

Land and Human Rights, What is the future of land rights litigation in Zimbabwe?

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- Land is a cross cutting issue tied to other rights e.g. livelihood, housing, food, water, work.
- How ever there is no right of land codified in international human rights law.
- Notions of Indigenous people vs non indigenous
- In Zimbabwe right to land is attached to citizenship.

Land rights in International Legal Framework

- Necessity for providing land rights found in many international principles and interpretative documents.
- Convention 169 on Indigenous and Tribal peoples adopted by ILO 1989, legally binding on state parties and the only instrument related to rights of indigenous people.
- Convention requires legal procedures for land claims, protects against forced displacement

- Establishes a right of return and compensation for land.
- To what extent can these international human rights principles be applied in reality ?

Zimbabwe`s fast track land reform

- Fast track started in 2000, white farms occupied by black peasant, war veterans and ordinary people.
- Government justified invasions by 1969, ILO Convention on Indigenous and Tribal Peoples.
- Correcting historical injustices.
- Less than 18% of women got access to land in a country where 52% of the total population are women.
- The rule of law and the land question

Zimbabwe and international human rights

- State party to CEDAW article 14(g) provides for women`s involvement in rural and agrarian reforms
- State party to CERD
- State party to CESCR
- State party to CCPR
- State party to AFCHPR
- Signed and not ratified AfPRWRs

Land and domestic laws

- Constitution does not provide for economic and social rights.
- Land is not a codified constitutional right.
- Article 23 (3) allows that women can be discriminated against in family matters, e.g. devolution of property, divorce.
- Operationalisation of customary law even in the Judiciary e.g. *Magaya vs Magaya* (ZLR) 1999.

- White farmers who have lost their land contesting in national courts but all cases have just been put aside.
- White farmers took the case to the SADC Tribunal, tribunal ruled in favour of white commercial farmers, Zimbabwe distanced itself from the tribunal, judgement not effected in domestic courts.
- To what extent are land rights justiceable?

Conclusion

- Justiciability of economic and social rights contested in Zimbabwe.
- Land has politico –legal identities.
- Need for HRBA to solve land rights issues.
- Need for more global effort in coordinating the framework for international human rights and the constitutional issues.
- Women and land in a “ land conflict zone”
- New constitution any change?

Zimbabwe