

HUMAN RIGHTS REDRESS AN INDISPENSABLE ENTITY IN ZIMBABWE'S CONSTITUTION MAKING PROCESS

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ABSTRACT

Constitution making is incomplete without addressing the human rights imbalances between the blacks and whites in Zimbabwe. In this case, Zimbabweans must take the center and not the periphery in addressing their Human Rights concerns. The Zimbabwean constitution making process, be analogous to the biblical Decalogue, must encompass religious, social, political, economic, and cultural rights redress. Without addressing the aforementioned human rights, Zimbabwe's constitution making process is a mirage. It is the intention of this paper to expedite the relevance of human rights redress in the religious, social, political, economic, and cultural arenas in Zimbabwe. The paper further attempts to unveil the ontological vocation for all Zimbabweans to defend a Zimcentric approach to the human rights issue. This inevitably enables the 'glocalization' of religious, social, political, economic, and cultural globalization. Thus, in the letter and spirit of 'glocalization', globalization of human rights in their variant forms as purported in the United Nations Universal Declaration of Human Rights ACT, 1948 enables Zimbabweans to attain close to full independence. For empowerment policies to bridge the gap between theory and practice there is a need for an objective constitution redressing process attempting to restore human dignity for Zimbabweans. If Rawls' (1971) concept of justice as fairness is to come to reality, an affirmative constitution making is a must as an attempt to even the skewed Human Rights texture in Zimbabwe. Currently, partly due to varying political ideological orientations, the people of Zimbabwe are almost uprooted from their African Traditional Religious practices in the religious, social, political, economic and cultural facets. Hence, a logical constitution for the Zimbabweans should necessarily sufficiently aim for the full humanization at the expense of dehumanization. The philosophical analysis that emphasizes on critical thinking is the methodological front utilized in this paper.

Keywords: Constitution; Glocalization; Rights; ATR; Affirmative; Inalienable

INTRODUCTION

Globally, the issue of Human Rights is a highly contested one, especially with regards to its implementation. In this case, the Zimbabwe constitution making process should take into cognizance the fundamental task of leveling the exercise of human rights. It is imperative for Zimbabweans to implement the human rights agenda on an affirmative basis. This is primarily because any talk about human rights will remain meaningless unless a deliberate move is taken to enable Zimbabweans to access opportunities in their religions, social, political, economic, and cultural arenas. The human rights discourse that is implemented without leveraging the marginalized majority to attain

religious, social, economic, political, and cultural rights does not qualify in the constitution, as it is just Human Rights for the others. These others refer to those who were already privileged and advantaged to access the above noted rights. Shaw (1997) stated, "The preamble to the Universal Declaration of Human Rights adopted on 10 December 1948 emphasizes that [the] 'recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.'" Therefore implementing human rights in the new Constitution without regress affirmative action will only affirm and strengthen those who already own the means and forces of production at the expense of the poor majority. This situation automatically violates the Zimbabwean black majority's human rights as they are excluded from the religious, social, political, economic, and cultural rights. This high degree of inequalities justifies the need to deliberately enable the Zimbabwean majority to access essentials in life. In other ways, by '*ginya*' (force) hypothesis, that is, the use of power to bring in more people in the realm of fundamental rights is indispensable if one is to talk of a home grown and relevant Zimbabwean Constitution. It is crystal clear that there is no talk of a constitution without the majority's access to land, religious freedom, cultural freedom, political consciousness, and social freedom. It is high time that Zimbabwe should bring up a Constitution by '*ginya*' through deliberate force in order to redress the glaring inequalities between the haves and the have-nots. In other words, the international global conception of human rights should be glocalized in order to suit the local Zimbabwean context where people's rights and human rights coexist. Julia Dolly Joiner in Heyns and Killander (2006) posits, "Respect for human rights provides the foundation upon which rests the political, economic, social, and judicial structure of human freedoms." This implies that without respect for the blacks in Zimbabwe, the new Constitution's human rights zeal will remain a mirage and a bone of contention, as the black majority will incessantly fight for the respect of their human dignity. Let it be noted and warned that the human rights definitions and articles written in a constitution will only come to reality if they are implemented impartially, that is after a deliberate redress in the socio-politico-economic fundamentals.

CONCEPTUAL ANALYSIS

Terms such as human rights and constitution deserve to be lexically, as well as connotatively, defined. Despite the fact that the human rights issue is marked with a heated debate in the world, a general conception of the term can be attempted. Crawshaw (1999) articulated, "Human rights can best be understood as those rights which are fundamental to the human condition, and as fundamental principles of justice." In other words, human rights are inalienable by virtue of one's humanity. Looking at this definition in the Zimbabwean context, there is need to boost the black majority's human dignity that was eroded during the colonial era and continued to a certain degree in Post-Independent Zimbabwe due to their failure to own means and forces of production. But, Waldorf (2007) said, "The first article of the universal declaration of Human Rights states: 'All human beings are born free and equal in dignity and rights.'" The question of human equality in Zimbabwe, especially between Blacks and Whites, is a far-fetched idea in need of redress through the empowerment legacy aimed at attaining total freedom. Crawshaw (1999) clinically proffered, "Human Rights are those inalienable rights inherent in every human being, and enshrined in the Universal Declaration of Human Rights and other international instruments promulgated for the protection of human

rights.” Thus, the new Constitution should factor in the need to seriously consider black people of Zimbabwe as fully human and in dire need for protection against all forms of discrimination, as purported by the UN Universal Declaration of Human Rights Act, 1948. For this to be achieved, a deliberate Human Rights affirmative action is required across all the socio-politico-economic terrains in Zimbabwe – a deliberate glocalization of the Human rights agenda. Waldorf (2007) noted that the promotion of the universal respect for human rights has been one of the fundamental goals of the United Nations since its creation, and the development of a comprehensive international human rights normative and standard-setting system within the United Nations was one of the great achievements of the 20th century. Hence, the black majority of Zimbabwe needs an affirmative redress of their human rights if authentic universality of these inalienable rights is to be achieved.

The term constitution is quite paradoxical due to varying political genres throughout the world. Hatchard and Ogowewo (2003) proclaimed that, “the constitution remains the supreme law ...” This entails that the law must reflect what has been agreed upon in the Constitution, which acts like a sacred legal document of a country. In light of this Shaw (1997) confirmed that the “Law is that element which binds the members of the community together in their adherence to recognized values and standards.” It is this issue of recognized values and standards that should be framed in cognizance of globalization in order to make the Constitution and law relevant to the Zimbabwean context. In the same vein, Welshman Ncube in Bhebe and Ranger (2001) defined, “The Constitution of Zimbabwe provides that it is the supreme law of the country and that any law inconsistent with it shall be voided to the extent of the inconsistency.” Without a glocalised constitution, Zimbabwe remains a foreign constitutionally driven territory whereby the local people experience legal alienating absurdity and human subjugation in the legal fraternity. Hatchard and Ogowewo (2003) noted, “Fiji the Prime Minister, Sitiveni Rabuka ... stated the constitution was an expression of confidence and hope in our collective future.” This implies to the Ugandan 1995 constitution of which Zimbabwe’s constitution making process must see to it that the collective future or vision of Zimbabwe as a country is well factored in. They, Hatchard and Ogowewo (2003) remarked that “A constitution is legitimate if it is the result of the popular will. Legitimacy is the key to popular respect of the constitution. Legality deals with the question of whether a constitution is valid or is a nullity. “Therefore, serious attention should be taken in the constitution making process in order to produce a valid constitution through the participation of a plethora of stakeholders in the country and outside Zimbabwe. In this regard, parliamentary sovereignty is second to none. Thus, Graig (1999) posited, “... it is the law relating to the control of government power, the main object of which is to protect individual rights.” The protection of individual rights should be universal, otherwise the rich few maybe well protected by the law than the poor majority Zimbabweans, rendering the Constitution irrelevant to Zimbabwe. Hatchard and Ogowewo (2003) warned that, “Examples of valid but illegitimate constitutions are the pre-Independence constitutions introduced by colonial rulers without the consent of the colonized people.” In the same vein, the constitution making process should guard against producing an illegitimate helicopter dropped Constitution for the black Zimbabweans. In a nutshell, constitution making in Zimbabwe should satisfy the three major elements: legality, legitimacy, and content that is user friendly in the Zimbabwean content in order to maintain peace and tranquility. However, Zimbabweans should bear in mind what Rachels and Rachels (2008)

stated; that, "...each makes laws to its own advantage. Democracy makes democratic laws; tyranny makes tyrannical laws, and so on with the others."

Taking a constitutional feather from the citation, Zimbabwe must make laws for a democratic Zimbabwean Constitution that depicts local-centric aspects, thus, constitutional glocalization without which the struggle for independence, emancipation, and freedom in Zimbabwe will not cease. It is high time for this paper to turn onto some specific human rights areas in need of redress in the Constitution making in Zimbabwe.

RELIGIOUS HUMAN RIGHTS NEED REDRESS

Religion plays a central role in defining who a human being is in the world of which the constitution should include it. According to Taliaferro (1998), "religion in terms of its Latin root ... *religio* means "to bind" ... bring to the fore the notion that religion draws people together or delimits a person's identity." It is the mandate of a new Constitution for Zimbabwe to encompass religious rights in a bid to sustain personal identity. In the same vein, Keene (2002) remarked, "Religion shares in the most significant times and experiences of life. It celebrates birth, marks out the transition to adulthood, sets a seal on marriage and family life, and eases the passage from one life to the next." Since the people of Zimbabwe belong to more than one religion, the Constitution should make it a point that not only Christianity is the celebrated religion, but African Traditional Religion and others as well. Verstraelen (1998) posed, "And in African culture religion forms an integral part, if not the core, of culture." Therefore, any sound constitution should include the religious spectrum of its people because religion and culture are two sides of the same coin. Thus, Keene (2002) reported that, "The religion of Shintoism reflects the geography and culture of Japan as well as the order and chaos found in the natural World." This implies that even the Zimbabwean Constitution must capture the geography and culture of its people in which religion in its pluralistic form is expressed. The Zimbabwean religious conscience should be situational ethically considered. Tyler and Gordon (2005) stated that, "Joseph Fletcher coined the phrase 'situation ethics' in 1960s: He believed that our moral lives were based too much on obeying rules we did not understand or agree with. He thought a better basis for moral decisions was to use the principle of love. Situation ethics rely on the principle of doing the most loving thing that the situation demands." It is, therefore, the duty of the New Constitution to instill the virtues of love in order to encourage the respect for human rights through the sustenance of peace in the Zimbabwean context. This will automatically dovetail into the cultivation of democracy and sustainable development in all facets of life in Zimbabwe.

Cascading the importance of religion in society, Tyler and Gordon (2005) hinted that, "War can be caused by disputes over land, water, energy, and oil, or through more ancient and deep-rooted arguments involving religion, ethnic origin, and national identity." A constitution that does not take into consideration various forms of religion in the country is incomplete and a recipe for disaster, typical to the Israel-Palestinian religious controversy. Verstraelen (1998) observed that, "In Zimbabwe, traditional culture, in particular traditional religion, is still very much part of many people's lives, though in different degrees and ways." It is now high time that traditional culture

that forms the major component of African Traditional Religion be given a heightened consideration in the Constitution at the expense of import religions, such as Christianity, Islam, and others. Thus, Leslie E.T. Shyllon in Cox in Cox and Haar (2003) noted that, “Africa is undergoing a crisis of culture caused by forces of assimilation from the indigenous practices towards Westernization and Islamization.” It is an ontological duty of the New Constitution of Zimbabwe to fight for the respect of black people through a glocalized human rights approach with regard to African Traditional Religion. Echoing the value of African Traditional Religion, Pradel (2000) reinforced the theologian, John Mbiti’s comment that, “Traditional religion...dominates all aspects of the individual’s life and exercises the strongest influence on his being.” The Zimbabwean Constitution must imperatively protect and cherish the Unhu/Ubuntu consciousness through the inclusion of African Traditional Religion. Hence, African Traditional Religion should be at the core and not the periphery in the New constitution.

The denigration of African Traditional Religion in Zimbabwe should be a thing of the past. For instance, Zvobgo (1996) stated that, “The Jesuit priest at Chishawasha, Fr. A. Boos, characterized the Shona rising as a ‘war of heathenism against Christianity’... what impressed Boos the most was the fact that ‘the prime movers of the insurrection had made it a religious duty to take up arms against the white usurpers’”. In order to avoid a state of religious hiri-kiri or disorder in Zimbabwe, the Constitution must redress the lost legacy of African Traditional Religion in a bid to make black Zimbabweans retain their threatened humanity. Falola (2002) remarked that, “identities and nationalism can be linked to religion, tradition, history, ethnicity and race.” Thus, all the important human defining factors are enshrined in a people’s religion, in this case, African Traditional Religion in Zimbabwe’s constitution making. An unglobalized Constitution in Zimbabwe, with respect to religion, is irrelevant, illegitimate, and invalid to say the least. The Declaration of Universal human rights, which is made up of 30 articles, in Crawshaw (1999) alluded that, “The concept of non-discrimination is central to the protection and promotion of human rights...without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.” Of interest, under this section is non-discrimination with regards to religious belief systems in view of African Traditional Religion that was subjugated and discriminated due to the dominance of Christianity and Islam in Zimbabwe. There is need for a deliberate evening up of the uneven religious landscape in Zimbabwe through the New Constitution in order to applaud African Traditional Religion first, then others second. A People’s Guide to the Agreement (2009) stressed that, “Let peace and no-discrimination be our heritage.” This view comes prior to the production of the Global Political Agreement (GPA) in Zimbabwe of which even the forms of discrimination faced by African Traditional Religion should be put to good. Also, Article viii 8.1, on the respect for National Institutions and Events, cited in the Global Political Agreement (2008) said that, “on the necessity of all Zimbabweans regardless of race, ethnicity, gender political affiliation and religion to respect and observe Zimbabwe’s national institutions, symbols, national programs and events.” African Traditional Religion is a special and important religious institution in Zimbabwe in need of being respected alongside other religions, such as Christianity, Islam, Judaism, and others. A turn to social rights gives the need to address the social fabric where education takes the center stage.

SOCIAL RIGHTS NEED FOR REDRESS

An Aristotelian view of human beings as both social and political animals necessitates the Constitution to consider social rights that take into cognizance all forms of civil rights. Education forms the pillar stone and cornerstone in the social rights discourse. Issues of civic education should not be underestimated in the Zimbabwean constitution making. Mazambara (1999) stated that, “It is alien to Africans to understand religion as something separate from political and social institutions of the time.” Therefore, these social rights cover a wide range of Human Rights in a crisscross manner. In their crisscross, women human rights are cardinal in any contemporary Constitution with a futuristic developmental agenda.

Nyerere (1968) stated that, “Education must encourage the development of a proud, independent, and free citizenry, which relies upon itself for its own development, and which knows the advantages and the problems of co-operation.” Therefore, the Constitution must make education as one of the basic rights in order for the Blacks in Zimbabwe to be exposed to a liberating type of education. In contrary, Zvobgo (1996) alerted, “The Anglicans and the Wesleyans saw literary education as a ‘powerful force by which to weaken the influence of indigenous religion, superstition and witchcraft on African society and expedite the acceptance of Christianity’.” Such an ironic type of education should not be part of the Zimbabwean Constitution. The nature of the education should replace the evangelical aim of Christian education with the critical thinking and African Unhu/Ubuntu for the sake of self-reliance. Echoing the need for empowerment and self-reliance through education, Nyerere (1968) said, “*Mgeni siku mbili, siku yatatu mpe jembe*” which translates into, “Treat your guest as a guest for two days, on the third day gives him a hoe!” This Swahili aphorism, proverbially, captures the need for an education system that is moderately globalized in order to equip learners with relevant content for the sustenance of critical thinking. Among other Articles of the African Union (AU), formerly the Organization of African Union (OAU) Article 17, in Heyns and Killander (2006) stated that, “Every individual shall have the right to education.” Therefore, the Constitution should try to make education as one of the inalienable Human Rights for all the people in order to determine and control their destiny. Haar (1990) stressed that, “For every community must have a way of passing onto the young its accumulated knowledge to enable them to play adult roles and to ensure the survival of their offspring, and the continuity of the community.” Informal education, in other words, should be given room and respected in the Constitution. Again, Haar (1990) pointed out that, “Indigenous African education was informal and participatory: the young learned by participating in activities alongside their elders.” This form of education methodologically should be encouraged across the whole spectrum in the Zimbabwe education system, if critical thinking and consciousness are to be developed for the full humanization of the majority. Ahmed and Kane (2003) confirmed by saying that, “Martin Bernal has told the story of how the men of the European enlightenment tried to undermine what the European renaissance had tried to unearth: the superiority of African religions and philosophy over those of Europe.” It is, therefore, the purpose of the constitution making to restore African dignity and superiority in education by throwing away most of the Euro-centric mantra in Zimbabwe’s education system. It will redress the educational imbalances in the Zimbabwean system from an ideological stance. For instance, Haar (1990) observed that, “Rhodesian education was an out-of-date carbon copy of the British system. African children had to study

Dickens Shakespeare, learn about the rivers and mountains of Europe, and about the British Royal family. Children were taught that Shona and Ndebele were inferior to the English language and that European forms of behavior were preferable to African customs. This type of education is currently irrelevant and dehumanizing because there is need for the Zimbabwean education system to address local heroes, such as Mbuya Nehanda, Sekuru Kaguvi, the priest Chaminuka, and Lobengula for the Ndebele. The inclusion of a multi-lingual curriculum should be, as of yesterday, as language plays an important role in cultural and personal identity. Without a redress in our education system, Blacks in Zimbabwe will remain like aliens, if not robots, in their country; hence, thwarting developmental efforts across the board.

Citizenship education and rights is another area of concern in need of redress in the Zimbabwean constitution making. Graig (1999) said, "Citizenship connotes the civil, political, social, and economic rights, which individuals presently possess, or ought to possess, within society." It implies that the Zimbabwe Constitution should seriously consider the effective implementation of citizenship rights without which blacks in Zimbabwe are going to remain and stay as lodgers in their so-called country of birth. Therefore, it should be an indispensable duty or obligation of constitution making in Zimbabwe to do away with this 'lodger hypotheses' for true citizenship if development is to be achieved in Zimbabwe. Once more, Graig (1999) warned that "citizenship should not therefore stop at the factory gates, both because economic well-being was regarded as essential to political participation, and also because ideas of political citizenship are as relevant in the economic as in the political arena, in the sense that protection from arbitrary treatment is not something to be left at the beginning of work and donned again at the end of a shift." In other words, for sustainable development across the social religious, political, economic, and cultural arenas to be attained, citizenship rights should be put into practice and not just uttered in theory. The Zimbabwean constitution making should inevitably adopt citizenship rights with the high degree of praxis. In a nutshell, just like the need to protect citizenship rights in Crawshaw (1999) and Julia Dolly Joiner in Heyns and Killander (2006) summed by saying, "Human rights, human security, and human development are interdependent, inter-related, and indivisible and, thus, constitute inseparable ingredients in Africa's quest for prosperity". Thus, for any meaningful development to take place in Zimbabwe and Africa, in general, there is sheer need to wittingly craft a constitution that respects civil rights for the general populace to attain a plethora of freedoms in their everyday Endeavour. Heyns and Killander (2006) added that, "It is against this background that the African Union (AU) has sought to build on the important foundation laid by the Organization of African Unity (OAU) to strengthen the continental framework to promote the realism of human rights in Africa."

Women Human Rights is an area that is currently punctuated with rigor, vigor and antagonism if not contested between males and females. Socially, females are incessantly fighting for their self-emancipation in different forums throughout the world. According to Shaw (1997) "Article 20 of the African Charter on Human and Peoples' Rights stipulates that 'all peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self – determination...'" Thus, women should be continually treated with respect like their male counter parts, which the Zimbabwe constitution making should observe Women Human Rights for sustainable,

economic, social, and political development. Crowning it all, Jayasuriya and Jayasuriya (1999) emphasized that, “The Fourth World Conference on Women: Action for Equality, Development and Peace was held in Beijing from 4 – 15 September 1995. The statement underlined that ‘equality between women and men’ is: a matter of human rights; a condition for social justice, and a necessary and fundamental prerequisite for equality, development, and peace.” It is imperative that the constitution making in Zimbabwe should necessarily place Women’s Human Rights at the center for the purpose of curtailing women abuse in different spheres of life. In this regard, Meer (1997) reported that, “Women are generally disadvantaged, compared with men of the same race and class, in access to land, employment, labor and training...” This scenario is also currently prevalent in Zimbabwe and other third world countries. Hence, constitution making in Zimbabwe should seriously consider leveling the ground with regards to Women Human Rights for near to total development to be achieved in Zimbabwe. This leveling of Human Rights between females and males in Zimbabwe can only be achieved by first deliberately disadvantaging the male counterpart – some form of regress discrimination is a necessity for the production of a sound, legitimate, and valid Constitution. Waldorf (2007) highlighted the “...Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).” It is in CEDAW, enacted in 1979, where women’s gender equality is respected and should be part and parcel of any sound constitution making in the world. Furthermore, Waldorf (2007) stressed that, “CEDAW has been used repeatedly to define norms for constitutional guarantees of women’s human rights, to interpret laws, to mandate proactive, pro-women policies, and to dismantle discrimination.” The Zimbabwean constitution making must see to it that the requirements of CEDAW are sufficiently factored in the New Constitution in a bid to come up with an unbiased supreme law of the country galvanized in the Constitution. The Zimbabwe’s constitution making should redress the political rights as a way of moving from the inherited Lancaster House Constitution since independence in 1980.

POLITICAL RIGHTS NEED FOR REDRESS

There is a great need to attend to the political rights and peace issues in Zimbabwe’s new Constitution. No meaningful development can be attained without a sound political rights and peace niche in the world and Zimbabwe, in particular. Crawshaw (1999) said that, “Article 6.1 of the International Covenant on Civil and Political Rights states that: every human being has the inherent right to life; the right to life is to be protected by law; and no one shall be arbitrarily deprived of life.” This article should be captured in the Zimbabwe constitution making in order to cultivate political understanding among competing political parties. In addition, Waldorf (2007) clarified that, “The human rights guaranteed by the International Covenant on Civil and Political Rights include the right to life, freedom from torture, freedom from slavery, rights to liberty and security of the person ... rights relating to citizenship and political participation, and minority groups’ rights to their culture, religion, and language.” Any country, Zimbabwe included, should uphold these civil and political rights.

Of importance, Hatchard and Ogowewo (2003) noted that, “The most prized right of any political community is the right to govern itself.” In light of this, constitution making in Zimbabwe should culminate in the production of a Constitution that guards against the integrity and sovereignty of Zimbabwe. Currently, although Zimbabwe is an

independent country, it is under siege by the international world's sanctions for the regime change agenda. Politically, Zimbabwe is a threatened country, hence an abuse of its political freedom and sovereignty. Cox in Cox and Haar (2003) observed that, "Despite the rape of Africa by the slave trade, colonization and its accompanying exploitation, the continent is still vibrant. It is not an exaggeration to assert that Europe and the Americans have become what they are today through the bodies and sweat of Africans." Yes, to a large extent, this statement emits realistic political resonates due to the negative impact of slavery, colonization, and neo-colonialism. It is, therefore, the invaluable role of constitution making to ascertain national liberty and respect of human rights in Zimbabwe and the world, in general. A glocalised constitution that guards against the black people of Zimbabwe's interests, desires, and wishes should be deliberately put in place for the sustainability of both internal and international peace in the country. With due respect to women, Meer (1997) dictated that, "Jacobs (1989), in the context of a discussion on the Zimbabwean state, asserts that state policy has been contradictory. Zimbabwean Government policy seeks to address the most detrimental aspects of women's oppression; but continues to see women as dependents of men" This asymmetrical relationship between females and males in Zimbabwe needs serious attention in order to respect human dignity, regardless of sex status. Another politically vulnerable group in need of human rights consideration is the children in Zimbabwe. The Convention on the Rights of the Child (CRC) (1989) cited in Crawshaw (1999) is primarily for the protection of the rights of the child. United Nations International Children Emergency Fund (2000) stated that, "We have the right to be treated like human beings, that is, respected. We have the right to be loved and cared for by our parents, guardians, and other adults," This enlightens the constitution making in Zimbabwe to include the rights of the child both from a peoples' right and individual human rights' point of views. An interesting statement about the lack of respect for children's rights is captured in Brock-Utne (1985) that, "In Norway there is a child's saying: "Father rules over mother, mother rules over me and I rule over the cat." This reveals a skewed distribution of power in the family, whereby the female and the child are in the receiving end. Therefore, Zimbabwe's constitution making should politically, socially, and economically respect the rights of all citizens. Bhebe and Ranger (2001) noted that "Liberal democracy is also linked to western conceptualization of human rights as individual entitlements which people hold by virtue of their being human beings." But in Zimbabwe, a glocalised conception of human rights should be implemented where the Afro-centric notion of peoples' rights and the Eurocentric human rights stances should strike a balance in order for their relevance to Zimbabwe and its development programs, where communitarianism should be factored in. Without this glocalization of human rights, Bhebe and Ranger (2001) reiterated that, "Globalization of human rights as they stand now will only be interpreted as received western cultural imperialism." This will inevitably hamper progress and general development in the political and economic realms in Zimbabwe. If the glocalization of socio-political rights is not done, the following may ensue in Zimbabwe. Herbst (1990) stated, "For instance, Colin Leys, in his study of the political economy of Kenya called the African state simply a "sort of sub-committee of the international bourgeoisie." This form of perception will inevitably fuel political skepticism and polarization in Zimbabwe, thereby impinging on all forms of development in the country.

The question of peace should also take a center stage in the political terrain of any country in the world. Brock-Utne (1985) said that, "Peace may simply mean the absence of war, of direct, impersonal, often collective violence." Where there is peace, there is no discrimination and, as such, the Constitution of Zimbabwe should thrive to put up rules and regulations into law that serve the interest of the maintenance of peace. West, in Bhebe and Ranger (2001) noted that, "Discrimination measures cannot help peace. They nurse up feelings that become seats of war." Thus, by all means necessary, the Constitution of Zimbabwe should include war deterrent elements in order to promote peace and development across all facets of life. There is also indirect violence that can stifle the effort of Zimbabwe, as a country, in its development efforts that the Constitution needs to deal with. Brock-Utne (1985) defined that, "Indirect violence is the term often used to describe the relationship between industrialized countries and the developing countries... who are exploited to the point of starvation." Zimbabwe, as a country, is currently under a barrage of political and financial constraints if not indirect sanctions by the international world of which the constitution making need to address for meaningful development through the effective use of local resources to take place. In a nutshell, Brock-Utne (1985) stressed that, "Peace is incompatible with malnutrition, extreme poverty and refusal of the rights of peoples to self-determination." Hopefully, the new Constitution in Zimbabwe should be tailored towards addressing food security and peoples' rights issues. It is also important to deal with the mostly contested area, the economic rights for the blacks in Zimbabwe.

ECONOMIC AND CULTURAL RIGHTS NEED FOR REDRESS

Most fierce wars in the world are a result of the right to economic resources, such as oil, land, and its minerals, as well as the preservation of culture. Even in Zimbabwe, the struggle for independence was propelled by the dire need of the subjugated and oppressed Blacks to regain their land. Waldorf (2007) alluded to the universal consideration of human beings under the Human Rights banner that, "According to the UN common understanding, 'Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment in which human rights and fundamental freedoms can be realized.'" In this section, the fundamental freedoms of what is popularly referred to as the Zimbabwe's land question is questionable due to the fact that the majority Black Zimbabweans do not have an easy access to land since colonization. According to the preamble in the Global Political Agreement (2008) "We, the Parties to this Agreement: Acknowledging the sacrifices made by thousands of Zimbabwe's gallant sons and daughters in the fight against colonialism and racial discrimination and determined to accept, cherish and recognize the significance of the Liberation struggle as the foundation of our sovereign independence, freedoms and human rights." Land deprivation and segregation was at the epitome during colonialism, hence, it should be expeditiously addressed in the new constitution if the document is to be respected by the general populace of Zimbabwe. Moyana (2002) stressed that, "Eviction from one's land symbolized the uprooting of one's soul from his one's and one's conversion from a freeman into a status comparable to upgraded slavery." In short, the landless Zimbabweans are just like slaves in the upgraded form a situation in need of serious constitutional redress for peace and tranquility to prevail.

Furthermore, Chung (2007) reiterated that, “Zimbabwe is at crossroads: Zimbabweans are ready for transformation. The majority of the people in Zimbabwe want land, and they voted for land. Land was the trump card.” This entails that land is at the center for the waging of the war of liberation; hence, it is mandatory for the Constitution of Zimbabwe to empower Blacks through the ownership of land. Whether this land ownership is going to be executed through leases or title deeds, that is something else. Zimbabweans need land and Zimbabwe is land without which it is an empty term- a legal nullity to say the least. Unfortunately, the white colonialists practiced a ruthless land policy that segregated Blacks, thereby positioning land as the most contested political asset in Zimbabwe. Ramose (1999) pinpointed that, “... the land expropriation meant loss of sovereignty by the African. The close connection between land and life meant that by losing land to the conqueror, the African thereby lost their African *ubuntu /unhu* (human and cultural dignity) due to the colonial discriminative land allocation, a thorn in the African flesh in need of urgent constitutional redress. For peace and development to prosper in Zimbabwe, the land issue must be dealt with the urgency it deserves. No land for the Blacks in Zimbabwe simply translates to no peace in the political, social, economic, and cultural realms. In concurrence, Bhebe and Ranger (2001) adumbrated that, “The first measure is to de-racialise the economy in order to achieve social justice for Africans through land redistribution and economic indigenization...” If Zimbabwe is going to have a respected Constitution, its first port of call should address the redistribution of land for farming to the once deprived and alienated Blacks in Zimbabwe. During the colonial period, Alexander (2006) stated, “Africans faced eviction, sometimes several times over, from their homes and farms. Half of the country’s agricultural land, and much of the most fertile, was designated for European occupation, while Africans were forced into reserves.” Unfortunately, these reserves are granite rock dominated exhibiting beautiful scenery but barren in as far as land for agriculture is concerned. Furthermore, Alexander (2006) emphasized that, “Land was central once again in provoking the brutal conflict of the liberation war, and in ultimately bringing about the demise of the settler state.” Land in Zimbabwe is a time bomb issue as people are currently squeezed in poor soils in mountainous areas, a situation that can be best explained as the ‘monkeyed’ Blacks in Zimbabwe. Serious consideration to deal with the derogative and discriminative colonial land Acts should form the core of the constitution making without which it is going to be useless and a provocative document suitable to be put into flames just like Hume’s position about the Bible. Moyana (2002) remarked that the removal of Africans from their ancestral lands to make way for the increasingly members of white immigrants continued throughout the colonial period (1890-1980). The land and its inhabitants, who formed an abundant source of cheap labor, was the most crucial ‘raw material’ that the colonizing settlers wanted. It is, therefore, the responsibility of the constitution making to globalize land redistribution in Zimbabwe for social, political, cultural, and economic development to take off at a reasonable momentum. Hence, Verstraelen (1998) stated, “For all peoples, land is an invaluable asset, a pre-condition for life, growth and development.” Because of this, Alexander (2006) pointed out that, “Zimbabwe’s landscape was once again dramatically unsettled, as hundreds of thousands of black Zimbabweans moved into ‘white’ land.” This is popularly known as the land ‘invasion’ that culminated in the government’s Fast Track Land Acquisition and redistribution program as an attempt to quench the political volatility of the land-hungry Black majority in Zimbabwe. The people’s culture is expressed in the ownership of fertile land that is the Black Zimbabweans’ *Uhuru*. For Chung (2007) “‘Uhuru’ is the Swahili word for freedom and

liberation.” Zimbabwe’s social, political, economic, and cultural freedom is embedded in the land – it is everything, its *Uhuru*.

CULTURAL RIGHTS NEED FOR REDRESS

A people without a culture are not people. In Zimbabwe, culture functions like the vision and mission of the society, of which the Constitution should respect as part of its content. Significantly, the centrality of culture in society, Ahmed and Kane (2003) noted, “Cultural conception of race has come to include the identification of a race with language group, religion, group habits, norms, customs, a typical style of behavior, dress, cuisine, music, literature, and art.” Thus, maximum attention to all faces of culture in constitution making is imperative. For instance, the religious culture of blacks in Zimbabwe needs to be guarded against denigrating efforts waged by other foreign religions. In light of this, Shorter (1991) revealed that, “ATR was pictured as ‘the empire of Satan’ rather than ‘African’s Old Testament’ or the ‘seed ground’ of the external Lagos.” This shows that if African Traditional religion (ATR) is satanized, the logical conclusion is that its followers (Blacks/ Africans) are satanic, for a religion cannot exist in a social vacuum. It itches more if this misconception of ATR is not going to be legally thwarted in the new Constitution, as the people will be rendered powerless outside their culture. Mackenzie in Ashe, Finlayson, Lloyd, Mackenzie, Martin and O’Neil (1999) vividly said that the, “Power ... reaches into the deepest layers of an identity.” The authentic respect for the Blacks in Zimbabwe should be expressed in the Constitution without which the majority will remain in their deep slumber of false consciousness. Thus, the denigration of ATR is an aspect of insanity by whosoever. Even one of the renowned theorist of justice, Rawls (1971) said that, “What moves the evil man is the love of injustice: he delights in the importance and humiliation of those subject to him and relishes being recognized by them as the willful author of their degradation.” It is a clear abuse of human rights to deny someone of his/her culture for the sake of imposing a foreign one. The new Constitution in Zimbabwe has a surmountable duty to cleanse any form of religious subjugation, oppression, and exploitation caused by other foreign religions as a way of paving critical consciousness and a sense of commitment for meaningful development to take place among Zimbabweans. It does not need any further emphasis except to note that Blacks/Africans in Zimbabwe should not be subjected to the state of being ‘religious’ lodgers’ who continually pay spiritual rentals to an alien religion at the expense of their own African Traditional Religion (ATR). Thus, Shaw (1997) noted that the, “... law reflects the conditions and cultural traditions of the society within which it operates.” Zimbabwe’s law, through its new Constitution, must operate in tandem with its cultural portfolio contained in ATR.

Conclusion

It is crystal clear that constitution making in Zimbabwe should redress the asymmetrical relationship between Whites and Blacks; males and females for sustainable development to prosper. The consideration of both Human Rights and Peoples’ Rights is pivotal for the production of a deliberately affirmatively created Constitution. Without land for the Blacks, there will be no peace in Zimbabwe. The centrality of the efforts of the liberation struggle must be highly upheld in the attainment of social, economic, cultural, religious, and political rights as a sure way of development and sustenance of peace and tranquility in Zimbabwe. Therefore, it has been noted in the main

paper that there is need for the new Constitution not to give a blind eye to the role played by women and children in the development programs in Zimbabwe if their rights as enshrined in Convention of the Elimination of all forms of Discrimination Against Women, 1979 and in Convention on the Rights of the Child, 1989 as cited in Waldorf (2007) and Crawshaw (1999) and others are to be respected through a pragmatic trust worth implementation of the would-be sacred legal document for Zimbabwe in posterity.

REFERENCES

- Ahmed, I. & Kane, O. (Eds.). (2003). *Identity, Culture & Politics: an afro-asian dialogue*, vol.4. November 1, International Centre for Ethnic Studies Council for the Development of Social Science Research in Africa. (CODESRIA) CODESRIA – ICES. (p.22).
- Alexander, J. (2006). *The Unsettled land: State-making & the Politics of Land in Zimbabwe 1893-2003*. Harare: Weaver Press.
- A People's Guide to the Agreement. (2009). *Africa Community Publishing and Development Trust*. Cape Town: Harare.
- Bhebe, N. & Ranger, T. (Eds.). (2001). *The Historical Dimensions of Democracy and Human Rights in Zimbabwe. Volume one: Pre-colonial and Colonial legacies*. Harare: University of Zimbabwe Publications.
- Brock-Utne, B. (1985). *Educating for Peace: A Feminist Perspective*. New York: Pergamon Press.
- Chung, F. (2007). *Re-Living the Second Chimurenga: Memories from Zimbabwe's Liberation Struggle*. Harare: Weaver Press.
- Cox, J.L & Haar, G.ter. (Eds.). (2003). *Uniquely African?: African Christian Identity from Cultural and Historical Perspectives*. Asmara: Africa World Press, Inc.
- Crawshaw, R. (1999). *Police and Human Rights: A Manual for Teachers, Resources Persons and Participants in Human Rights programmes*. The Hague: Kluwer Law International.
- Du Bois, W.E. (1996). *The World and Africa: An Inquiry into the part which Africa has played in World History*. New York: International Publishers.
- Falola, T. (Ed.). (2002). *African Politics in Post imperial Times: The essays of Richard L. Sklar*. Asmara: Africa World Press, Inc.
- Global Political Agreement. (2008). Harare: The Ministry of Constitutional & Parliamentary Affairs. 15 September.
- Graig, P.P. (1999). *Administrative Law*. London: Sweet & Maxwell Limited.
- Haar, G.ter. (1990). *Faith of our fathers: Studies on Religious Education in Sub-Saharan Africa*. Utrecht: Utrechtse theologische reeks: 11.
- Hatchard, J. & Ogowewo, T.I. (2003). *Tackling the Unconstitutional Overthrow of Democracies: Emerging Trends in the Commonwealth*. London: Commonwealth Secretariat.
- Herbst, J. (1990). *State Politics in Zimbabwe*. Harare: UZ Publications.
- Heyns, C. & Killander, M. (2006). *Compendium of Key Human Rights Documents of The African Union*. Pretoria: Pretoria University Law Press.

- Jayasuriya, S. & Jayasuriya, D.C. (1999). *Women and Development: The Road from Beijing*. New Delhi: Har-Anand Publications Pvt. Ltd.
- Joiner, J.D. "Foreword"., (2006). Forward. In C. Heyns, & M. Killander (Eds.), *Compendium of Key Human Rights Documents of The African Union*. (pp. vi-vii). Pretoria: Pretoria University Law Press.
- Keene, M. (2002). *World Religions*. Oxford: Lion Publishing.
- Mackenzie, I. (1999) Power. In F. Ashe, A. Finlayson, M. Lloyd, I. Mackenzie, J. Martin, & S. O'Neil (Eds.), *Contemporary Social & Political Theory: An Introduction*. Open University: Open University Press.
- Mazambara, P.D. (1999). *The Self-Understanding of African Instituted Churches*. Aachen: Verlagan der Lottbek im Besitz des Verlags Mainz.
- Meer, S. (Ed.). (1997). *Women, Land and Authority: Perspectives from South Africa*. Cape Town: David Philip.
- Moyana, H.V. (2002). *The Political Economy of Land in Zimbabwe*. Gweru: Mambo Press.
- Ncube, W. (2001). The courts of law in Rhodesia and Zimbabwe: Guardians of Civilization, human rights and justice or purveyors of repression injustice and oppression? In N. Bhebe, & T. Ranger, (Eds.). *The Historical Dimensions of Democracy and Human Rights in Zimbabwe; Volume one: Pre-colonial and Colonial Legacies*. Harare: University of Zimbabwe Publications.
- Nyerere, J.K. (1968). *Ujamaa Essays on Socialism*. Dar es Salaam: Oxford University Press.
- Pradel, L. (2000). *African Beliefs in the New World*. Asmara: Africa World Press, Inc.
- Rachels, J. & Rachels, S. (2008). *The Truth about the World: Basic Readings in Philosophy*. New York: McGraw-Hill.
- Ramose, M.B. (1999). *African Philosophy Through Ubuntu*. Harare: Mond Books.
- Rawls, J. (1971). *A Theory of Justice*. Cambridge: The Belknap Press of Harvard University Press.
- Shamuyarira, N.M. (2002). Foreword. In H.V. Moyana (Ed.), *The Political Economy of Land in Zimbabwe*. Gweru: Mambo Press.
- Shaw, M.N. (1997). *International Law*. Cambridge: Cambridge University Press.
- Shorter, A. (1991). *The African Synod: A Personal Response to the Outline Document*. Nairobi: St Paul Publications Africa.
- Shyllon, L.E.T. (2003). What Role do Institutions of Theology and Religious Studies Play in the Engagement with African Cultural Dynamics? In, J.L. Cox & G.ter. Haar (Eds.), *Uniquely African: African Christian Identity from Cultural and Historical Perspectives*. Asmara: Africa World Press, Inc.
- Taliaferro, C. (1998). *Contemporary Philosophy of Religion*. Oxford: Blackwell Publishers Inc.
- Tyler, S.K. & Gordon, R. (2005). *Religion & Society*. Oxfordshire: Philip Allan Updates.
- Verstraelen, F.J. (1998). *Zimbabwean Realities and Christian Responses*. Gweru: Mambo Press.
- UNICEF. (2000). *We Are Also Human Beings!: A Guide to Children's Rights in Zimbabwe*. Harare: UNICEF.
- Waldorf, L. (2007). *CEDAW and the Human Rights Based Approach to Programming*. New York: UNIFEM May 2007.
- West, M.O. (2001). Franchises or nothing: Zimbabwean black elite responses to imperial ideologies of democracy. In N. Bhebe, & T. Ranger (Eds.), *The Historical Dimensions of Democracy and Human Rights in*

Zimbabwe; Volume one: Pre-colonial and Colonial Legacies. Harare: University of Zimbabwe Publications.

Zvobgo, C.J.M. (1996). *A History of Christian Missions in Zimbabwe, 1890 -1939.* Gweru: Mambo Press.

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