



BUSINESS WITHOUT CONSCIENCE

**Human Rights Principles and Zimbabwe's
International Re-engagement**

2018



Zimbabwe
HUMAN RIGHTS
NGO Forum



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Published by

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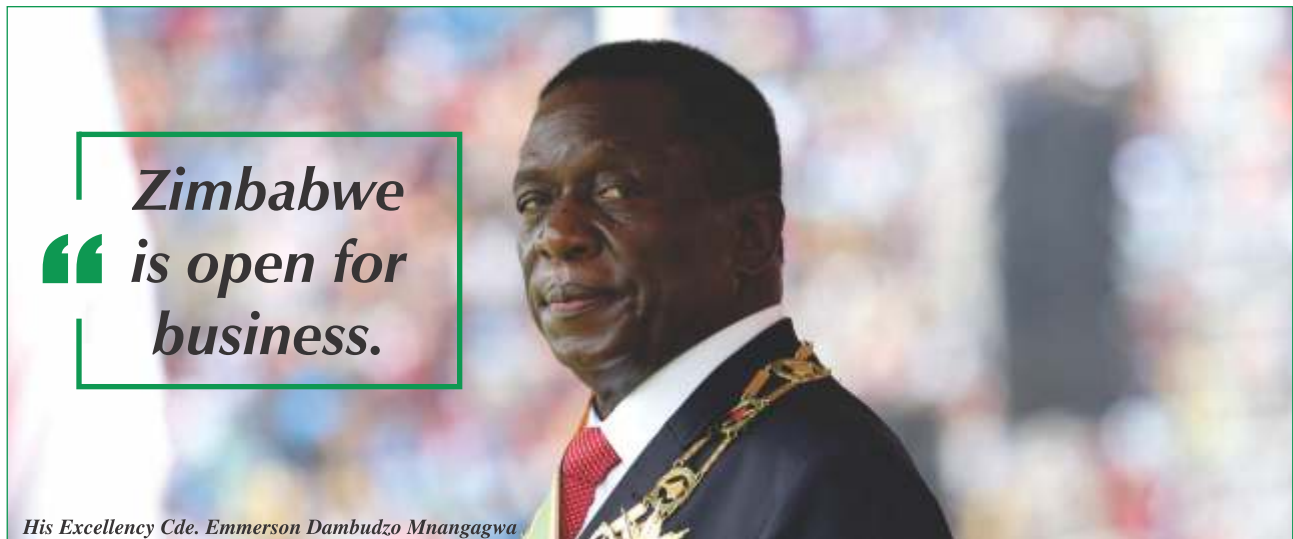


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Background to the Dialogue

“Zimbabwe is open for business.” These words by President Emmerson Mnangagwa have become a hymn for the new administration in Zimbabwe following the eventful departure of Zimbabwe’s long time ruler Robert Mugabe. The words emphasize the new administration’s determination to end Zimbabwe’s isolation from the international community.



His Excellency Cde. Emmerson Dambudzo Mnangagwa

This message has been constant from day one of Emmerson Mnangagwa taking office. From Davos, to China and to the Commonwealth. Through out the election campaign, the ruling party has built its message on making a clear distinction of the Mnangagwa administration from that of his predecessor. Potential investors have been visiting Zimbabwe, exploring possible opportunities. President Mnangagwa has promised to clear the way and remove obstacles to investment.

But what does it mean for human rights that Zimbabwe is open for business? Earlier on, African heads of state converged in China for the FOCAC (Focus on Africa China Cooperation) Summit where it was reported that China promised US\$60 billion in investment for Africa. The President has gone around the world trying to convince the world that there is a new dispensation in Zimbabwe.

In all this rush for business, what is the place for human rights? Is there space for investing in mechanisms for ensuring that the principles of transparency and accountability are upheld. And that whatever investment that finds its way into Zimbabwe does actually benefit the ordinary people of Zimbabwe?

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To reflect on these questions, members of the Zimbabwe Human Rights NGO Forum, together with other critical stakeholders that included diplomatic community, civil society leaders and representatives of government met in Harare on 20 June, 2018.

The high level dialogue on international re-engagement looked at a number of issues and raised many questions.

Key Considerations

Leading the dialogue was Mr. Arnold Tsunga, the Africa Director of the International Commission of Jurists. In his reflections, Mr. Tsunga highlighted the following issues regarding international re-engagement and human rights:

- The discussion took place in a global context where we have the best ever human rights standards regime starting with the Universal Declaration of Human Rights (UDHR) and United Nations core human rights instruments;
- Human rights standards do not self-execute. They need human effort and leadership. That is where the missing link is in most societies and Zimbabwe is not an exception.
- States with no commitment to human rights ultimately lose capacity to implement human rights and vice versa;
- Zimbabwe has to craft its foreign affairs policy in a context of the seeming inability of the multilateral system to deal effectively with conflict in the world.
- States that respect the rights of its own people tend to feel uncomfortable fully embracing and associating as partners with States that violate the rights of their own citizens and
- Embedding a culture of respect for human rights and good governance at the domestic level can in fact exist side by side with a foreign policy framework that promotes human rights concerns abroad and vice versa.
- States must wary of the danger of grand corruption that may come in the guise of investments as only a few people may benefit from such ventures.
- Giving an example of Malaysia, where new Prime Minister Mahathir Mohamad warned of the danger of 'smart colonialism' where rich states may offer deals which they know poor countries cannot afford and later acquire their assets in place of debt as happened in Sri-lanka.



Mr. Arnold Tsunga
The Africa Director of the
International Commission of Jurists



Views from the Plenary

Following the discussion by Mr. Tsunga, delegates reflected on the issues raised. The following were some of the views from delegates:

- The 'open for business mantra' is not enough to convince investors to come and do business in Zimbabwe. Substantive changes in human rights practices and property rights policy have to be crafted and implemented;
- Foreign Direct Investment and companies are attracted by market forces and how they are performing of which there are no positive changes in Zimbabwe as yet. There are many issues which need to be resolved such as the indigenization policy which scare away investors;
- As long as small companies, SMEs and farmers' land is under threat of being expropriated illegally, there is a low possibility that international investors will come flocking into the country to inject their capital. Property rights and the safety of investors need to be guaranteed;
- There are considerable differences in the way the Mugabe government and the new government by President Mnangagwa are treating citizens ahead of elections.

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- In terms of human rights, Multi-National Companies (MNCs) are regulated by laws of their own countries and most are prevented by law to invest in countries which are not conducive to human rights;

Currently, it is much easier for citizens to exercise their rights as compared to the Mugabe era, but citizens are worried of the continued involvement of the army in civilian affairs. The civil society needs to remain vigilant because it might be too early to conclude that the two regimes are different. We need to continue monitoring the environment, especially before, during and after the 30 July, 2018 elections.



Propositions for the New Government

After looking at the totality of the presentations and reflections in the plenary, the following are the recommendations made by the meeting:

- a. It was recommended that the Zimbabwe needs to adopt a foreign policy that is both responsive to human needs and sensitive to human rights.
 - b. The *'open for business mantra'* should be accompanied by tangible improvements in human conditions internally and this must include the realisation and full enjoyment of human rights by all people who live in Zimbabwe and all those who call Zimbabwe their home.
 - c. Zimbabwe must be cautious and avoid falling into the trap of elevating the needs of the foreign investors at the expense of the local communities and the rights of the workers. Labour rights must also be observed at all times.
 - d. Historically, there is a mismatch between human rights standards and practice when it comes to foreign businesses. There is need for a clear policy on human rights principles guiding business in Zimbabwe and to ensure a deliberate process of aligning the principles with business practice.
 - e. History has shown that debt and economic diplomacy is a threat to human rights as States that are desperate for investment enter into deals that are not human rights responsive and sensitive. Zimbabwe must ensure that investment deals are subjected to scrutiny by independent experts in order not to fall into the trap of 'smart colonialism.'
 - f. A good investment policy must have a strong human rights component and a strong legal system to support the realization of the rights of all affected people. Where this is ignored, the risk of instability rises as affected persons and communities may end up taking the law into their own hands which causes instability.
 - g. *'The open for business'* mantra must be accompanied by robust fidelity to constitutional provisions that promote responsible resource management and fiscal accountability as envisaged by the Constitution of Zimbabwe. Parliament must ensure that there is a clear reporting and disclosure framework embedded into every agreement to ensure that the Executive complies with the relevant sections of the Constitution.
 - h. The meeting raised a red flag on the risk of *'corruption in high places'*. It warned that re-engagement centered around a small group of powerful people controlling the levers of state power creates the danger of grand corruption. Zimbabwe has a legacy of politically exposed persons being involved in looting and asset stripping.
- The new administration must ensure that the open for business policy is people-based and eliminate any possibility of corrupt elitism. The lack of accountability mechanisms creates a danger of grand systemic corruption, illicit financial flows, resource diversion and money laundering;
- i. Zimbabwe is encouraged to adopt an inclusive approach as opposed to an exclusive approach to international re-engagement which creates a danger of government getting involved in business, squeezing out other actors;
 - j. It was noted that re-engagement assumes that at some point there was dis-engagement. There is need to understand what caused that dis-engagement. Contentious issues of human rights and property rights that caused the disengagement must be addressed and the persons who were adversely affected must get redress.

k. Zimbabwe's foreign policy must respect and observe human rights and the rule of law as contained in the AU Constitutive Act, the African Charter on Human and Peoples' Rights and the SADC Protocol.

l. Economic accountability is linked to accountability for human rights violation of the past. Zimbabwe should adopt cross cutting principles which balance three things namely transparency, accountability and legitimacy.

Recommendations for the International Community

- The international community must show solidarity with the people of Zimbabwe, and not only with the leadership of Zimbabwe.
- The international community must encourage that as Zimbabwe tries to open itself for business, Zimbabwe must equally invest in making sure that Zimbabwe is open also to its people to live in happiness and dignity through the respect for human rights and promoting national healing and reconciliation.
- Human rights observance is good for business. Repression is bad for business. The international community through its business partners who are investing in Zimbabwe is encouraged to engaged on a clear programme of action to integrate business and human rights in their programmes.
- From 14 January to 5 February 2019, there were thousands of victims of state brutality. Businesses were affected by the violence. The government of Zimbabwe immediately offered to pay compensation to businesses that were affected. The government did not offer the same generosity to those who lost their friends and relatives at the hands of the state. The government must be encouraged to ensure adequate compensation is made available to all families affected by the state violence.
- Transparency and accountability must be at the centre of any form of international re-engagement. The international community must encourage Zimbabwe to observe international and domestic principles on transparency and accountability especially Chapter 17 of the Constitution which provides Parliamentary oversight into fiscal responsibility.



Conclusion

The Forum believes in all human rights which includes socio-economic as well as civil and political rights. When Zimbabwe's economic fortunes are realised, there is a dividend for the enjoyment of human rights as the quality of life improves. Ultimately, economic development makes sense if it is pursued for the benefit of the majority. The proposal contained in here are the benchmarks for sustainable human-centred development. The Forum encourages the government to embrace these proposals and work with civil society and other experts to ensure that the policies to be created and implemented under the open for business mantra, also make Zimbabwe open for human rights. Economic investment should be sustainable to bring joy to the people of Zimbabwe and future generations.

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*His Excellency
Cde. Emmerson Dambudzo Mwangagwa*

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