

the failure to make all Covenant rights part of domestic law and the fact that these rights cannot be invoked directly before domestic courts; the absence of effective institutional mechanisms to ensure systematic implementation and monitoring of the Covenant's provisions; the increasing trend to enact Parliamentary legislation and constitutional amendments to frustrate decisions of the Supreme Court that uphold rights protected under the Covenant and overturn certain laws incompatible with it; the lack of a provision giving the Ombudsman power to initiate investigation *suo motu*; and exclusion of the President, the President's Office, the Attorney-General and Secretary for Justice, Legal and Parliamentary Affairs and any member of their staff, from investigation by the Ombudsman.

The Committee expressed concern about: the duality of the legal statutory law and customary law; the fact that where customary law contravenes the Covenant or the statutory law, the customary law continues to be upheld and applied; continued practices such as *kuzvarita*, *kuripa ngozi*, *lobola* (bride price), female genital mutilation, early marriage, and the statutory difference in the minimum age of girls and boys for marriage; the extent and persistence of domestic violence against women; and the subordinate status of women in Zimbabwean society.

Concern was also raised over: reports of excessive use of force by the police and the army during food riots in 1998; with regard to pre-trial detention, the provision in the Criminal Procedure and Evidence Act allowing the maximum period of detention of 48 hours, before being brought to a judge or magistrate, to be extended to 96 hours by a senior police officer; the conditions of overcrowding and disease in most prisons; the amendment to the constitution which has the effect of depriving both women and men of the right to have their spouses registered as citizens; the fact that children born to Zimbabweans abroad may not acquire Zimbabwean citizenship; and amendments to section 15 of the Constitution which, *inter alia*, authorize corporal punishment.

The Committee noted with concern that: the mass media, as well as many other forms of expression including artistic expression, are subject to censorship and are largely controlled by the government; the use by government officials of the law on civil and criminal defamation to limit the freedom of the press; immunity has been extended to individuals committing acts of political violence against government opponents; the lack of political pluralism threatens the realization of democracy in Zimbabwe; homosexuals are subjected to discrimination – for example, that aliens deemed to be homosexuals may be defined as “Prohibited Persons” for immigration purposes and are subject to deportation; the Postmaster-General is authorized to intercept any postal articles or telegrams on grounds of public security or the maintenance of law; there remain legal provisions which restrict freedom of movement.

The Committee recommended that the government, *inter alia*:

- ♦ take necessary legislative and other measures to overcome the persistence of behavioral attitudes in the society, as well as cultural and religious practices, which impede the full realization of human rights;
- ♦ undertake a comprehensive review of domestic legislation, including the Constitution, with a view to ensuring its full compatibility with the principles and provisions of the Covenant; ensure that Covenant rights are not restricted or overridden by incompatible legislation and that individuals are able to challenge in the courts the application of laws which affect their rights under the Covenant; establish institutional mechanisms to ensure the integration of Covenant rights in law and practice;
- ♦ prohibit by law customary practices that are incompatible with the Covenant and adopt adequate measures to prevent and eliminate prevailing social attitudes and cultural and religious practices hampering the realization of human rights by women;
- ♦ with regard to the Deceased Estate Succession Act 1997, under which a widow may inherit part of her deceased husband's estate, provide further information on the steps taken to ensure that widows are made aware of this right and provide legal assistance for their benefit;
- ♦ adopt legislation making marital rape a criminal offence; undertake educational campaigns, establish institutional mechanisms to address all forms of violence against women, and provide assistance to victims of violence;
- ♦ take measures to eliminate discrimination against women and promote their role in society; establish mechanisms to receive complaints, award appropriate remedies and report publicly on problems and progress;
- ♦ ensure investigation by an independent and impartial body of all cases of alleged excessive use of force committed by members of the police or the army, that action is taken against those officers found to have committed abuses, and that compensation is paid to the victims;
- ♦ provide intensive training and education programmes in the field of human rights for members of the army and law enforcement officials; reduce the list of situations in which the use of lethal force is allowed under domestic law;
- ♦ review the law relating to arrest and detention to ensure that individuals are not held in pre-trial custody for longer than 48 hours without court order; provide further information on the authority of the Attorney-General to deny bail to individuals in pre-trial detention;
- ♦ take steps to remedy overcrowding and the prevalence of disease in prisons; provide qualitative and quantitative statistical data on the state of prisons in its next report;