that includes the prohibition of forced labour in its operations.²²³

Human Rights Guidance for Businesses

Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context

Due Diligence Library

The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies

- Workers can give notice and leave employment within a reasonable length of time. This is clearly communicated to workers prior to starting employment.
- The company (or its recruitment agencies) ensures that it does not withhold wages or bonuses and that it pays them in a timely and regular manner.
- The company ensures it does not make deductions from wages for disciplinary measures or other deductions not authorised by national law.

- Within normal working hours workers are able to earn a living wage sufficient to meet the basic needs of themselves and their closest dependents.
- Overtime work is paid, voluntary and not compelled through threat of pay deductions, termination or other sanctions.
- The company (or its recruitment agencies) ensures that it does not retain identity cards, passports, travel documents or other personal items without which workers cannot leave employment. If letters of release or other documents are needed for the worker to leave employment, such letters are issued without delay.
- All workers are allowed to leave company premises during breaks and at the end of their shifts, and workers in company housing may freely enter and exit their accommodation at any time.
- The company (or its recruiting agencies) ensures that it does not require workers to pay recruitment fees or lodge money deposits.
- Loans or salary advancements to workers are based on fair terms that are clearly explained to the worker, are not granted to cover basic living expenses, are limited in size, and do not require the worker to remain with the company until repayment is completed.
- If the company uses prison labour it ensures that all prison workers have been convicted by a court of law, and that the work is voluntary and supervised by a public authority.
- The company ensures that it does not use labour from agencies or firms involved in human trafficking or other forms of bonded labour.

Engagement Opportunities

Development initiatives by public and private actors that provide opportunities for companies to contribute to human development

Public Sector Initiatives

Anti-Trafficking Information Booth (2014): In the framework of the Harare Agricultural Show, the government funded the booth, targeting potential trafficking victims and also distributed anti-trafficking materials to participants.²²⁴

Occupational Health & Safety

Unsafe or unhealthy working conditions that expose workers to the risk of accidents or occupational illnesses

Operating Environment	
Relevant laws	• Constitution, 2013 • Labour Act, 2002
Responsible agencies	• Ministry of Public Services, Labour and Social Welfare • National Social Security Authority • Zimbabwe Occupational Safety and Health Council

Country Context

Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.

The constitution provides that everyone has the right to safe labour practices.²²⁵ Health and safety standards are determined on an industry-specific basis, including mining and agriculture.²²⁶ Workers have a legal right to remove themselves from dangerous work situations without jeopardy to continued employment.²²⁷ Workers in the formal economy are covered by the Worker's Compensation Insurance Fund, which is fully paid by the employer.²²⁸ The fund provides compensation to the worker in the event of being seriously injured at work.²²⁹

According to the latest report from the National Social Security Institute (NSSA), there were 5,666 work-related injuries and 76 fatalities during 2013, an increase of 21 percent compared to 2012 figures, despite there being fewer workers covered by the NSSA that year.²³⁰ The Herald, referring to data provided by the government, reported that there were 5,491 work-related injuries and 98 fatalities during 2014.²³¹ Statistics showed that over the last couple of years, a rise in workplace accidents, fatalities and illnesses were recorded.²³² Most accidents occurred in the transport and mining sector.²³³

Most companies did not have a safety and health policy as of 2014, which, according to the Zimbabwean news site BH 24, implied that companies did not give a priority to matters related to OHS.²³⁴ A government official stated in 2015 that the high rate of accidents and fatalities were as a result of low investment in occupational health and safety, lack of implementation of regulations and low levels of awareness on OHS issues.²³⁵

Artisanal miners in particular reportedly used 15 tons of mercury a year, and according to the UN Special Rapporteur on hazardous substances and waste, mercury levels were of up to 50 times above the limits set by the World Health Organization.²³⁶ Mining workers exposed to mercury had reportedly

neurological damage, with symptoms including hair loss, memory impairment and loss of muscle coordination.²³⁷ Mining workers were not reportedly provided with adequate protective clothing.²³⁸

The government also reported that most companies in the paint-manufacturing sector did not have respiratory protective equipment programmes in place as of 2013.²³⁹

The Occupational Safety and Health division at the NSSA conducts inspections. The latest data available showed that 6,946 inspections were conducted during 2013, of which 5,538 showed lack of implementation of OHS legislation. This included: the use of unsafe machinery; exposure to poor electrical installations; unprotected dangerous openings, pits, trap holes and elevated workplaces; failure to carry out requisite medical examinations; poor ventilation and lightning; poorly equipped first-aid boxes; poorly maintain sanitary conveniences exposure to chemicals; use of uninspected equipment; and failure to report accidents.²⁴⁰

As of 2014, there were 31 NSSA OHS inspectors with enforcement powers, and they were located at regional centres.²⁴¹ Inspectors reportedly lacked material resources such as motor vehicles which, according to the government, limited their effectiveness.²⁴² Inspectors have reportedly waited up to three months for the costs and equipment necessary to conduct inspections, and companies sometimes reportedly offered to pay these costs for inspectors.²⁴³ There were reportedly not enough inspectors covering the agriculture sector in particular, specially during seasonal peak periods.²⁴⁴

The Ministry of Labour and Social Services also carries out regular inspections of work sites. The Ministry has the statutory power to shut down work sites for labour violations, but has reportedly never done so.²⁴⁵

The U.S. Department of State further stated in 2015 that the Occupational Safety and Health Council's status as an advisory council made it largely ineffective.²⁴⁶

Cases

Reports of business-related human rights issues from NGOs, multilateral institutions and the media.

- *June 2015, New Zimbabwe:* One miner died and two were injured as a result of a shaft collapsing inside the Geageze gold mine.²⁴⁷
- *June 2014, Bloomberg:* Seven gold miners died and 11 were injured when a hoist cage that was transporting them fell into a pool of water in the proximities of the Golden Valley mine in Kadoma.²⁴⁸
- *2013, National Social Security Authority:* A security guard at a construction site died as a result of a lintel collapsing on him while workers were removing shattering support.²⁴⁹
- *January 2013, AllAfrica:* Workers in Makwiro platinum mines complained that they were not provided with protective clothes.²⁵⁰

Company Initiatives

Private-sector programmes that aim to ensure respect for human rights or contribute to development

Company Due Diligence Initiatives

Masimba Group: The construction company adopted a Safety, Health and Environmental management policy that acknowledges full responsibility in the protection of employees from injuries and illness, and commits to the overall health and safety of workers, including the management of processes and operations to prevent injuries and illnesses.²⁵¹

The Delta Corporation (2015): The beverage company adopted an Occupational Health and Hygiene (Wellness) Policy, which includes their commitment to develop and implement detailed occupational health and hygiene programs; encourage employees to take responsibility for their health status through wellness programs; informing, educating and communicating wellness issues to all employees in support of prevention, care, and anti-stigma programs; structuring and programming specific responses to different health issues; and conduct constant monitoring and periodic evaluations of the effectiveness of the initiatives.²⁵²

Company Development Initiatives

Lafarge Cements Zimbabwe (2014): The company sets annually a Health and Safety month campaign to improve health and safety performance throughout the business. During 2014, May was dedicated to the campaign and activities included medical consultations, physical exercises, and health and safety training sessions.²⁵³

Stakeholder Recommendations

National Social Security Authority (NSSA): The NSSA recommends that chemical manufacturers adopt and implement respiratory protective equipment programmes for the effective protection of workers against chemical airborne contaminants.²⁵⁴

National Social Security Authority (NSSA): The NSSA encourages that companies establish a safety and health management systems approach, including the forming of safety committees and training of members of these committees; carrying out enterprise risk assessments; medical examination of workers; periodic testing and maintenance of workplace equipment and machinery; notification of accidents and diseases; provision of appropriate personal protective clothing and equipment; and inspection of workplaces.²⁵⁵

Human Rights Guidance for Businesses

Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context

Due Diligence Library

The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies

Does the company ensure that its workers are provided safe, suitable and sanitary work facilities?

- Responsibilities for health and safety tasks are clearly defined.
- The company routinely monitors its production processes, machinery and equipment to ensure that they are safe and in good working order.
- Workers and managers are trained to respond to workplace emergencies; first aid kits and fire extinguishers are readily available; and escape exits are clearly marked and free from obstruction.
- The workplace is maintained to ensure clean and comfortable conditions including a suitable temperature, ventilation and lighting; suitable washing and sanitation areas appropriate for both genders.
- Residential or overnight facilities are safe and sanitary and meet the basic needs of workers including with regard to safety, space, temperature, lighting, ventilation, food, water, sanitary facilities, privacy, and affordability.
- The company provides safe drinking water for workers and facilities for clean and sanitary food storage and eating.
- Where relevant the company has put in place special health and safety precautions for pregnant women, employees with disabilities, night workers, young workers and other vulnerable groups.

Does the company ensure that workers are provided with the protective equipment and training necessary to perform their tasks safely?

- The company has a procedure to ensure that all workers are provided, free of charge or deposits, with the protective equipment necessary to safely perform their job functions.
- The company is committed to ensuring that workers use the protective equipment provided and understand why it is necessary to use the equipment.
- The company ensures that all workers have the necessary training to safely perform their job functions and keeps workers fully informed, in a language and form understandable to them, of the health and safety procedures.
- An accurate record is kept of who has been trained and for what tasks.
- On a regular basis and when assigned to new tasks, workers receive training in the safe use of equipment and processes.
- A company function or member of staff is responsible for keeping informed of scientific and technological developments regarding health and safety risks and protective equipment.

Does the company actively involve workers in health and safety work?

- The company consults employees on health and safety issues either directly or through a freely elected safety representative(s) for relevant groups of employees.
- A health and safety committee has been established including employee safety representatives and representatives from management.
- Health and safety accidents are reported and investigated including involving the relevant worker(s), and actions are taken to prevent recurrences.
- Health and safety near-misses (accidents not resulting in injury) are reported and investigated to help improve safety.
- Health and safety accidents are monitored including hours lost as a result of injury or illness and e.g. compared to total hours worked (lost time injury frequency).

Standards & Guidance

NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre

- IFC Performance Standard 2: Labour and Working Conditions (2012): FC PS2 is guided by the international labour standards as outlined by the ILO and covers health and safety.
- Portal for Responsible Supply Chain Management: The Portal is designed to support companies in improving the social and environmental conditions within their supply chain. The Portal offers tools and guidance on a number of supply chain issues, such as child labour, corruption and discrimination. In addition, the Portal also details sector specific resource material and pertaining legislation.
- Ethical Trading Initiative Base Code (2012) and ETI Principles of Implementation (2009): The Ethical Trading Initiative is an alliance of business stakeholders promoting the implementation of corporate codes of practice that cover supply chain working conditions. The alliance consists of companies, NGOs and trade union organisations. The ETI Base Code has been developed as a code of labour practice, targeted generally for supply chains, and is in line with the key international labour standards. The accompanying ETI Principles of Implementation outline the requirements needed by corporate members to implement the ETI Base Code in their supply chains, including the necessary commitments, management practices and behaviours.

Trade Unions

Restrictions on the right of workers to collectively represent their interests

Operating Environment	
Largest trade unions and union confederations	Unions - National Mine Workers Union: 23,000 - National Engineering Workers Union: 8,242 - Commercials Workers Unions of Zimbabwe: 8,000 - General Agriculture Workers Plantation Union: 7,000 - Zimbabwe Security Guard Union: 3,362 - Transport and General Workers Union: 2,800²⁵⁶ Confederations - Zimbabwe Congress of Trade Unions: 156,283 (2013) - National Federation of Trade Unions: 12.000 - Federation of Food Workers Unions of Zimbabwe: 8,000²⁵⁷
Relevant laws	- Constitution, 2013 - The Labour Act, 2002
Responsible agencies	Ministry of Public Services, Labour and Social Welfare

Country Context

Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.

Barriers to Unionisation

The constitution provides that everyone has the right to freedom of association.²⁵⁸ Every person, except members of the security services, has the right to form and join trade unions, and to participate in the lawful activities of those unions.²⁵⁹ Managers are considered employers and are therefore not allowed to organise.²⁶⁰ Unions must register with the Ministry of Labour.²⁶¹ The ILO has pointed to the need to abolish the requirement for registration of unions.²⁶²

In 2014, the International Trade Union Confederation (ITUC) reported that the law gives the Ministry of Labour the power to supervise the election of officers of workers' and employers' organisations, to cancel or postpone elections, and gives the Minister of Labour extensive powers to regulate union activities.²⁶³

According to the Danish Trade Union Council for International Development (LO-FTF Council), only 2.5 percent of the labour force was unionised as of 2014.²⁶⁴ Union membership has declined steadily, eroding bargaining and convening power.²⁶⁵

There was a perception that trade unions were not acting on the best interest of workers, and instead used as a tool for individuals to gain political power, according to The Chronicle in 2014.²⁶⁶ The LO-FTF Council also reported in 2014 that union fees were deducted from employee's salaries but did not reach to the unions, impacting on their activities and existence.²⁶⁷

Trade unions were not independent from the government or political parties.²⁶⁸ The Zimbabwe Congress of Trade Unions (ZCTU) helped in the creation of the opposition party MCD while the Zimbabwe Federation of Trade Unions (ZFTU) was reportedly created by the government as an alternative to the ZCTU.²⁶⁹ A 2011 analysis in the Journal of Sustainable Development in Africa reported that although the ZANU-PF government denied any link to the ZFTU, the political alliance between the Federation and the government was demonstrated by the fact that many of the ZFTU's proponents were ZANU-PF activists.²⁷⁰

According to a study published by the Global Labour Column in 2015, Chinese-owned companies in the mining sector in Zimbabwe did not allow workers to form unions.²⁷¹

Collective Bargaining

The constitution provides that every person, except members of security services, has the right to engage in collective bargaining.²⁷² The Labour Act provides for collective bargaining over wages and conditions of employment. The U.S. Department of State's Human Rights Report noted in 2015 that labour regulations allowed the government to veto collective bargaining agreements that it deemed harmful to the economy.²⁷³ The law also allows for the creation of Worker's Committees in companies where the unionisation rate was less than 50 percent. Those committees could negotiate on shop floor grievances while trade unions negotiate at industry level. The U.S. Department of State noted in 2015 that employers could undermine the role of trade unions by establishing such committees.²⁷⁴

The LO-FTF Council reported in 2014 that only 5 percent of the labour force was covered by collective bargaining agreements.²⁷⁵ Employers also reportedly refused to negotiate in good faith.²⁷⁶

Strikes

The constitution provides that every person, except members of security services, has the right to strike.²⁷⁷ The law allows restrictions on the right to strike in order to maintain essential services.²⁷⁸

The right to strike in nonessential industries is circumscribed by procedural limits such as a 14-day advance-notice requirement, mandated 30-day reconciliation periods and possible mandatory referral to binding arbitration.²⁷⁹ ITUC deemed these procedural limits as excessively long and penalties for illegal strikes as harsh, including prison sentences of up to five years. Employers are not prohibited from hiring replacement workers during a strike, and also have the right to sue workers for liability during unlawful strikes.²⁸⁰

The ILO has called for simplified procedures for declaring a strike, and for regulations ensuring that strikes can be restricted or banned only in essential services in the strict sense of the term.²⁸¹

Anti-Union Discrimination

Anti-union discrimination is prohibited. The ITUC noted in 2014 that the law did not provide adequate means of protection, however.²⁸²

The law requiring notification of police for gatherings does not apply to unions, but according to the ZCTU in 2013, police have disrupted meetings of trade unionists.²⁸³ The government has reportedly prevented trade unions from holding peaceful marches.²⁸⁴ The authorities oftentimes denied trade union's requests to hold public events in case they were not associated with the ruling party ZANU-PF.²⁸⁵

Trade unions perceived to be loyal to MDC were harassed through the banning of trade union activities such as workshops, commemorations, processions and May Day celebrations.²⁸⁶ Freedom House noted in 2015 that the Public Order and Security Act (POSA) has been invoked to justify detentions and arrests of groups and individuals during meetings or demonstrations.²⁸⁷ The ILO's CEACR noted in 2014 that the government took some steps to address those concerns, including human rights training to its security forces.²⁸⁸

The ZCTU reported in 2013 that companies have accused union organisers of trespassing when they visited mining sites to talk to workers.²⁸⁹ The Zimbabwe Diamond and Allied Workers Union has reportedly had its members arrested and tortured by security forces.²⁹⁰ Organisers for other unions have spent up to a week in custody.²⁹¹

Episodes of anti-union discrimination in state-owned enterprises were further reported by the U.S. Department of State in 2015.²⁹²

Cases

Reports of business-related human rights issues from NGOs, multilateral institutions and the media.

- *October 2015, The Herald:* 131 workers at BAN ABC Bank were terminated on a three-month notice, without any compensation. The terminations were reportedly targeted to trade unions and workers committee members.²⁹³
- *June 2015, The Source:* 1,500 mine workers at Anjin Investment were dismissed due to their participation in a strike to demand salary increases. After a three year long investigation, the High Court ordered the company to reinstate 1,100 workers as it considered the dismissals to be unlawful.²⁹⁴
- *January 2013, AllAfrica:* In the context of a conflict between workers and management at Renco mine, a ZANU-PF member of parliament reportedly ordered the workers to join ZANU-PF, threatening them with political persecution and dismissal from work.²⁹⁵

Company Initiatives

Private-sector programmes that aim to ensure respect for human rights or contribute to development

Company Due Diligence Initiatives

Zimplats: The platinum company participates in the negotiation and implementation of resolutions in the framework of the National Employment Council for the Mining Industry, including the rights to freedom of association.²⁹⁶

Human Rights Guidance for Businesses

Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context

Due Diligence Library

The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies

Does the company recognise the rights of its workers to freedom of association and to bargain collectively?

- The company has a commitment to recognise the rights of its workers to freedom of association and collective bargaining, including the right to freely form and/or join independent trade unions, and this commitment is clearly communicated to all employees.
- The company recognises workers' organisations for collective bargaining purposes and has procedures in place to ensure regular collective bargaining with authorised worker representatives concerning all workplace related issues.
- The company allows worker representatives access to collective bargaining agreements, company premises, employees and other relevant documentation needed to fulfil their duties.
- The company prohibits discrimination or adverse actions against worker representatives or employees for participating or refraining to participate in lawful trade union activities.
- The company has agreed with workers' representatives about the requirements of a fair hearing to be followed in relation to all disciplinary cases and employee grievances.
- The company has a committee, with participation of employee-elected representatives, which is responsible for hearing, processing, and settling disciplinary cases and employee grievances.

If independent trade unions are either discouraged or restricted, does the company enable workers to gather independently to discuss work-related problems?

- The company allows employees to engage in regular employee-only meetings within normal working hours, where employees can discuss concerns regarding working conditions.
- Where allowed by local legislation, and if independent trade unions are not present, the company informs employees of their right to form independent collective representation at the workplace.
- Where allowed by local legislation, the company informs workers of their right to engage in regular collective bargaining concerning all workplace issues.

- Company management meets regularly with worker representatives to discuss work-related problems and any concerns/complaints employees may wish to raise.

Working Conditions

Employment status, wages, working hours and social security

Operating Environment	
Minimum wage	US\$170 to US\$579 per month, depending on sector
Relevant laws	• Constitution, 2013 • Labour Act, 2002
Responsible agencies	• Ministry of Public Services, Labour and Social Welfare • National Social Security Authority

Working Conditions: National Law		
	Country	International Standard
Standard workweek	n/a	48
Overtime pay rate	1.5x	1.25x
Holidays with pay, per year	n/a	3 weeks
Maximum daily working hours	12	10
Maximum weekly working hours	n/a	48
Uninterrupted weekly rest period	24 hours per 7 days	24 hours per 7 days

Country Context

Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.

The constitution provides that everyone has the right to fair labour practices and that every employee is entitled to just, equitable and satisfactory conditions of work.²⁹⁷

Companies and government ministries reported in 2013 that the greatest challenge in working conditions was the implementation of existing labour laws.²⁹⁸

Wages

The constitution provides that everyone has the right to a fair and reasonable wage.²⁹⁹

In Zimbabwe, Employment Councils set the minimum wages for their respective sectors.³⁰⁰ Minimum wages were set in 2015 for 18 industries and ranged from US\$170 to US\$579. Sectors with the highest wages were reported in air transport, insurance, cigarette and tobacco manufacturing industry, cement, lime and allied industry, tourism, mining and transport, while the lowest salaries were reported in the sugar mill sub-sector, pulp and paper manufacturing sector and plastics.³⁰¹

The poverty datum line, the amount of money needed for a family of six to sustain a decent standard of living, was \$562 per month as of 2014.³⁰²

According to a 2015 Times report, salaries in Zimbabwe were on average US\$246 a month for most workers.³⁰³ Salary differences between management and ordinary workers were great. Top managers of parastatals and public enterprises reportedly had salaries that were on average between US\$40,000 to US\$230,000, while ordinary workers' salaries were between US\$150 and US\$250 per month, according to The Chronicle in 2014.³⁰⁴

The Zimbabwe Congress of Trade Unions (ZCTU) reported in 2015 that late payment of salaries and wages below the poverty datum line was common in Zimbabwe.³⁰⁵ The agriculture sector had particularly low wages.³⁰⁶

Chinese-owned companies reportedly paid very low wages.³⁰⁷ According to ZCTU, many workers at Chinese-owned companies were receiving half-salaries for years on end.³⁰⁸

According to allAfrica in 2014, many companies hired on a temporary basis, with salaries around US\$5 per hour for a 12-hour shift.³⁰⁹

Working Hours

The law does not provide for a standard workweek but prescribes a minimum of one 24-hour continuous rest period per week. No worker is allowed to work more than 12 continuous hours.³¹⁰

The government reported in 2013 that many collective bargaining agreements contained provisions regarding working hours.³¹¹ The U.S. Department of State reported in 2015 that enforcement of these restrictions was weak, in particular in the agriculture sector.³¹²

Workers at Chinese-owned companies in the mining sector reportedly worked particularly long hours.³¹³

Social Security

All employees are required to contribute 3 percent of their salary to the National Social Security Authority (NSSA).³¹⁴ The NSSA offers social insurance and social assistance.³¹⁵ All workers are required to pay into the National Pension Scheme, with employers covering half of the premium. Benefits include retirement and disability payments and accident compensation. Domestic employees and workers in the agriculture and information sectors are excluded from contributing to the fund.³¹⁶ Bertelsmann Foundation noted in 2014 that Zimbabwe did not have unemployment insurance.³¹⁷

As of 2013, 1.2 million workers in formal employment contributed to NSSA.³¹⁸ According to the African Economic Outlook in 2015, most people in formal employment did not enjoy social security benefits.³¹⁹

Informal Sector

According to the latest ZimSat survey, from 2014, 94 percent of the 6.3 million defined as employed worked in the informal sector. Most workers were smallholder farmers in communal agriculture,

followed by workers in trade and commerce, manufacturing, mining, education and transport.³²⁰ The ZCTU reported in 2013 that these figures were significant under-estimates.³²¹

The Zimbabwe Chamber of Informal Economic Association represents informal labourers, but as of July 2013 only a small percentage had joined.³²²

The informal sector has reportedly grown in recent years. The economic challenges have encouraged employers to pay their workers in cash on the black market rather than employ them formally.³²³ 67 percent of workers in the informal sector were reportedly women.³²⁴ Workers in the informal sector were not covered by labour laws, and did not receive decent wages, social benefits or medical aid.³²⁵

There were numerous informal and unregistered miners in the gold sector in particular as a result of high costs related to registration and environmental impact assessments, according to the Zimbabwe Environmental Law Association in 2015.³²⁶

Cases

Reports of business-related human rights issues from NGOs, multilateral institutions and the media.

- *June 2015, New Zimbabwe:* Students employed at Econet's Call Centres received lower salaries than permanent workers for carrying out same duties.³²⁷
- *April 2015, The Independent:* Workers at the Chinese-owned company Afec did not have any written contracts and were paid US\$7 daily.³²⁸
- *February 2015, AFK Insider:* Members of the Zimbabwe Congress of Trade Unions (ZCTU) were planning a demonstration against a recommendation by the Reserve Bank of Zimbabwe to freeze worker's salaries.³²⁹
- *2015, Corporate Strategy and Industrial Development:* Working conditions at Anjin and Jinan mining companies were precarious. Workers received salaries that were on average US\$300 a month, worked 12 hours a day for a minimum of 19 and up to 26 consecutive days, and were not paid overtime.³³⁰
- *August 2014, IPS News:* Workers at a clothing retail company worked 10 hours a day and were hired on temporary contracts for six weeks at a time.³³¹
- *August 2014, Bulawayo 24 News:* Workers at the National Railway of Zimbabwe simultaneously demonstrated in Harare, Bulawayo, Mutare and Gweru to demand the payment of US\$55 million in salary backlog.³³²
- *May 2014, The Chronicle:* Workers affiliated to ZCTU on the occasion of Worker's Day demanded employers to offer employees above Poverty Datum Line salaries.³³³
- *January 2013, allAfrica:* Approximately 700 workers at Crest Breeders and Suncrest Chicken demonstrated against reductions in their working hours.³³⁴

Company Initiatives

Private-sector programmes that aim to ensure respect for human rights or contribute to development

Multi-Stakeholder Forum Recommendations

On June 20, 2013, and April 30, 2014, the Danish Institute for Human Rights and the Zimbabwe Environmental Law Association convened stakeholders from business, government and civil society in Harare to discuss human rights and business challenges and jointly devise recommendations. The following recommendations were produced from those forums:

- Businesses should, where possible, avoid using casual labour. Casual labourers should not be
- employed for long periods of time, and should be given the same rights and benefits as permanent employees according to how long they have worked for the company, not their contractual status.
- Ensure that all employees are aware of their labour rights and the terms and conditions of their employment contracts.
- Create an operational-level grievance mechanism where communities and employees can voice their human rights concerns to company management.

Human Rights Guidance for Businesses

Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context

Due Diligence Library

The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies

Working hours

Does the company ensure that the workweek is limited to 48 hours; that overtime is infrequent and limited; and that workers are given reasonable breaks and rest periods?

- Normal company working hours are limited to 48 per week by both company policy and practice, or fewer if provided by national law, collective agreement or industry standards.
- Overtime is infrequent, remunerated at premium rate, and does not exceed 12 hours in any one week, or 36 hours per month.
- The company has a system to plan, record and monitor hours worked by each employee, and regularly evaluates whether the number of workers is sufficient to meet production targets without resorting to overtime.
- Where overtime per worker systematically exceeds 12 hours per week, the company increases its workforce to correspond to production targets, or puts in place measures to increase worker productivity and reduce overtime.
- Workers are allowed at least 24 consecutive hours of rest (or more if provided by national law or industry standards) in every seven day period.

- The company ensures that workers have no less than a 30-minute break for every 4 hours of work (or more if provided by national law or industry standards) and that workers are allowed to use toilet facilities whenever necessary and not just during designated breaks.

Wages

Does the company provide a living wage that enables workers to meet the basic needs of themselves and their dependents?

- It is company policy to provide workers with a living wage sufficient to meet basic food, clothing and housing needs and provide some discretionary income for themselves and their dependents.
- The company is aware of whether the legal minimum wage in the country of operation meets the requirement for a living wage.
- If no national minimum wage is established, or if national minimum wage standards are insufficient to meet the basic needs of workers and their dependents, the company calculates a living wage based on the cost of living in its area of operation.
- Part-time workers receive wages and benefits that are proportionate to those of full-time workers, and receive overtime compensation at a minimum of 1.25 times their hourly salary.
- The company pays wages at regular intervals and does not take deductions from wages for disciplinary measures or other deductions not authorised by national law.
- Bonus and piece-rate payment systems are monitored to ensure that the total salary paid meets living wage requirements without resort to overtime.

Leave

Does the company ensure that workers are paid holiday leave, sick leave, and parental leave in accordance with international minimum standards?

- Workers are granted at least three weeks of paid holiday leave per year or more if required by national law or collective agreements. Part-time and short-term workers are provided with paid holiday leave proportionate to the number of hours worked, at a rate equal to that of permanent full time employees.
- Workers are entitled to paid sick leave in accordance with the applicable national law. If sick leave is not provided for in national law, the company consults with union or worker representatives to establish alternative means of protection in case of illness or injury.
- The company ensures that sick leave is not deducted from workers' vacation time.
- Female workers are entitled to no less than fourteen weeks of paid maternity leave per child.
- The company grants compassionate or parental leave to workers who have recently adopted a child or children, or have taken on the responsibility to care for foster children or other dependent children.

Employment status

Does the company ensure that all workers have an official employment status?

- The company ensures that all employees receive employment contracts prior to starting work for the company, and that contracts are understood by each employee.
- Contracts detail each employee's rights and obligations of employment, including clear job description, bonus and salary systems, and reasonable notice periods.

- Reference to company handbooks or other relevant documents on employment terms are integrated into the contract.
- The company ensures that contractors provide workers operating within company premises with an official employment status in line with company standards.

Standards & Guidance

NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre

- Ethical Trading Initiative Base Code (2012) and ETI Principles of Implementation (2009): The Ethical Trading Initiative is an alliance of different business stakeholders promoting the implementation of corporate codes of practice that cover supply chain working conditions. The alliance consists of companies, NGOs and trade union organisations. The ETI Base Code has been developed as a code of labour practice, targeted generally for supply chains, and is in line with the key international labour standards. The accompanying ETI Principles of Implementation outline the requirements needed by corporate members to implement the ETI Base Code in their supply chains, including the necessary commitments, management practices and behaviours.
- Institute for Human Rights and Business and Global Business Initiative on Human Rights, State of Play: The Corporate Responsibility to Respect Human Rights in Business Relationships (2012): The Report examines how the UN Guiding Principles can contribute and guide the complex network of business relationships that now exist in a global economy. It explores how companies of all sizes are now beginning to implement human rights considerations and the UN Guiding Principles into both traditional and contemporary business relationships.
- Portal for Responsible Supply Chain Management (est. 2008): The Portal is designed to support companies in improving the social and environmental conditions within their supply chain. The Portal offers tools and guidance on a number of supply chain issues, such as child labour, corruption and discrimination. In addition, the Portal also details sector specific resource material and pertaining legislation.
- IFC Performance Standard 2: Labour and Working Conditions (2012): IFC PS2 is guided by the international labour standards as outlined by the ILO and covers a range of aspects, including: terms and conditions of employment, non-discrimination, health and safety, and forced labour. The Standard addresses employees, contracted workers and supply chain workers.
- International Labour Organization: The International Labour Organization (ILO) is the UN agency responsible for preparing and overseeing international labour standards. The mission and objectives of the ILO are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues.
- OECD Guidelines for Multinational Enterprises (2011): The OECD Guidelines are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. Chapter 5 is on employment and industrial relations, aligning with the international labour standards of the ILO.

Engagement Opportunities

Development initiatives by public and private actors that provide opportunities for companies to contribute to human development

Public Sector Initiatives

Special Task Force (2014): The Ministry of Labour set the taskforce with the mandate to investigate Chinese construction companies suspected of abusive employment practices and to ensure compliance with labour laws.³³⁵

Environment

Company impacts on the environment that affect the health or livelihoods of local communities

Operating Environment	
Percentage of population with access to improved water sources	77 (2015)
Environmental Performance Index rank	94/178 (2015)
Food Security Index rank	n/a
Relevant laws	• Constitution, 2013 • Environmental Management Act, 2002 • Access to Information and Protection of Privacy Act, 2002
Responsible agencies	• Ministry of Environment, Water and Climate • Ministry of Energy and Power Development • Environmental Management Agency
Local NGOs addressing this issue	• Centre for Research and Development • Wildlife Environment Zimbabwe

Country Context

Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.

The constitution states that every person has the right to an environment that is not harmful to their health or well-being, and to have the environment protected for the benefit of present and future generations.³³⁶ The 2002 Environmental Management Act provides the legal framework for environmental management, and its main focus has been on developing an effective and efficient legal and administrative framework to facilitate management of natural resources.³³⁷ The Act also recognises environmental rights as human rights.³³⁸

A key tenet of the Environmental Management Act is the 'polluter pays' principle. If a company or the public is found to pollute, the Environmental Management Agency (EMA) issues the polluter a fine. The payment is then supposed to be utilized for cleaning up the environment.³³⁹ The Zimbabwe Environmental Law Association (ZELA) and other stakeholders consulted in Harare in 2013 reported that

the fines were not large enough to deter pollution, and that companies paid the fines as a cost of doing business.³⁴⁰

According to a 2015 Comptroller and Auditor General report, the EMA was inefficient in monitoring and enforcing environmental issues, in particular to mining companies, as a result of lack of human resources.³⁴¹

Participation & Access to Information

The Environmental Management Act recognises the right to environmental information³⁴² and the constitution provides for access to information.³⁴³ The Access to Information and Protection of Privacy Act enables public access to information. Although this ensures access to information, individuals are required to know the provisions to make claims for information.

The Zimbabwe Environmental Law Association (ZELA) reported in 2010 that public bodies did not proactively provide information until access was demanded.³⁴⁴ Moreover, the fees required of those who requested information could be prohibitive. There were reports that EMA levied excessive charges for individuals to see the results of environmental impact assessments.³⁴⁵

Since 1997 there has been an Environmental Impact Assessment (EIA) policy in place.³⁴⁶ The EIA guidelines cover mining and quarrying, forestry, agriculture, transport, energy, water, urban infrastructure and tourism.³⁴⁷ For each of the sectors, the guidelines provide examples of major activities that are likely to be undertaken for projects in that sector, the type of environmental impacts and possible measures for managing such impacts.³⁴⁸ The government has reportedly failed to enforce the regulation that companies must perform an EIA before beginning operations.³⁴⁹ ZELA reported in 2014 that limited institutional capacity and political interference resulted in lack of implementation of the law, particularly in the mining sector.³⁵⁰ Mining companies reportedly did not comply with the law, which in turn negatively impacted on local communities.³⁵¹

According to a government official in 2013, many mining companies started operations without an EIA certificate.³⁵² The 2015 Comptroller and Auditor General report further stated that EMA was not following up on expired EIA certificates on mining companies, and many of them were still operating with no certificate in place.³⁵³

Food & Livelihoods

The constitution states that every person has the right to sufficient food.³⁵⁴

According to the World Food Programme, 16 percent of the rural population will not meet their minimal food needs during the 2015-2016 lean season.³⁵⁵ High levels of food insecurity were reportedly as a result of recurrent droughts, occasional floods and high unemployment.³⁵⁶

Most of Zimbabwe's rural population depended on subsistence livestock farming and cultivation of small grains. In 2013, the Parliamentary Committee on Mines and Energy reported that because many communities were being relocated without proper resettlement plan, communities were in danger of losing their livelihoods, especially access to fertile land.³⁵⁷ According to the Centre for Research and Development in 2011, in mining areas, the cultivation of small grains was no longer possible due to pollution, and livestock no longer had sufficient grazing land.³⁵⁸

The destruction of forests has also reportedly affected the livelihoods of some women who depended on collecting and selling wild fruits.³⁵⁹

Transparency International Zimbabwe reported in 2014 that bio-fuel plantations, particularly emissions from ethanol, negatively affected livestock vital for community livelihoods.³⁶⁰

Water

The constitution states that every person has the right to safe, clean and potable water.³⁶¹

Water in Zimbabwe is divided into private, public and underground water.³⁶² Private water is owned by the owner of the land on which it is found, while the government of Zimbabwe legally owns public and underground water.³⁶³

The Bertelsmann Foundation reported in 2014 that as of 2010, only 40 percent of the population had access to sanitation facilities, resulting in regular outbreaks of cholera and diarrhoea.³⁶⁴

Industries are permitted to discharge waste with an 80 percent strength factor. According to a government official in 2015, companies were reportedly discharging waste with a strength factor up to 600 percent, especially in Harare's main water resources, including Lake Chivero, and thus polluting drinking water for the population. A 2014 EMA study noted that Bulawayo had the second highest water pollution level, followed by Mutare, Masvingo, Gweru and Chegutu.³⁶⁵ Food and beverage processing plants, oil companies and tanneries were among the industries discharging the most effluents (harmful industrial chemical waste and raw sewage) into water sources.³⁶⁶

In relation to the extractive sector, mercury used to process gold in eastern Zimbabwe was polluting water resources, causing neurological damage on people dependent on those resources, according to Reuters in 2015. Children were particularly vulnerable to this situation.³⁶⁷ allAfrica noted in 2014 that gold panning in the proximities of Mazowe River reportedly dried up the river.³⁶⁸ Diamond-mining companies operating in Marange reportedly polluted the Save and Odzi rivers, which were vital to local communities.³⁶⁹

Air Pollution

The Environment Management Act provides for the need to establish national air quality standards and criteria for measuring air quality.³⁷⁰

The Weekend Post reported in 2014 that air pollution in Harare was high due to among other things, industrial activity, causing health problems including asthma and inflammation of the lungs.³⁷¹

Cases

Reports of business-related human rights issues from NGOs, multilateral institutions and the media.

- *September 2015, News Day:* The Diamond Mining Company in Chiadzwa reportedly polluted water resources in and along Chenyu, Singwizi and Save rivers, creating serious problems to the communities dependent on those resources.³⁷²
- *February 2015, Mail and Guardian:* Officials from the Mines and Mining Development Ministry rejected the Environmental Impact Assessment conducted in relation to the development of a platinum mine by a joint venture between the military through the Pen East Mining Company and a Russian conglomerate. The officials considered the EIA not to be thorough as it only took 3 months to conclude.³⁷³
- *May 2014, InfrastructureWeeks:* The government ordered the closure of all tanneries until they install new effluent pre-treatment plants at their sites.³⁷⁴

- *January 2013, News Day:* The Environmental Management Authority (EMA) ordered the suspension of all the activities of the Chinese-owned mining company Tapin Private Limited along the Umzingwane River due to high levels of pollution. EMA also ordered the development of a rehabilitation plan to close the gaping holes and open up the river system.³⁷⁵

Company Initiatives

Private-sector programmes that aim to ensure respect for human rights or contribute to development

Company Due Diligence Initiatives

Asa Resources Group – Freda Rebecca Mine: The company implements programs including responsible waste disposal and prevention of pollution through optimising the use of water, fuel and electricity. Internal and external environmental audits are performed regularly.³⁷⁶

Pertrecozim: The company implements measures to address the environmental impacts of Polyethylene Terephthalate (PET), in particular in urban areas and the fact that it is non-biodegradable. Measures include the recovery of post consumer PET bottles from the waste stream through various channels and the processing of that waste into raw material for downstream applications in the polyester fiber value chain.³⁷⁷

SAB Miller Zimbabwe – The Delta Corporation: The company conducted a water risk assessment in two breweries, and an action plan was adopted to mitigate any identified risk. The company also reported an improvement of 12 percent on water usage and a 26 percent improvement on carbon efficiency on its facilities.³⁷⁸

Masimba Group: The construction company adopted a Safety, Health and Environmental management policy that acknowledges the protection of the environment, including a commitment to setting objectives and targets to mitigate or eliminate risks and impacts of significant hazards, and managing processes and operations to protect biodiversity, conserve energy, and minimize wastes.³⁷⁹

Lafarge Cement Zimbabwe: The company adopted an Environmental policy that sets commitments on the prevention of pollution and the continuous improvement in environmental performance, and includes the monitoring and control of environmental impacts, specially those associated with waste, dust, machinery/equipment and people behavior, improving performance through pollution and accident prevention, rehabilitation of all quarries and business sites at the end of their business life, and the implementation of an Environmental Management System.³⁸⁰

Zimbabwe Phosphates Industries (Zimphos): The chemical manufacturer has an Environmental Monitoring Department that is headed by the Safety, Healthy and Environmental Manager and has the mandate to implement and manage the existing environmental management programmes in the areas of air, water and land quality management.³⁸¹

Company Development Initiatives

Lafarge Cement Zimbabwe: The company, in partnership with the Harare City Council, local community and other experts, launched a Sustainable Community Waste Management Initiative to ensure an all-time clean environment in the community for the benefit of future generations. The initiative contemplates the establishment of a Waste Management Centre for the community, which will allow the sorting and reselling of the waste that will generate revenues for the community.³⁸²

Mimosa Mining: The company holds annually the National Tree Planting Day, with the participation of its employees and members of the local community surrounding its operations, to support the reforestation of Zvishavane. Every new employee is also offered a two-full day training on basic environmental awareness.³⁸³

Stakeholder Recommendations

Parliamentary Portfolio Committee on Mines and Energy: The First Report of the Portfolio Committee on Mines and Energy on Diamond Mining recommends that contract negotiations between mining companies and government cover environmental mitigation and protection measures as well as water use.³⁸⁴

Chamber of Mines: The Chief Executive Office of the Chamber of Mines recommends that all mining companies operating in Zimbabwe adopt environmental rehabilitation programmes.³⁸⁵

ZELA: In a scientific assessment of the impact of Marange diamond operations on the water quality in the Save and Odzi rivers, ZELA recommends that companies build infrastructure to process all waste water from the mines and should facilitate the clean up process.³⁸⁶

The Centre for Research and Development (CRD): The Centre recommends that all diamond mining companies promote sustainable livelihoods for the communities specially where they are exploiting the communities natural wealth.³⁸⁷

Multi-Stakeholder Forum Recommendations

On June 20, 2013, and April 30, 2014, the Danish Institute for Human Rights and the Zimbabwe Environmental Law Association convened stakeholders from business, government and civil society in Harare to discuss human rights and business challenges and jointly devise recommendations. The following recommendations were produced from that forum:

Educate employees on environmental issues and provide personal protective equipment to prevent health conditions caused by pollution or emissions.

Human Rights Guidance for Businesses

Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context

Due Diligence Library

The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies

Precautionary Approach

Does the company support a precautionary approach to environmental issues?

- The company provides information to stakeholders about uncertainties and potential risks to workers, consumers, the public and the environment of the company's products and processes.
- The company identifies any soil and water contamination at its site or sites, assesses the environmental impacts and remedies any significant contamination.
- The company tries to avoid environmental damage by regular maintenance of production processes and environmental protection systems (air pollution control, waste water treatment systems etc.).

- The company conducts systematic risk assessments of materials used, products and processes to apply the precautionary approach.
- The company ensures transparency and engages in regular stakeholder dialogue with neighbours, civil society organisations and others with an interest in the company on critical environmental issues.
- If relevant, the company supports scientific research on environmental issues relating to the company's products and processes.

Emergency Response

Does the company have emergency procedures in place to prevent and address accidents affecting the environment and human health?

- The company has identified the hazardous operations and the potential consequences on human health and the environment if an accident occurs.
- The company has detailed procedures, plans, equipment and training programmes to prevent accidents and emergencies.
- The company has detailed procedures, plans and equipment to effectively respond to accidents and emergencies if they occur.
- The company trains workers to respond to accidents and emergencies, including carrying out emergency drills at least once a year involving all workers.
- Where there is significant risk of impacts on local communities, the company has a procedure that enables it to immediately notify affected local communities about industrial emergencies, and informs about emergency response, evacuation plans and medical response.

Energy Consumption and Climate Change

Does the company take measures to reduce energy consumption and emissions of greenhouse gasses?

- The company complies with regulation regarding use of energy resources and emissions of greenhouse gases.
- The company has a climate strategy that identifies opportunities to reduce the company's energy consumption and/or emissions of greenhouse gases.
- The company has initiated practical activities to reduce energy consumption and/or greenhouse gas emissions.
- The company provides information and trains employees to implement energy reduction measures.
- The company monitors its energy consumption and/or emissions of greenhouse gases.
- The company has defined a baseline for its greenhouse gas emissions, which includes a definition of the business operations and activities, and the greenhouse gases that are accounted for e.g. as described in the Greenhouse Gas Protocol.
- The company has targets for reducing its energy consumption and/or emissions of greenhouse gases.
- The company engages with the government and civil society organisations to develop policies and measures that provide a framework for the business sector to contribute to building a low carbon economy.

Water and Waste Water

Does the company take measures to reduce water consumption and treat waste water?

- The company has the necessary permits to extract water or obtain water from the public water supply and for any waste water discharges.

- The company treats waste water before discharge to reduce adverse environmental impacts. If waste water treatment takes place outside the company's premises, the company is aware of the effectiveness of the treatment.
- The company monitors waste water discharges, including types, limit values and quantities of pollutants in the waste water.
- The company has targets for reducing water consumption and/or increasing the amount of water reused or recycled in different business operations and activities.
- The company provides information and trains workers to implement measures to reduce water consumption and reduce the need for waste water treatment.
- The company's use of water and its waste water discharges do not negatively affect the sustainability of water resources, the natural environment or the availability of water for drinking and sanitation purposes.
- The company engages with national, regional and local public authorities, and civil society organisations to address water sustainability issues related to affected water resources.

Waste Management

Does the company take measures to prevent and reduce the production of waste and ensure responsible waste management?

- The company has the necessary permits for the handling, storage, recycling and disposal of waste, and, if relevant, complies with requirements for transporting hazardous waste across borders.
- The company has a strategy to manage waste responsibly and continuously attempts to prevent and reduce the production of waste.
- The company ensures that waste relevant for recycling is sorted and handed over to a recycling company.
- The company monitors the types and quantities of waste produced, including where and how waste is recycled, treated or disposed of.
- The company has targets for reducing waste production and/or increasing waste reused/recycled and measures its progress against these targets.
- The company provides information and trains workers on the safe handling, storage, transport and disposal of hazardous and special waste types.
- The company marks areas used for storage of waste, and properly labels all containers for storing waste, including a relevant symbol of danger for hazardous waste.
- The company requests recycling/treatment/disposal receipts from transport contractors.
- The company uses licensed contractors for the transport, recycling, treatment and disposal of hazardous waste.

Air Emissions

Does the company prevent, reduce and treat air emissions?

- The company has the necessary permits for emissions to air, and complies with legal requirements (e.g. air pollution standards and limit values).
- The company provides information and trains workers on how to manage air emissions.
- The company monitors the types and quantities of relevant emissions to air.
- The company treats relevant pollutants before they are emitted to the atmosphere (e.g. by using filters).
- The company continuously attempts to prevent and reduce air emissions.

Noise, Odour, Light and Vibrations

Does the company prevent and reduce impacts on the surrounding environment from noise, odour, light and vibrations?

- The company has the necessary permits for levels of noise, odour, light and vibrations, and complies with legal requirements (e.g. standards or procedures).
- The company provides information and trains workers to manage noise, odour, light and vibrations.
- The company monitors levels of noise, odour, light and vibrations on the surrounding environment.
- The company treats/minimises impacts to ensure that there are no significant levels of noise, odour, light and vibrations.
- The company continuously attempts to prevent and minimise the levels of noise, odour and light (e.g. enclosed production, shielding, etc.).
- Chemicals and Other Dangerous Substances
- Does the company minimise the use and ensure safe handling and storage of chemicals and other dangerous substances?
- The company has the necessary permits and complies with legal requirements for the handling, use and storage of chemicals and other dangerous substances.
- The company does not manufacture, trade and/or use chemicals and other dangerous substances subject to national or international bans or phase-outs.
- The company provides information and trains workers on the safe handling and use of chemicals and other dangerous substances.
- The company monitors the quantities of all chemicals and other dangerous substances used in production and maintenance.
- The company marks areas used for storage of chemical substances and products.
- The company properly labels all chemical substances and products including name of the chemical and a relevant symbol of danger.
- The company considers substitution important and continuously tries to use less harmful chemicals and substances.

Biodiversity

Does the company prevent, minimise and remedy significant impacts on biodiversity?

- The company has the necessary permits to operate in or alter the natural environment, and complies with legal requirements.
- The company is committed to operating within the framework of international conventions addressing biodiversity (e.g. the Convention on Biological Diversity, Cartagena Protocol on Biosafety and the CITES Convention).
- The company has assessed important positive and negative impacts of its operations and activities on the natural environment and biodiversity (e.g. IUCN's Red List of Threatened Species and no alien invasive species).
- The company has previously and/or is currently taking measures to prevent and reduce the impacts of its operations and activities on biodiversity.
- The company clearly labels products containing GMOs and indicates if GMOs have been used in the production process.
- The company ensures that it has not had any unintended releases of GMOs.
- The company documents that workers have been adequately trained to handle GMOs.

Natural Resources

Does the company ensure that natural resources are used in a sustainable manner?

- The company has the necessary permits and complies with legal requirements regarding the cultivation, harvest, extraction and/or use of natural resources (e.g. wood, fish, metals, oil, coal etc.).
- The company complies with legal requirements regarding the cultivation, harvest, extraction and/or use of natural resources (e.g. wood, fish, metals, oil, coal etc.).
- The company ensures that workers are trained in the sustainable cultivation, harvesting, extraction and/or use of natural resources.
- The company continuously attempts to prevent, minimise and remedy significant impacts on natural resources through environmentally friendly methods and alternative resource use.
- The company ensures that its use of renewable resources does not negatively affect the sustainability of the resource (i.e. the resource's ability to regenerate).
- The company demonstrates efforts to substitute non-renewable resources used in production with renewable resources.
- The company works with local and national public authorities as well as with international institutions to address sustainability issues related to natural resources (e.g. wood, water, fish, metals, oil etc.).

Environmentally Friendly Technologies

Does the company encourage the development and use of environmentally friendly technologies?

- The company uses environmentally friendly technology.
- The company regularly evaluates its processes and technologies to see if there are more environmentally friendly alternatives.
- When developing new technologies and products, the company focuses on developing environmentally friendly technology e.g. by using life cycle assessments (LCA), design for sustainability or a cradle-to-cradle approach.
- When planning new investments in technology, the company considers the best available technology and stipulates minimum environmental criteria.
- When investing in new buildings, the company implements environmentally responsible and resource-efficient materials and/or technologies.
- The company makes information describing the environmental performance and benefits of using environmentally friendly technologies available to stakeholders.

Standards & Guidance

NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre

- **CEO Water Mandate (2011):** Launched as a collaborative initiative of the UN, UN Global Compact, the Government of Sweden and a dedicated group of companies, the CEO Water Mandate is a public-private initiative designed to assist companies with the development, implementation and disclosure of policies and practices relating to water sustainability. It covers six core elements: direct operations, supply chain and watershed management, collective action, public policy, community engagement and transparency.
- **IFC Performance Standards on Environmental and Social Sustainability (2012):** The IFC Performance Standards provide directions to businesses on due diligence on environmental and

social matters. Several of the standards are pertinent to environment, including: Assessment and Management of Environmental and Social Risks and Impacts (PS1), Resource Efficiency and Pollution Prevention (PS3), Community Health, Safety, and Security (PS4), and Biodiversity Conservation and Sustainable Management of Living Natural Resources (PS6).

- **Institute for Human Rights and Business, Business, Human Rights & the Right to Water—Challenges, Dilemmas and Opportunities:** This report summarises the views of various stakeholders on issues pertaining to the right to water, including consideration of the scope of a company's responsibility to respect the human right to water; the applicability of the human rights-based approach to management of water-related issues; and the business case for engaging with water-related issues.
- **ISO 14000 Standards on Environmental Management Systems:** Developed by the International Organisation for Standardisation, the ISO 14000 Standards provide businesses and organisations with a number of tools to assist in their environmental management systems. The key objective of the standards is to encourage different actors to reduce the negative impact that their activities may have on natural resources such as air, water or land.
- **United Nations Special Rapporteur on the Human Right To Safe Drinking Water and Sanitation (est. 2008):** Amongst a range of issues, the mandate of the Special Rapporteur includes consideration of the regulation of the private sector in the context of private provision of safe drinking water and sanitation.
- **Global Water Tool (2007):** Developed by the World Business Council for Sustainable Development, this tool is designed for companies and organisations to map their water use, including risks associated with water use in global supply chains.

Engagement Opportunities

Development initiatives by public and private actors that provide opportunities for companies to contribute to human development

Public Sector Initiatives

National Climate Change Response Strategy (2014): The strategy was adopted by the Ministry of Environment with the aim to produce concrete mitigation and adaptation actions integrated into long-term economic planning process to support a low carbon, climate resilient and development pathway.³⁸⁸

Promotion of Community Gardens Programme: The Ministry of Women Affairs, Gender and Community Development implements the programme that aims to provide 1 kg. seed pack to women with gardens and available water, with the objective of alleviating food shortages that are normally experienced between December and January. The programme targets 50 women per ward.³⁸⁹

Land & Property

Human rights impacts related to company acquisition, use and management of land

Operating Environment	
International Property Rights Index rank	3.8 (2014)
Heritage Foundation: Economic Freedom Index Property Rights score	10 (2015)
Relevant law	• Constitution, 2013 • Communal Lands Act, 1893 (2002) • Deeds Registration Act, 1999 • Land Acquisition Act, 2001 • Mines and Minerals Act, 1961 (2001)
Responsible ministries	• Ministry of Lands, Land Reform and Rural Resettlement • Ministry of Agriculture, Mechanization and Irrigation Development • Ministry of Local Governance, Public Works and Urban Development • The Agricultural Rural Development Authority • National Land Identification Committee • Provincial Land Identification Committee • Department of Deeds, Companies and Intellectual Property • Rural District Councils • Zimbabwe Land Commission
Local NGOs addressing this issue	• Women and Land in Zimbabwe

Country Context

Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.

Land Administration

The constitution guarantees the right to private property.³⁹⁰ In Zimbabwe, four main systems of land tenure exist: the freehold land that is private, State land, communal land, and leasehold resettlement system.³⁹¹

Land has historically been unevenly distributed, and during colonial times, all agricultural land was in the hands of a few thousand white farmers.³⁹² In 2000, Zimbabwe started land resettlement programs by acquiring white – owned farms from the colonial times and parcelled them to landless black people.³⁹³ White farmers received no compensation for those seizures,³⁹⁴ as the government stated that Britain was solely responsible for providing any compensation.³⁹⁵ A 2015 BBC article reported that land was mainly given to political allies without any agriculture equipment and were not provided with any training, resulting in the collapse of the agriculture-based economy. President Mugabe acknowledged in 2015 that land given to black people 'was too large for them to manage'.³⁹⁶

Most commercial farmers had freehold tenure over their land, comprising about 32 percent of total land in Zimbabwe.³⁹⁷ Communal land comprised 42 percent and was vested in the President, who in turn could allow its occupation and use. Rural District Councils are in charge of allocating communal land to qualified persons on behalf of the state, and the approval of the chief appointed to preside over land issues was required.³⁹⁸

The 2013 constitution recognises communal land rights, but the Mines and Minerals Act does not. The Zimbabwe Environmental Law Association reported in 2010 that the Act has been used to supercede other land rights, allowing the government to displace communities in favour of mining development.³⁹⁹ The Act provides for compensation of formal landowners whose land is located in mining areas, thereby protecting their property rights. However, communal residents who do not hold formal land title to the land that they use for agricultural, settlement and pasture purposes are not entitled to compensation. Instead, the Rural District Council acts as landowner. The compensation payment is made to the District Development Fund. Zimbabwe Environmental Law Association reported in 2010 that, in practice, the money from the fund was rarely used for community development.⁴⁰⁰ Furthermore, communities may not be recognised as legal entities, which was sometimes used by companies as a reason not to engage with them in consultation.⁴⁰¹

The Deeds Registration Act provides for the registration of and protection of rights to land and property, including title to land. Lease agreements for the period of 10 years or more must be registered.⁴⁰²

High levels of corruption and lack of transparency in land administration were reportedly due to a multiplicity of players with overlapping mandates, weak legal frameworks and excessive discretionary power given to some officials, according to Transparency International Zimbabwe (TIZ) in 2014.⁴⁰³ The UK Foreign and Commonwealth Office noted in 2014 that there was a lack of respect over property rights.⁴⁰⁴ The Bertelsmann Foundation reported in 2014 that ownership of land was not guaranteed, and that the government continued to expropriate land from white farmers.⁴⁰⁵

In 2013, the Parliamentary Portfolio Committee on Mines and Energy reported that many families in rural areas owned small plots with mineral claims that were recognised by the state, and the trading of these claims has been the source of community conflict.⁴⁰⁶ Some of these titling conflicts have been caused by errors by government surveyors.⁴⁰⁷

Land Acquisition

The constitution establishes that every Zimbabwean has the right to acquire, hold, occupy, use, transfer, hypothecate, lease or dispose of agricultural land regardless of his race or colour, and that no person may be deprived arbitrarily of their right to use and occupy agricultural land.⁴⁰⁸

The Land Acquisition Act allows the government to acquire land for resettlement subject to the payment of a fair compensation that is fixed by a committee of six persons using set guidelines, including powers to limit the size of farms.⁴⁰⁹

Use and occupation of state lands are governed under the Communal Lands Act. When the state initiates a relationship with a company, communities are not required to be compensated where

exploitation of subsurface resources requires their resettlement.⁴¹⁰ A 2014 survey conducted by TPZ found that the majority of respondents lost their communal land due to nepotism, bribery and patronage.⁴¹¹

Land deals were reportedly done secretly, with most labelled as 'investment projects' but that did not provide benefits to the local communities.⁴¹² There were no consultations with local communities on those deals, according to TPZ in 2014.⁴¹³

Large-scale land deals in Zimbabwe were related to bio fuel production. Investors reportedly had links with the ruling party ZANU-PF or had links with government enterprises. In some cases, the government reportedly labelled lands as 'marginal or underutilised' in order to proceed with land deals with companies for projects in the agribusiness sector. Loss of access to water by local communities due to the land deals was reported, according to TIZ in 2014.⁴¹⁴

Unregulated land allocations by the government had impacted on women and youth in their access to land.⁴¹⁵ Amnesty International further reported in 2015 that the government and local authorities carried out evictions without the required court orders.⁴¹⁶

The UK Foreign and Commonwealth Office reported in 2014 that invasions of commercial farms occurred.⁴¹⁷

In terms of the extractive sector, since 2010, as many as 1,400 families in the proximity of Marange were forcibly evicted due to diamond mining operations. Those communities, according to Yes to Life No to Mining in 2015, were not provided with the promised land, and in many cases, lost access to water in their new locations, impacting on women and children who needed to walk long distance to access sources of clean water.⁴¹⁸

A number of mining companies informed communities that mining takes precedent over any other laws, and that mining overrides all land rights over surface, which, according to ZELA in 2014, was a wrong legal position being used by companies in order to disempower local communities over their land.⁴¹⁹

In terms of resettlements and compensation, Zimbabwe has not established any standard on them.⁴²⁰ It did however release a circular with guides to compensation, but it has not reportedly been widely applied.⁴²¹ The Centre for Research and Development (CRD) reported in 2013 that mining companies had in some cases committed to the payment of compensation, but had not specified the amounts, and there were instances where they failed to live up to those commitments.⁴²²

The Parliamentary Portfolio Committee on Mines and Energy reported in June 2013 that some 4,300 families were to be relocated from Chiadzwa, a major diamond mining area in Zimbabwe, and about 1,800 were to be relocated to Arda Transau near Mutare. Since 2010 a total of 693 families have been re-located.⁴²³ Joint venture companies and government through the Manicaland Provincial Relocation Committee had the financial obligation to relocate and compensate the families.⁴²⁴

Free, Prior & Informed Consent

The constitution does not recognise any indigenous peoples. Two groups, however, self-identify as indigenous: The Tshwa (Tyua, Cuaa) San and Doma (Vadema). The Tshwa live in western Zimbabwe while the Doma in the north-central region.⁴²⁵ The International Work Group for Indigenous Affairs reported that the Land Reform implemented in Zimbabwe had few direct impacts on the Tshwa and Doma.⁴²⁶

Zimbabwe has not signed ILO Convention 169 on Indigenous and Tribal Peoples.⁴²⁷

Cases

Reports of business-related human rights issues from NGOs, multilateral institutions and the media.

- *February 2014, Oxfam:* 6,393 households were relocated to Mwenezi district due to the Towke Mkorsi Dam construction. The government reportedly did not fully complete the relocation plan and there were delays in the payment of compensation to the affected households to facilitate the construction of houses in the new relocation area.⁴²⁸
- *July 2015, Zimbabwe Today:* An official from the ruling ZANU-PF party was convicted on grounds of illegally selling rural resettlement land to villagers in the Lochard Resettlement area at a price between US\$300 to US\$500 per villager.⁴²⁹
- *September 2014, UK Foreign and Commonwealth Office:* A senior official in the Office of the President took over a commercial farm in Figtree despite a High Court's order barred him from doing so.⁴³⁰
- *November 2014, The Chronicle:* Only 5 of the estimated 45 chiefs in Masvingo province who were entitled to land through the Land Reform Programme were allocated land as of November 2014. Land committees were reportedly not inviting all chiefs to their meetings.⁴³¹
- *March 2013, CRD:* Throughout 2012, 14,000 people in Marange were reportedly relocated to make way for diamond mining operations. These relocations were performed under the oversight of the Ministry of Mines without consultation of the families or with local government officials.⁴³²
- *January 2013, The Standard:* The Tengenenge community in Guruve accused a Chinese mining company of conducting mining operations in their land without holding consultations.⁴³³

Company Initiatives

Private-sector programmes that aim to ensure respect for human rights or contribute to development

Company Due Diligence Initiatives

Zimplats: The platinum company is committed to the UN Guiding Principles of Business and Human Rights. In that line, it has adopted a stakeholder engagement policy to optimise relationships with stakeholders and enable it to operate in an environment free of unmanageable conflicts, and conducive to its business objectives. Among the stakeholders are included local communities directly affected by their operations. The policy contemplates building the capacity of stakeholders to enable them to fully participate and deliberate on issues that affect them, and to provide them with information that is clear, accurate, timely and relevant to maintain a trustworthy relationship.⁴³⁴

Stakeholder Recommendations

Parliamentary Portfolio Committee on Mines and Energy (PPCME): The Committee recommends that companies contribute to the digitisation of the land titling and surveying systems.⁴³⁵

PPCME: The Committee recommends that companies contribute to the development of a framework for mining-related resettlement and compensation.⁴³⁶

PPCME: The First Report of the Committee on Diamond Mining recommends that contract negotiations between mining companies and government cover land use and rights as well as displacement and resettlement of local communities.⁴³⁷

The Centre for Research and Development : The Centre recommends that companies share their geologic survey data with the government and local communities, facilitating a transparent negotiation.⁴³⁸

World Bank: In cases of forced displacement and resettlement, the World Bank recommends that less drastic options be explored first; that resettlement improves the conditions of the displaced communities or at least that it restore them to a situation no worse than they were in before; and that informed consultation and participation take place throughout the project cycle with affected communities.⁴³⁹

Multi-Stakeholder Forum Recommendations

On June 20, 2013, and April 30, 2014, the Danish Institute for Human Rights and the Zimbabwe Environmental Law Association convened stakeholders from business, government and civil society in Harare to discuss human rights and business challenges and jointly devise recommendations. The following recommendations were produced from those forums:

- Businesses should provide decent accommodation for families, as well as appropriate and safe accommodation for single women
- Businesses should consider the principles in the UN Declaration on the Rights of Indigenous Peoples, particularly those pertaining to environmental stewardship and the economics of the environment.
- Businesses should assign people at rural level to address women's rights.
- Businesses should look to the Inclusive Business Model as a guide for capacitating and developing local communities and reducing conflict
- Businesses should collaborate on specific guidelines and policies around gender equality.
- Where mining is planned to take place on communal land, businesses should seek free, prior and informed consent. If mining is to take place on state land, businesses should engage the government.
- Businesses should consider the traditional and cultural values of the people. In some mining areas, the land may have sacred or ceremonial aspects. Companies should have a code of conduct (whether required by the government or not) and the protection of spiritually- or culturally-significant sites should be encompassed within their code of conduct.
- Businesses should communicate with community leadership with the purpose of allowing communities to express their wishes on land use.
- Businesses should include local communities in employment.
- Businesses should perform due diligence on the land and resource use rights and practices where they operate.
- Foreign businesses should work through local embassies to train local companies on the UN Guiding Principles on Business and Human Rights.
- Businesses should comply with existing regulations on land and environment, and should consider entering into partnerships with communities on the basis of development outcomes.
- Businesses should hold workshops for land-holders on human rights.

Human Rights Guidance for Businesses

Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context

Due Diligence Library

The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies

Before buying, renting, acquiring or otherwise accessing land or property, does the company ensure that all affected owners and users of the land or property, have been adequately consulted and compensated?

- Prior to buying, renting, acquiring or otherwise accessing land or property, whether directly or through a third party, the company identifies all existing owners and users of the land or property, including information land users and customary owners.
- The company investigates the past usage and ownership of the land or property to ensure that past users and owners have not been wrongfully removed, and that any expropriations by the authorities have been conducted in accordance with international law.
- The company consults with affected users and owners of the land or property (including women, tenants, settlers, minorities and other vulnerable groups including indigenous peoples) and seeks their free, prior and informed consent before continuing to acquire or access the land or property.
- The company ensures that its lease or purchase of residential property and sourcing of food commodities does not considerably make housing and food scarce or too expensive for the local people.
- The company ensures that affected owners and users of the land or property are adequately compensated to help them restore their standards of living or livelihoods to the same or higher than before, and that the compensation standards are transparent and applied consistently to all communities and persons affected.

Standards & Guidance

NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre

- **FAO Voluntary Guidelines on the Responsible Governance of Tenure (2012):** Developed by the Food and Agriculture Organisation of the UN (FAO), the Guidelines promote responsible governance of tenure of land, fisheries and forests by outlining the principles and internationally accepted standards for the responsible governance of tenure. The Guidelines inform States and non-government actors on relevant policies, strategies and activities.
- **IFC Performance Standard 5: Land Acquisition and Involuntary Resettlement, and IFC Handbook for Preparing a Resettlement Action Plan (2002):** The IFC Performance Standards are contractually binding on certain projects receiving IFC finance. PS5 is accompanied by a Guidance Note and a Resettlement Handbook that gives detailed guidance on managing resettlement and associated impacts.
- **Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources (2010):** A joint initiative of UNCTAD, FAO, IFAD and the World Bank, these seven principles cover all types of investment in agriculture, including between principal investors and contract farmers. The Principles provide a framework for national regulations, international

investment agreements, global corporate social responsibility initiatives, and individual investor contracts.

Engagement Opportunities

Development initiatives by public and private actors that provide opportunities for companies to contribute to human development

Land Administration Project (2015-2017): The Ministry of Lands and Rural Resettlement, in close collaboration with the European Union and the UNDP, launched the programme that aims to support the government in their efforts to improve the regulatory framework and management of land. The EU will be contributing with EUR 4.74 million (approx. US\$5 million) while the UNDP with EUR500,000 (approx. US\$536,000). Areas of intervention are the following: outstanding issues on valuation and compensation, conflict resolution, base mapping and surveying of the resettled areas.⁴⁴⁰

Revenue Transparency & Management

Human rights impacts related to transparency of government revenues received from business and the distribution of such revenues

Operating Environment	
World Economic Forum Global Competitiveness Ranking	140 (2015-2016)
Legatum Prosperity Index rank: Governance	137 (2015)
Ease of Doing Business Index (where 1 indicates greatest ease for doing business)	171 (2014)
Transparency International: Corruption Perceptions Index rank (where 1 indicates the lowest level of corruption)	156 (2014)
World Bank Good Governance Indicators	
Voice and Accountability	12.3
Political Stability	23.8
Government Effectiveness	12
Regulatory Quality	2.4
Rule of Law	1.2
Control of Corruption	4.2 (2014)
Government revenue	3,732 million (2014)
Government expenditure	4.615 million (2014)
EITI Country	No
Relevant law	• Constitution, 2013 • The Public Finance Management Act,

	1999 • The Procurement Act, 2001 • The Access to Information and Protection of Privacy Act, 2002 • The Mines and Minerals Act, 1961 (2001) • Criminal Procedure and Evidence Act, 2004 • Criminal Code, 2008
Responsible ministries	• Anti-Corruption Commission • Comptroller and Auditor General • Ministry of Justice, Legal and Parliamentary Affairs • National Prosecuting Authority
Local NGOs addressing this issue	• Transparency International Zimbabwe • Kimberly Process Civil Society Coalition • Publish What you Pay Zimbabwe Coalition • NANGO

Country Context

Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.

Corruption

National legislation criminalises offenses such as active and passive bribery, extortion and money-laundering. The Criminal Code and Criminal Procedural and Evidence Act provides for corporate criminal liability for corruption offenses.⁴⁴¹ The Public Finance Management Act seeks to improve accountability over the use of public resources by ministries, government departments and parastatals. It further provides the regulatory framework for the management of public finances, promotes good governance and strengthens Zimbabwe's accounting system.⁴⁴²

Despite the existence of a legal framework to fight corruption, the Anti-Corruption Resource Centre reported in 2015 that it were not effectively implemented and did not contribute to strengthening public sector integrity.⁴⁴³

Corruption in Zimbabwe ranged from petty, bureaucratic and political corruption to grand forms of corruption involving high-level officials, according to the Centre in 2015.⁴⁴⁴ A system of political patronage was reportedly entrenched in the society, including in the management of natural resources such as land and mining.⁴⁴⁵

Zimbabwe ranked 156 out of 178 countries surveyed in Transparency International's 2014 Corruption Perceptions Index, indicating a perception among experts that Zimbabwe's public sector had high levels of corruption.⁴⁴⁶

A 2013 Survey from Transparency International showed that the police was the institution perceived as most corrupt, followed by political parties, public officials and servants,⁴⁴⁷ Two-thirds of respondents reported having paid a bribe to obtain a public service, and thought that corruption had risen in recent years.⁴⁴⁸

Collusion between political elites and the private sector occurred. The President reportedly owned conglomerates of business while the ruling party had also ownership over some companies.⁴⁴⁹

Transparency International reported in 2013 that politicians and government ministers benefitted from gold and diamond mining in particular through the creation of syndicates with illegal panners and agents who acted on their behalf in mining and trade. The police reportedly rarely investigated these agents, and when they did, they have ceased inquiries without reason or due to a supposed lack of evidence.⁴⁵⁰

The Global Witness reported that the two joint venture companies that were first granted concessions in Marange have been designed to facilitate the flow of diamond revenue to the ZANU-PF patronage system as opposed to the public treasury.⁴⁵¹

Misuse of State-owned companies' assets was reportedly common.⁴⁵²

According to the Anti-Corruption Resource Centre in 2015, the Anti-Corruption Commission (ACC) was inefficient, under-funded and had limited authority to effectively fulfill its mandate.⁴⁵³ Stakeholders consulted in Harare in 2013 reported that ACC investigations of government officials have had their search warrants revoked, and one of its members was subject to criminal charges for awarding bail to persons who were opposing the state.⁴⁵⁴

Public Procurement

The constitution states that procurement should be done in a manner that is transparent, fair, honest, cost-effective and competitive.⁴⁵⁵ The Procurement Act requires competitiveness bidding process for major procurement but there were no strict formal requirements to limit the extent of direct procurement.⁴⁵⁶ The Act also prescribes that a parastatal intending to establish a joint venture with a private investor must request the government's Procurement Board to publicly invite bids on its behalf. This system ensures that the process is fair and transparent.⁴⁵⁷

Two mining companies, Mbada Diamonds and Canadile Miners, both owned 50 percent by the parastatal Zimbabwe Mining Development Corporation, have been granted concessions in Marange. Global Witness reported in 2010 that ZMDC did not make a request to the Procurement Board, and the Minister of Mines and Mining Development simply awarded the tenders to the two investors that it selected.⁴⁵⁸ The government also reportedly failed to conduct a proper due diligence investigation into the firms behind Canadile and Mbada.⁴⁵⁹

Zimbabwe's tender laws were reportedly not followed and there were significant failings in the government's due diligence regarding the two companies.⁴⁶⁰

Revenue Transparency

The constitution provides that everyone has the right to access information held by the state or by any institution or agency of government at any level, in the interests of public accountability.⁴⁶¹ The Access to Information and Protection of Privacy Act reportedly restricted access to information held by public agencies, according to the Resource Governance Institute in 2013⁴⁶², while legislation in relation to access to information reportedly limited access to mining data.⁴⁶³

The Open Budget Index 2015 reported that the government provided with limited information on national budget and financial activities.⁴⁶⁴ Great amounts of mining revenue were not reported, and oftentimes ended up in the hands of elite members of the ruling party, according to the Anti-Corruption Resource Centre in 2015.⁴⁶⁵

The 2013 Resource Governance Index ranked Zimbabwe 51 out of 58 countries due to among others, the lack of mechanisms to promote public accountability in the mining sector.⁴⁶⁶

The Zimbabwe Revenue Authority is in charge of collecting taxes; however, the 2013 Index noted that according to the Ministry of Finance, a significant amount of mining revenue did not reach the treasury.⁴⁶⁷ The Mines and Mining Development Ministry published limited information on extraction.⁴⁶⁸

Mining companies negotiated contractual terms directly with the government, and contracts were not disclosed.⁴⁶⁹ It was believed that the government was giving these companies tax breaks, undermining tax revenue inflows.⁴⁷⁰ NGOs consulted in Harare in June 2013 reported that Zimbabwe Mining Development Corporation in particular has entered into relationships with mining companies without notifying local communities.⁴⁷¹

According to stakeholders consulted in Harare in June 2013, Zimbabwe has no internal systems for tracking the revenue generated by mining.⁴⁷²

Revenue Sharing

The constitution provides that the state must ensure that local communities benefit from the resources in their areas.⁴⁷³

Corporate Income Tax in Zimbabwe was set at 25 percent for locally registered companies, foreign branches or a trust operating in the country.⁴⁷⁴ Manufacturing companies that export 50 percent or more of their output are taxed at 15 percent.⁴⁷⁵ Mining companies contribute with royalties that range from 1 to 15 percent on the gross fair market value of mineral produced.⁴⁷⁶

The Mines and Minerals Act details the mechanism to be used for calculating the royalty. When royalties are received, the funds go to the central government's Consolidated Revenue Fund. The funds are then used in accordance with the National Budget designed by the Ministry of Finance. No fixed percentage of the royalties are channeled back into the communities where resources were extracted.⁴⁷⁷ The Minister of Finance is not obligated to consider the origins of funds when allocating resources.⁴⁷⁸

The Indigenisation and Economic Empowerment Act requires foreign owned mining companies to dispose 51 percent of their shares to locals. Mining companies have an option to dispose shares to Community Share ownership Schemes or Trusts, Employee share ownership schemes/trusts and Management share ownership schemes or trusts. The Zimbabwe Environmental Law Association (ZELA) reported in 2014 that many mining companies have already launched Community Share Ownership Schemes and donated funds to the schemes for community projects. However, there was a lack of transparency and accountability in those schemes.⁴⁷⁹

A 2014 Business Daily article, referring to data provided by Global Financial Integrity, reported that Zimbabwe lost US\$12 billion over the past 30 years because of corruption including tax evasion and avoidance and illegal commercial transactions.⁴⁸⁰ Companies, particularly in the extractive sector, considered that compliance with the law was 'costly', therefore, opted for ways of avoiding paying taxes.⁴⁸¹ Transfer mis-pricing, trade mis-pricing and negotiating for fiscal incentives were among the methods used by companies, according to ZELA in 2015.⁴⁸²

Media sources stated that Chinese companies reportedly avoided paying taxes.⁴⁸³ ZELA further noted in 2014 that the former Finance Minister highlighted that some mining companies were evading taxes. There was also a reported variation of production and exports data both by volume and value from the various governmental sources dealing with the collection of revenues, and there were instances of companies not declaring all the payments and receipts from the sale of diamonds, which, according to ZELA, deprived the country of a key source of revenue.⁴⁸⁴ Stakeholders consulted in Harare in June 2013 reported that the reasons for the discrepancy between revenues reported by the Treasury and mining company payments included the mining sector's poor taxation system, which enabled companies to

carry over losses year to year and hide profits.⁴⁸⁵ Another reason was the way mining contracts were originally negotiated, a process which lacked public scrutiny.⁴⁸⁶

Approximately US\$2 billion of revenue from the diamond sector were lost over due to corruption, according to the Bertelsmann Foundation in 2014.⁴⁸⁷ The Centre for Research and Development reported that although the mining industry accounted to 60 percent of all export earning during 2009-2013, mining revenue to the treasury was insignificant due to lack of transparency and accountability in the governance of the sector.⁴⁸⁸ ZELA further noted that due to a significant reduction in mineral revenues to the government, funds for the provision of quality public goods (water and sanitation), and social service (health and education) were diminished. Poor people were particularly vulnerable to those impacts.⁴⁸⁹

There was reportedly an illegal and parallel diamond trade from Marange, with the full knowledge and complicity of government officials.⁴⁹⁰

Companies have reported that they receive mixed messages from the Zimbabwean government, with one ministry asking them to undertake specific activities and another requesting others.⁴⁹¹ In 2010 the Zimbabwe Environmental Law Association reported that in cases where royalties are paid to local authorities, funds have been spent on operational costs rather than on community projects.⁴⁹²

The Zimbabwe Revenue Authority lacked capacity to fully administer its tax management systems, according to a 2014 *The Herald* article.⁴⁹³

Cases

Reports of business-related human rights issues from NGOs, multilateral institutions and the media.

- *June 2015, New Zimbabwe:* The diamond mining company Jinan was allegedly under-declaring taxes by producing a parallel payroll of employees. The tax law exempts any person whose salary is US\$200 or less to pay income taxes. The company reported that it was paying its Chinese employees US\$200, which, according to a tax adviser, was highly suspicious as that amount was below the poverty datum, and no allowance or extra benefit was reported to the tax authorities.⁴⁹⁴
- *May 2015, The Herald:* Unilever has suspended Zimbabwe-based vice President for South Africa and five other top managers on allegations including the misappropriation of company funds and abuse of company assets.⁴⁹⁵
- *April 2015, Nehanda Radio:* The Police opened an investigation on diamond company Jinan for allegedly externalising US\$546 million through the commercial bank BancABC, and then bringing it back to the country as investment capital. The Bank reportedly did not inform the Central Bank of Zimbabwe about the transaction.⁴⁹⁶
- *December 2014, Office of the Auditor General of Zimbabwe:* The Zimbabwe National Roads Administration procured 40 motorised graders through tender for more than US\$8 million. Later on, it procured 40 additional graders from the same supplier at the same price without going to tender in contravention of procurement regulations.⁴⁹⁷
- *November 2014, The Herald:* The Government temporarily suspended 11 gold mining companies as a result of failing to keep proper records of minerals being extracted and sold. Records of extracted gold did not correspond to the mineral that was sold at Fidelity Printers and Refineries, pointing to serious leakages.⁴⁹⁸

- *April 2014, The Independent:* Diamond companies Marange, Mbade and The Diamond Mining Corporation allegedly owed taxes amounting to US\$45 million to the Zimbabwe Revenue Authority.⁴⁹⁹
- *April 2014, The Independent:* The Zimbabwe National Army-owned Glass Finish Investment Pvt Ltd. reportedly received US\$40 million in management fees in diamond mining from Ajin, without paying for the shareholding.⁵⁰⁰

Company Initiatives

Private-sector programmes that aim to ensure respect for human rights or contribute to development

Company Due Diligence Initiatives

Lafarge Cement Zimbabwe: The Company's Code of Conduct mandates Directors to disclose information concerning their interest, including those of their families, in outside activities or businesses that may conflict with their positions at the company or result in relationships or balances that need to be disclosed. The company also annually publishes its revenues and financial statements.⁵⁰¹

The Delta Corporation: The beverage company established an Ethics Hotline to report alleged cases of theft, fraud, dishonesty or corruption by any other employee.⁵⁰²

Zimplast: The mining company has a zero tolerance approach to fraud and corruption, and all employees, business partners and contractors are required to act with integrity. The company established an anonymous reporting system to report alleged cases of corruption and fraud.⁵⁰³

Stakeholder Recommendations

Parliamentary Portfolio Committee On Mines and Energy: The Committee recommends that companies contribute to the government's capacity to undertake research and capacity building related to accounting procedures, income collection and taxation.⁵⁰⁴

Parliamentary Portfolio Committee On Mines and Energy: The Committee encourages companies to publish what they pay to government.⁵⁰⁵

Partnership Africa Canada (PAC): PAC recommends that mining companies operating in Marange Diamond Fields regularly disclose in a transparent way all diamond production, trade and payment figures. PAC also recommends the government to force companies operating in Zimbabwe's extractive sector to publicly disclose the ownership structure and location of any foreign held trust accounts.⁵⁰⁶

Medium Term Plan 2010-2015: The government recommends the adoption of the Extractive Industries Transparency Initiative as a policy tool for mineral governance.⁵⁰⁷

Zimbabwe Environmental Law Association (ZELA): ZELA recommends the use of the Community Management Programme for Indigenous Resources (CAMPFIRE) model in Zimbabwe's mining sector. This model advocates for community participation management of resources and ensures that communities in the areas where resources exist derive economic benefit.⁵⁰⁸ Moreover, the organisation recommends that royalties from natural resource revenue be paid directly to affected communities.⁵⁰⁹ The Zimbabwe Mining Revenue Transparency Initiative could provide another avenue if it becomes functional.

Multi-Stakeholder Forum Recommendations

On June 20, 2013, and April 30, 2014, the Danish Institute for Human Rights and the Zimbabwe Environmental Law Association convened stakeholders from business, government and civil society in Harare to discuss human rights and business challenges and jointly devise recommendations. The following recommendations were produced from that forum:

- Businesses should increase their compliance with existing policies on revenue distribution and remittance
- Businesses should adhere to international best practices on revenue transparency and distribution
- Businesses should fairly compensate affected communities, and should consult affected communities before deciding the form and amount of compensation. Compensation should include loss of livelihoods and lost utility of land
- Businesses should disclose their financial statements, including to those affected by their operations
- Businesses should publish all contracts with the government.
- Businesses should publish all profits earned in Zimbabwean operations on a project-specific basis.

Human Rights Guidance for Businesses

Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context

Due Diligence Library

The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies

Signalling a Non-Corrupt Environment

Does the company take a clear stand against corruption?

- The company's CEO, director or president has declared that the company will not engage in corruption at any time or in any form.
- The company has a policy rejecting corruption and requiring all directors, managers and workers worldwide to behave ethically and in conformity with the law.
- The company anti-corruption policy includes how to handle requests for facilitation payments, giving and receiving gifts, engaging in sponsorships, giving political contributions, and how to conduct responsible lobbying.
- The company has defined benchmarks and indicators regarding its anti-corruption initiatives and reports these to the public (e.g. in its annual CSR report)

Anti-Corruption Risk Assessment

Does the company assess the risk of corruption when doing business?

- The company evaluates the potential areas of corruption including factors such as type of transaction, countries of operation, industries, and customers or business partners involved.

- The company evaluates the risk of corruption when workers, agents, intermediaries or consultants deal with public officials (including workers of state owned companies).
- The company evaluates the risk of internal and external conflicts of interest in relation to business partners.
- The company has developed an action plan to address the risk of corruption, and has defined responsibilities for each task, as a minimum for high-risk areas.
- The company has identified internal functions with the highest risk of corruption within the company and seeks to address these weaknesses.

Awareness Raising

Does the company ensure that relevant workers are properly trained?

- The company informs all workers about its anti-corruption commitment.
- The company provides regular anti-corruption training for all relevant workers within the organisation e.g. procurement and sales staff.
- Information on disciplinary procedures for violations of company anti-corruption policies is available to workers.
- The company actively seeks worker feedback and dialogue on its anti-corruption initiatives.
- The company has and promotes a function by which workers can safely report suspicion of corruption related cases (e.g. hotline or mailbox) and allocates resources to systematically address the issues that are identified.

Anti-Corruption Procedures

Do the company's internal procedures support its anti-corruption commitment?

- The company has assigned different individuals or departments to be responsible for handling contracts, placing orders, receiving goods, processing invoices and making payments.
- The company mentions 'anti-corruption' and/or 'ethical behaviour' in its contracts with business partners.
- The company prohibits informal employment and any 'off the books' record-keeping
- The company performs internal audits and has checks in place in connection with all anti-corruption commitments.
- The company's procurement, financial and internal audit personnel have clear instructions to look for and to identify alarms, report them to management, and follow-up counter measures.
- The company requests external auditors to maintain a critical eye and follow all alarms and irregularities.
- Any alarm or irregularity reported by external auditors is systematically addressed by management.
- The company monitors compliance and continuously identifies strengths and weaknesses in the anti-corruption initiatives to remain effective and up-to-date in addressing changing risks.

Agents and Other Associates

Does the company's anti-corruption initiative cover agents, intermediaries and consultants?

- The company conducts an inquiry and/or attentiveness (e.g. financial, legal, labour, tax, IT, environment, market/commercial) on all agents, intermediaries and consultants.

- All agreements with agents, intermediaries and consultants are fully documented in written, signed contracts.
- The selection and terms of reference of agents, intermediaries or consultants are approved at the senior management level or at a level above that of the management involved in the operations for which the intermediary is hired.
- Contracts with agents, intermediaries and consultants include a section on anti-corruption and that the contract-holder must comply with all applicable laws and regulations.
- Agents, intermediaries and consultants are provided with information on the company's anti-corruption commitment, anti-corruption policies, training material on anti-corrupt behaviour and information on disciplinary procedures for violations of company anti-corruption policies.
- The company ensures that payment to agents, intermediaries and consultants are in line with standard payments for other service providers of similar ranking.
- The company only makes payments by bank transfer or check – never in cash – in the country of the agent, intermediary and consultant and never to a third party without prior examination.

Communicate

Does the company communicate progress on the Global Compact principles with stakeholders?

- The company identifies stakeholders who affect or can be affected by the company's activities, products and services e.g. a person, group, organisation, authority.
- The company communicates progress openly about how issues covered by the Global Compact principles are managed, including performance results as well as forward-looking information on strategy and management approach, challenges, and dilemmas.
- The company regularly engages in dialogue with stakeholders to keep up-to-date with stakeholder expectations.
- The company communicates openly about how issues covered by the Global Compact principles are managed including challenges, dilemmas, success and failures.
- The company's communication on progress and other performance reporting on issues covered by the Global Compact principles is publically available and communicated to external stakeholders e.g. via the company's and Global Compact website.

Joint Actions

Does the company take joint actions with others to engage in and promote anti-corruption initiatives?

- The company shares experience, procedures and challenges of corruption with other organizations i.e. the local business community, sector initiatives, networks etc.
- The company has initiated or joined initiatives with other companies in the same sector for the purpose of promoting a fair business environment.
- The company stimulates multi-stakeholder dialogue on challenges of corruption.
- The company encourages the local business community and business partners to initiate cooperation to fight corruption.

Standards & Guidance

NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre

- Transparency International Business Principles for Countering Bribery provide a checklist for companies to identify and reduce bribes and facilitation payments in their operations.
- The OECD Guidelines for Multinational Enterprises, applicable to enterprises in OECD Member States (and some others), require companies to respect human rights, including through due diligence. The OECD Guidelines constitute recommendations by OECD member states to multinational enterprises operating in or from adhering countries. The OECD Guidelines include competition, fiscal systems and anti-corruption.

Engagement Opportunities

Development initiatives by public and private actors that provide opportunities for companies to contribute to human development

Public Sector Initiatives

E-Services Platform 'One solution for all your tax payment needs': The Zimbabwe Revenue Authority (ZIMRA), in partnership with Microsoft and SAP launched the platform that aims to give an opportunity to ZIMRA to interact with clients and do business through an Internet platform. Among the services provided are the application for new registrations, submission of tax returns, etc.⁵¹⁰

Tax Payer Appreciation Day (2015): ZIMRA commemorated the third edition of the Day under the theme 'Realising Zim-Asset goals through tax compliance' to encourage a culture of voluntary tax compliance in the country.⁵¹¹

Zimbabwe Mining Revenue Transparency Initiative (2011-present): The Government in September 2011 launched the initiative. It is meant to be a national participatory process to promote dialogue and trust among stakeholders in the mining industry, and enable greater transparency of Zimbabwe's mining revenues and sector information. This will be a first step towards the adoption of Extractive Industry Transparency Initiative standards.⁵¹² As of 2015, ZELA reported that no real or meaningful progress was made by the government under the initiative.⁵¹³

Community Share Ownership Trusts: These trusts are intended as vehicles for broad-based participation of communities in the shareholding of companies that exploit natural resources. The proceeds from such participation are to be utilized for the provision of social and economic infrastructure of communities, such as the provision, operation and maintenance of schools, clinics, dipping tanks, roads, water works, sanitation, soil conservation and prevention of environmental degradation.⁵¹⁴

Publish What You Pay: In August 2011, Zimbabwe Environmental Law Association (ZELA) launched the Publish What You Pay campaign in Zimbabwe, to promote greater accountability and transparency in the mining industry.⁵¹⁵ Members of parliament and government attended the launch of the campaign.⁵¹⁶

NGO Initiatives

Kimberly Process Civil Society Coalition: The coalition, coordinated by ZELA, is comprised of 7 civil society organisations that monitor the situation in Marange.⁵¹⁷

Publish What you Pay Zimbabwe Coalition: The coalition is a group of 9 civil society organisations working to demand improved transparency and accountability in the minerals sector to ensure that the country's vast natural resources benefit the generality of Zimbabweans. The coalition conducts research on mining impacts and monitors potential revenue leakages.⁵¹⁸

Security & Conflict

Human rights impacts related to company interaction with public and private security providers and related to the impact of business on societal conflict.

Operating Environment	
Failed States Index	100 (2015)
Legatum Prosperity Index: Safety & Security	133 (2015)
Freedom House: Map of Freedom - Political Rights <i>(On a scale of 1 through 7, where 1 indicates the highest level of freedom)</i>	5 (2015)
Freedom House: Map of Freedom - Civil Liberties <i>(On a scale of 1 through 7, where 1 indicates the highest level of freedom)</i>	6 (2015)
Relevant law	• Constitution, 2013 • Private Investigators and Security Guards (Control) Act, 2001
Responsible agencies	• Ministry of Defence • Ministry of Home Affairs

Country Context

Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.

The constitution guarantees the right to life and personal liberty, and that no person shall be subjected to physical or psychological torture or to cruel, inhuman degrading treatment or punishment.⁵¹⁹ The Death penalty is allowed in cases of murder committed in aggravating circumstances. Amnesty international reported in 2015 that no death penalty was imposed in the past 10 years.⁵²⁰

Public Security Forces

The Zimbabwe Republic Police and the Zimbabwe National Army comprised public security forces in Zimbabwe.⁵²¹ Zimbabwean law states that the police may request intervention by the army in regions

where police do not have the capacity to maintain order. Stakeholders consulted in Harare in June 2013 reported that this power has been used to partially militarise diamond mining areas in particular.⁵²²

According to the Anti-Corruption Resource Centre in 2015, the ruling party controlled security forces and the police.⁵²³

Freedom of expression and freedom of assembly are protected by the constitution.⁵²⁴ However, various laws limited those rights, specially the Public Order and Security Act (POSA), as noted by Freedom House in 2015.⁵²⁵

Members of the opposition were constantly harassed by security forces.⁵²⁶ Additionally, NGOs, human rights defenders and civil workers reportedly faced extralegal harassment and arbitrary arrest by security forces.⁵²⁷ Amnesty International noted in 2015 that the police used brutal force and torture against anti-Mugabe protesters and human rights defenders.⁵²⁸

Freedom House also reported that the Police disrupted demonstrations in many occasions, and there were instances of beating of protesters.⁵²⁹

NGO and community representatives noted in 2013 that the biggest issue in diamond mining areas was violations including by public security forces.⁵³⁰ The Parliamentary Portfolio Committee on Mines and Energy reported in 2013 that the army received a significant portion of its budget from diamond mining.⁵³¹ According to the website KITCO in 2014, most of the 7 private mining companies exploiting the Marange diamond field had links with ex-military and police officials.⁵³² Mining companies were reportedly managed by police and military chiefs from the ruling party.⁵³³

The Bertelsmann Foundation reported in 2014 that President Mugabe relied on war veterans and youth militias to resolve conflicts over power—large parts of Zimbabwe's rural areas were allegedly under the *de facto* control of these forces.⁵³⁴ Throughout the country army, police, traditional leaders, ZANU-PF members of parliaments, war veterans and youth militias established 'terror regimes,' and that the police did not intervene to break them up.⁵³⁵

In October 2008 the government deployed the army and the air force to Marange in a response to the lawlessness in the diamond fields.⁵³⁶ During the operation, Human Rights Watch reported in 2010, police and soldiers reportedly beat and raped locals, forced them to mine for diamonds and carried out other human rights abuses.⁵³⁷ Helicopter gunships and more than 800 soldiers were deployed, reportedly killing over 200 people.⁵³⁸ Since then, soldiers reportedly applied rent-seeking practices, forcing locals into exploitative syndicates to extract diamonds.⁵³⁹

Private Security Forces

Private security forces are regulated under the Private Investigators and Security Guards (Control) Act. According to the Act a security guard must hold a security guard license.⁵⁴⁰ The guard must also be registered with the National Employment Council. If the security guard is convicted of an offence the licence may not be renewed.⁵⁴¹

The Centre for Research and Development reported in 2013 on abuses of private security forces against artisanal miners in the proximities of mining operations in Marange, including shooting, beating and unleashing of dogs towards them.⁵⁴² The Environmental Justice Atlas reported in 2014 that private security guards recruited from ZANU-PF structures terrorized artisanal miners in particular.⁵⁴³

Cases

Reports of business-related human rights issues from NGOs, multilateral institutions and the media.

- *November 2014, Amnesty International:* Anti-riot Police attacked a journalist and pro-democracy activist, leaving him unconscious.⁵⁴⁴
- *November 2014, Amnesty International:* Four members of Occupy African Unity Square were arrested and detained for submitting a petition to the Speaker of Parliament and staging a peaceful protest in the Speaker's gallery.⁵⁴⁵
- *November 2014, Amnesty International:* 13 activities from the opposition party Transform Zimbabwe were arrested in the town of Gweru following a peaceful protest against the arrest of their leader, who had been arrested in April for convening a party executive meeting.⁵⁴⁶
- *March 2014, Human Rights Watch:* Two officials from the organization Gays and Lesbians of Zimbabwe were arrested by the police for organizing a media training workshop without police clearance, in violation of the Public Order and Security Act (POSA).⁵⁴⁷
- *January 2014, Human Rights Watch:* Five activists from four NGOs were arrested by the police for participating in a demonstration in Chitungwiza.⁵⁴⁸
- *April 2013, Centre for Research and Development (CRD):* An informal miner was reportedly shot and killed by private security guards at a mine operated by the Development Trust of Zimbabwe and OZGEO, a Zimbabwean subsidiary of a Russian state-owned company.⁵⁴⁹
- *March 2013, CRD:* The Centre documented eleven separate cases where private security guards had physically abused or used dogs to attack people trying to access diamond mining areas in Marange.⁵⁵⁰

Company Initiatives

Private-sector programmes that aim to ensure respect for human rights or contribute to development

Company Due Diligence Initiatives

Zimplats: The mining company, in line with its commitment to the Voluntary Principles on Security and Human Rights, has initiated a programme to train public security forces responsible for guarding its operations in remote areas.⁵⁵¹

Stakeholder Recommendations

The Centre for Research and Development (CRD): The Centre suggests that all diamond mining companies consult regularly with communities about the impact of their security arrangements and ensure that security officers are trained on human rights and security.⁵⁵²

Partnership Africa-Canada (PAC): PAC recommends the de-militarization of diamond deals. Joint ventures in Marange that involve serving or recently retired members of the police, army or other security agencies in ownership or leadership positions should be prohibited. PAC also suggests a period of five years before an individual that has left the security forces can become involved in mining company.⁵⁵³

Zimbabwe Environmental Law Association (ZELA): ZELA recommends the use of the Community Management Programme for Indigenous Resources (CAMPFIRE) model in Zimbabwe's mining sector. This model advocates for community participation management of resources and ensures that communities in the areas where resources exist derive economic benefit.⁵⁵⁴ Moreover, the organisation recommends that royalties from natural resource revenue be paid directly to affected communities.⁵⁵⁵

Multi-Stakeholder Forum Recommendations

On June 20, 2013, and April 30, 2014, the Danish Institute for Human Rights and the Zimbabwe Environmental Law Association convened stakeholders from business, government and civil society in Harare to discuss human rights and business challenges and jointly devise recommendations. The following recommendations were produced from those forums:

- Civil society should promote apolitical workplaces by making public company statements and building capacity for companies on fostering an apolitical workplace
- Businesses should have clear policies stating their apolitical nature and that they are not affiliated with any particular political party
- Businesses should make all political dealings transparent. This includes all political donations, as well as affiliations with companies owned by politicians
- All stakeholders should work together to devise a conflict management structure to handle disputes arising out of mining. This mechanism should be equipped to handle complaints from any party
- All stakeholders should promote best practice exchange visits—countries that have success in security, military, police or army could train Zimbabwe security forces
- All stakeholders should devote resources to training security forces, whether private or public
- Businesses should have codes of conduct that instruct public and private security forces how to engage with communities. This should include specific provisions on gender-related issues.
- Businesses should monitor security-related violations in communities
- Businesses should set up a structure for communities to report violations by security forces
- Businesses should perform due diligence on security-related risks before operations begin
- Businesses should communicate their security arrangements to communities, including how to make a complaint so that they understand rules but also their access to complaints.
- Businesses should, where possible, include local communities in employment, including in private security arrangements
- Where possible, businesses should avoid the use of private military contractors.

Human Rights Guidance for Businesses

Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context

Due Diligence Library

The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies

Does the company take steps to ensure that company security arrangements are in accordance with international principles for law enforcement and the use of force?

- The company regularly conducts security risk assessments, and ensures that company security arrangements, including the deployment of private guards or public security personnel, are proportionate to the security risk.
- Company security risk assessments include the risk of human rights abuses by private and public security personnel.
- The company selects private security firms based on information about professional ability, level of staff training, quality of equipment, past involvement in human rights abuses, links with political factions or organisations and other relevant criteria.
- Contracts with private security firms include requirements related to international human rights standards for law enforcement and use of force; require the investigation and discipline of any unlawful or abusive conduct by security guards; and allow for termination of the contract in case of such conduct.
- There is a manual defining the duties of security personnel, and all security personnel receive training on rules of conduct based on international human rights standards for law enforcement and the use of force.
- Where public security personnel are assigned to company facilities, the company seeks to ensure transparency concerning its interactions with public security agencies, and the company communicates to the relevant public security agencies its desire that security functions be conducted in accordance with international human rights standards for law enforcement and the use of force.
- The company has a procedure for recording security-related incidents, including a mechanism for handling complaints from staff or local communities related to the conduct of security personnel, and forwards credible allegations of human rights abuses to the relevant authorities.
- The company has a procedure for monitoring and evaluating its security arrangements, including the proportionality of the security arrangement; impact on local communities; impact on existing local tensions or conflicts; security incidents recorded; and credible allegations of human rights abuses by company security personnel. Representatives from the local community are consulted as part of the monitoring.

Standards & Guidance

NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre

- International Alert, Conflict Sensitive Business Practices: Guidance for Extractive Industries (2005): International Alert is a peace-building NGO working with civilians and other affected stakeholders in conflict areas. This Guidance is intended for companies in the extractive industries sector, providing

advice on conflict-sensitive business practices and the ways in which they can contribute to peace-building.

- International Alert and Fafo Institute, *Red Flags: Liability Risks for Companies Operating in High-Risk Zones* (2008): The Red Flags address illicit business activities under international and national law. The initiative's objective is to clearly define what types of activities, when committed or aided by businesses, represent breaches of international humanitarian law and international criminal law.
- International Commission of Jurists, *Report of the Expert Legal Panel on Corporate Complicity in International Crimes* (2008): This three volume report outlines the ICJ Expert Legal Panel's findings and recommendations with regard to corporate legal responsibility for complicity in international crimes, under both civil and criminal law.
- The Dodd-Frank Wall Street Reform and Consumer Protection Act (2010): Section 1502 of the Act requires public and private companies to disclose the use of any conflict minerals in their products. This promotes greater transparency and dissuades companies from engaging in trade that may support regional conflicts.
- International Committee of the Red Cross, *Business and International Humanitarian Law* (2006): The Guidance explains the obligations of businesses under international humanitarian law, including noting relevant distinctions between international human rights law and international humanitarian law.
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Access to Remedy

Bodies to which victims of corporate human rights abuses can file grievances and seek redress.

Judicial Mechanisms

According to Transparency International in 2013, the High Court publishes all judgments online, but the Magistrate Court does not, making it difficult for communities to access decisions that affect them.⁵⁵⁶

Stakeholders consulted in Harare in June 2013 reported that bribery in the judicial system was widespread.⁵⁵⁷ The power to appoint judges, including Supreme Court (as of 2013 known as the Constitutional Court) judges, rests with the president. Bertelsmann Foundation's 2014 Zimbabwe Country Report noted that the President's power had been used to fill the Supreme Court with judges loyal to the government.⁵⁵⁸

The lower courts were reportedly less subject to political interference, however, according to the Anti-Corruption Resource Centre in 2014, its decisions were not always enforced.⁵⁵⁹

In practice, as noted by the Zimbabwe United Nations Development Assistance Framework 2012-2015, the justice system was overstretched due to insufficient financial, human and material resources. Courts were faced with a backlog of cases, and the judicial service was understaffed due to a lack of professional and skilled personnel.⁵⁶⁰ As of 2015, there was a 14,576 case backlog at the three higher courts, according to a 2015 The Herald article.⁵⁶¹ The Chief Justice reportedly complained on the poor performance of some judges as records from 2014 showed that some judges managed to write only 2 statements while others as many as 72 during the reported period.⁵⁶² There were only 2 High Courts in the country, one in Harare and another one in Bulawayo, negatively impacting on the timely administration of justice.⁵⁶³

Labour Court

Labour Courts handle labour and employment issues⁵⁶⁴, including unfair labour practices, Courts may order that workers fired due to discrimination be reinstated.⁵⁶⁵ If companies have a registered employment code of conduct in which there are provisions for grievances,⁵⁶⁶ all disputes have to be dealt with in terms of the code.⁵⁶⁷ Appeals of decisions made in terms of these codes are heard by the Labour Court, and appeals of Labour Court decisions are directed to the Supreme Court.⁵⁶⁸

According to the Zimbabwe Human Rights Commission, most cases brought to the attention of labour courts during 2014 referred to unfair dismissals, non-payment of wages and constructive dismissals.⁵⁶⁹

The U.S. Department of State reported in 2015 that workers were unlikely to complain to authorities about violations due to fear of losing their jobs.⁵⁷⁰ [

In terms of forced labour and child labour in particular, the U.S. Department of State's Trafficking in Persons Report stated in 2015 that government efforts to prosecute were inadequate or non-existent. Corruption in law enforcement and the judiciary was reported as a serious obstacle for access to remedy to victims of forced labour.⁵⁷¹

Constitutional Court

The new constitution provides for the establishment of a Constitutional Court to decide cases of alleged human rights abuses and the enforcement of rights as defined in the constitution.⁵⁷² According to the U.S. Department of State in 2015, the government did not investigate or prosecute state security or ZANU-PF responsible for human rights violations.⁵⁷³

Administrative Court

The Administrative Court has jurisdiction over issues including the ones contemplated in the Land Acquisition Act.⁵⁷⁴ regarding forced evictions, ordinary property disputes and resettlements are settled in the regular court system, unless they touch on constitutional issues, in which case the Constitutional Court deals with those issues directly.⁵⁷⁵

Communities who have not been compensated for land can complain to the administrative court. The Centre for Research and Development reported in 2013 that some families have already been relocated by the time they can file a complaint.⁵⁷⁶

Since the enactment of the Environmental Management Act, the Administrative Court has had jurisdiction over cases emanating from the Act. Cases such as civil proceedings related to breach of Environmental Impact Assessments are, however, launched in the regular court system. The Administrative Court also acts as a Water Court, ensuring that all persons who may be adversely affected by the grant of a water right have been given due notice and have been allowed to make arguments before the court.⁵⁷⁷

Zimbabwe Environmental Law Association reported in 2010 that judicial enforcement of access to informational was frustrated by delays in the justice system, as cases on environmental access rights may take a long time to be concluded.⁵⁷⁸

Civil and Criminal Courts

The National Prosecuting Authority undertakes criminal prosecutions on behalf of the state.⁵⁷⁹ Corruption cases are addressed by the criminal court.⁵⁸⁰

The Children's Court handles matters pertaining to children, including custody, guardianship, sexual abuse, minors detained for immoral purposes and ill treatment of children.⁵⁸¹

Non-Judicial Mechanisms

National Human Rights Institution

The Zimbabwe Human Rights Commission is mandated to receive and consider complaints on human rights violations. The Commission can also recommend the prosecution of offenders and can direct the Police to investigate cases of suspected criminal violations of human rights or freedoms.⁵⁸²

According to Human Rights Watch in 2015, the Commission was not fully operational as a result of limited adequate resources and human resources.⁵⁸³

Ombudsman

The Ombudsman was appointed by the President and funded by the Ministry of Justice, which, according to Global Integrity, limited its independence. As of 2011, there was a backlog of 1,500 cases due to lack of personnel.⁵⁸⁴

Mediation-Based Mechanisms

The Ministry of Labour handles labour disputes through a labour officer. Decisions could be appeal to the Labour Court.⁵⁸⁵

Police-Based Mechanisms

The Police's Victim Friendly Unit has the mandate to investigate cases involving women and children's victims of trafficking. However, as of 2014, the Unit did not provide any information on investigations that were conducted, as noted by the U.S. Department of State.⁵⁸⁶ According to the UK government in 2014, women victims of trafficking in persons did not generally have access to remedy due to a limited effort in the investigation and prosecution of perpetrators by the government. The Police was unwilling to investigate cases of rape and domestic violence, further impacting on their effective remedy.⁵⁸⁷ The U.S. Department of State also noted in 2015 that victims refused to report cases due to fear that perpetrators could bribe police or judges.⁵⁸⁸

A 2014 UN Women Survey showed high levels of underreporting. Only 1 out of 14 physically abused women reported it to the Police as a result of among others, lack of knowledge about the laws, high fees and long distance to access the service.⁵⁸⁹

The Anti-Trafficking Inter-Ministerial Committee created in 2014 was mandated to protect and assist victims of trafficking in persons.⁵⁹⁰ However, there were reportedly no shelters for victims of domestic violence as of 2014.⁵⁹¹

Anti-Corruption Mechanisms

The Ministry of Mines and Social Services reported in 2013 that there was no designated inspection or investigation body for corruption; each ministry was charged with monitoring corruption.⁵⁹²

The Anti-Corruption Commission secures the prosecution of persons guilty of corruption, theft, misappropriation, abuse of power and other improprieties through the Attorney General. It has jurisdiction over the public and private sector.⁵⁹³ The ACC can also direct the Police to investigate cases of suspected corruption and refer matters to the National Prosecution Authority for prosecution.⁵⁹⁴

According to Freedom House in 2015, the ACC had little independent investigative or enforcement capacity to implement its mandate.⁵⁹⁵

In recent years there have been several high-profile corruption cases targeting high-ranking officeholders, but the Bertelsmann Foundation reported in 2014 that many of these cases targeted officials belonging to opposition party MDC or disloyal or dissenting officials within ZANU-PF.⁵⁹⁶ However, as of 2014, some accused of corruption such as traffic police officers and members of parliament from both parties were prosecuted.⁵⁹⁷

Constitution-Based Commissions

The Zimbabwe Gender Commission has the mandate to investigate possible violations of rights related to gender and to recommend prosecution for criminal violations of rights related to gender.⁵⁹⁸

The Zimbabwe Land Commission has the mandate to investigate and determine complaints and disputes related to the supervision, administration and allocation of agricultural land.⁵⁹⁹

Civil Society Organisations

Various organizations, such as the Centre for Research and Development, Centre for Natural Resources Governance, Chiadzwa Community Development Trust, Great Dyke Community Network, and Save Odzi Community Network, offered support to protect the rights of communities impacted by mining operations.⁶⁰⁰

Informal Justice Mechanisms

Traditional Leaders under customary law are recognised in the Constitution, and are responsible for performing the cultural, customary and traditional functions of a Chief, headperson or village head, for his or her community. Among its duties are to resolve disputes among people in their communities in accordance with customary law. A National Council of Chiefs can further consider complaints made by the traditional leader.⁶⁰¹

Customary Courts has jurisdiction over the application of customary law in civil disputes, and its main reason is to provide a justice system to ordinary people in rural areas that is consistent with African customs and values. Procedures are quite informal and in accordance with customary law. There are two types of Courts: Primary Court (presided by a headman appointed by the Ministry of Justice) and Community Court (presided over by a chief appointed by the Ministry of Justice). Judgements are only enforceable once registered within the Magistrate Court.⁶⁰²

International Mechanisms

UN Human Rights Council

The Human Rights Council has set Special Procedures that are independent human rights experts with mandate to report on human rights from a thematic or country-specific perspective. They can act upon information received on alleged violations of human rights and send communications to States and non-State actors asking for clarification and action.⁶⁰³ Among the mandated Special Procedures is the Working Group on the issue of human rights and transnational corporations and other business enterprises.⁶⁰⁴

African Court on Human and People's Rights

The Court has jurisdiction to hear all cases and disputes submitted to it regarding the application of the Charter, protocols or any other relevant human rights instrument ratified by the concerned State.⁶⁰⁵

The World Bank Inspection Panel

The Panel that has the mandate to receive complaints from communities who have been or are likely to be affected by a World Bank-financed project.⁶⁰⁶

The International Finance Corporation Compliance Advisor Ombudsman

Adverse impacts related to projects financed by the International Finance Corporation or Multilateral Investment Guarantee Agency of the World Bank can be mediated and/or investigated by the Compliance Advisor Ombudsman (CAO). CAO's mission is to address complaints by people affected by

IFC/MIGA projects, and to enhance the social and environmental accountability of both institutions. The CAO has a dispute resolution function and an investigatory one.⁶⁰⁷

The Organization for Economic Cooperation and Development National Contact Point

Although Mozambique is not an OECD member and currently has no OECD National Contact Point (NCP), complaints about breaches of the OECD Guidelines for Multinational Enterprises by companies registered in OECD countries can be filed to the NCP of that country. The NCP mediates among parties to find a conciliatory solution to the dispute.⁶⁰⁸ Should mediation fail, the NCP can make an assessment of the alleged violations in its final statement.⁶⁰⁹

The Guidelines are recommendations addressed by governments to multinational enterprises and they provide voluntary principles and standards for responsible business conduct. The Guidelines include chapters on the following topics: Human Rights (Chapter IV); Employment and Industrial Relations (Chapter V); Environment (Chapter VI); Combating bribery, bribe solicitation and extortion (Chapter VII); Consumers Interests (Chapter VIII); Science and Technology (Chapter IX); Competition (Chapter X); and Taxation (Chapter XI).⁶¹⁰

International Labour Organization

Trade unions and employers' organisations can submit complaints to the International Labour Organization's Committee on Freedom of Association.⁶¹¹

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