

# **LEGAL PREPAREDNESS FOR INTERNATIONAL DISASTER ASSISTANCE IN ZIMBABWE**

Mapping of Domestic Laws and Policies

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This mapping has been extracted from the report, [Legal Preparedness for International Assistance in Southern Africa: Regional Assessment and Country Profiles](#), which examines the legal frameworks of ten countries in Southern Africa to determine legal preparedness for international assistance should a disaster exceed national capacities, and proposes recommendations to strengthen international disaster response law (IDRL) in the region. A [summary version](#) of the report is also available.

This mapping seeks to chart the International Disaster Response Law Framework (IDRL) in the Republic of Zimbabwe (Zimbabwe) as provided in domestic laws and policies, and is the result of a desktop review of information publicly available online. This mapping has been conducted using the ten guiding questions from the [Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance](#) (the IDRL Checklist). The IDRL Checklist is based on the [Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance](#) (the IDRL Guidelines).<sup>1</sup> The IDRL Guidelines, which were unanimously adopted by the 30<sup>th</sup> International Conference of the Red Cross and Red Crescent in 2007, are a set of recommendations concerning domestic legal preparedness for international disaster assistance.

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<sup>1</sup> IFRC, *Introduction to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* (2008) (IDRL Guidelines). Note that the IDRL Guidelines have been re-issued with new forewords in 2011 and 2017.

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# Zimbabwe

## Political Framework

The 2013 Constitution of Zimbabwe states that Zimbabwe is a unitary, democratic and sovereign republic.<sup>2</sup> The executive authority in Zimbabwe vests in the President, who serves as the Head of State and Government and the Commander in Chief of the Defence Force.<sup>3</sup> The President is elected for a five year term and can serve no more than two terms.<sup>4</sup> The President is assisted by two Vice Presidents.<sup>5</sup> Legislative power is vested in Parliament and the President.<sup>6</sup> Parliament is comprised of the Senate, which consist of 80 senators, and the National Assembly, which consists of 210 members.<sup>7</sup>

Zimbabwe has a mixed legal system comprising of common law, civil law, and customary law. Zimbabwe adopts a dualist approach to international law. In terms of section 34 of the Constitution, the state must ensure that all international conventions, treaties, and agreements to which Zimbabwe is a party are incorporated into domestic law.

## DRM Framework

The legislative framework for DRM in Zimbabwe is currently limited to the Civil Protection Act [Chapter 10:06] of 1989 (the CPA). The Department of Civil Protection (DCP), which falls under the, Ministry of Local Government, Public Works & National Housing, administers CPA.<sup>8</sup> The CPA is focussed on civil protection and the regulation and funding of civil protection in times of disaster. The CPA details different organisations and individuals that oversee civil protection in Zimbabwe. At national level, section 3 provides for the Director of Civil Protection (the Director) who is responsible for:

- directing the establishment of civil protection organisations in civil protection provinces and civil protection areas;
- controlling and directing personnel, materials, and services;
- advising and assisting provincial civil protection officers and area civil protection officers in the performance of their duties;
- coordinating the training of personnel for civil protection purposes;
- coordinating the planning and execution generally of civil protection;
- promoting research into matters relating to civil protection and disseminating information on matters relating to civil protection to civil protection provinces and civil protection areas; and
- advising the Minister on all matters relating to civil protection.

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<sup>2</sup> Constitution of Zimbabwe Amendment (No. 20) Act, 2013 (Constitution of Zimbabwe), section 1.

<sup>3</sup> Constitution of Zimbabwe, section 88.

<sup>4</sup> Constitution of Zimbabwe, section 91.

<sup>5</sup> Constitution of Zimbabwe, section 92.

<sup>6</sup> Constitution of Zimbabwe, section 116.

<sup>7</sup> Constitution of Zimbabwe, section 188.

<sup>8</sup> See the website of the DCP, available at <https://drmzim.org/about-us/> (accessed 29 April 2021).

Section 4 of the CPA establishes the National Civil Protection Committee (NCPC), which is responsible for advising and assisting the Director in the planning and implementation of measures for the establishment, maintenance, and effective operation of civil protection. In addition, section 9 makes provision for the appointment of planning committees to prepare plans in respect of any aspect of civil protection, in any civil protection province or in any civil protection area. Provision is also made for the appointment of protection officers, who are responsible for a number of coordination functions at provincial and area level.<sup>9</sup>

The CPA contains limited provisions on civil society participation. The Secretary General of the Red Cross Society is included as a member of the NCPC;<sup>10</sup> NGOs may also be represented on planning committees established to develop plans on civil protection.<sup>11</sup> Cooperation with the police and military forces is contemplated in the CPA, which provides that an area civil protection officer shall exercise his powers under the CPA after consultation and in cooperation with the commanding officers of the Police Force and the Defence Forces within the civil protection area whenever possible.<sup>12</sup> Representatives from the military and the police are also included on the NCPC.<sup>13</sup>

Since approximately 2003, a draft DRM bill (draft Bill) has been under development, which aims to provide for integrated, coordinated and mainstreaming of DRM in Zimbabwe and which focuses on preventing or reducing the risk of disasters, mitigating the severity of disasters, emergency preparedness, emergency fire services, rapid and effective response to disasters and post-disaster recovery. Furthermore, it provides for the establishment of DRM structures at national, provincial, district and local authority levels. The draft Bill has been revised on three occasions, but it has not yet been adopted. A review of the Draft Bill is therefore not included in the IDRL assessment below.

## IDRL Assessment

Question 1: Does Zimbabwe have a clear legal framework for disaster risk management which includes procedures relating to international disaster assistance?

The CPA does not contain provisions on international disaster response. However, provision is made for regulations to be made on any matter related to the Act, which means that regulations on international disaster assistance could theoretically be promulgated in the future.<sup>14</sup>

In addition, the Emergency Powers Act<sup>15</sup> allows the President to make emergency regulations in respect of the assistance to be afforded to persons affected by natural

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<sup>9</sup> Civil Protection Act [Chapter 10:06] of 1989 (CPA), sections 13 and 17.

<sup>10</sup> CPA, section 4(2)(e).

<sup>11</sup> CPA, section 9.

<sup>12</sup> CPA, section 18(3).

<sup>13</sup> CPA, sections 4(2)(c) and (d).

<sup>14</sup> CPA, section 44(1).

<sup>15</sup> Emergency Powers Act [Chapter 11:04], section 3(1)(i).

disaster. It is possible that such regulations may regulate international assistance, even though it is not explicitly stated.

**Question 2: Do Zimbabwe's laws and regulations clearly set out a focal point for coordinating international disaster assistance?**

The CPA does not explicitly set out a focal point for coordinating international disaster assistance. Section 3 of the CPA, however, establishes the Director of Civil Protection, who is responsible for coordinating the planning and execution of civil protection generally. As such, this may include the coordination of international disaster assistance at national level.

**Question 3: Do Zimbabwe's laws and regulations outline the roles and responsibilities of different institutions relating to international disaster assistance?**

The CPA details different organisations and individuals that oversee civil protection in Zimbabwe which are set out above. However, the roles and responsibilities of these institutions in respect of international disaster assistance is not explicitly outlined.

**Question 4: Do Zimbabwe's laws and regulations outline a process for requesting/welcoming offers of international disaster assistance, and for terminating international assistance?**

The CPA does not outline a process for requesting offers of international disaster assistance and for terminating international assistance.

**Question 5: Do Zimbabwe's laws and regulations provide for necessary legal facilities to be provided to international assisting actors?**

The DRM framework in Zimbabwe does not provide specific facilities for international assisting actors. The sections below analyse whether the relevant sectoral laws provide for necessary legal facilities to be provided to international assisting actors.

#### *Landing rights and general customs arrangements*

The Civil Aviation Act,<sup>16</sup> enacts the Chicago Convention into domestic law and provides the framework for the regulation of civil aviation in Zimbabwe. The Civil Aviation Act itself does not contain any specific provisions relating to airplanes carrying humanitarian assistance personnel or supplies into Zimbabwe.

The Customs and Excise Act<sup>17</sup> regulates customs and excise in Zimbabwe. The Customs and Excise Act does not provide simplified or expedited procedures in respect of goods imported for humanitarian purposes in disasters. With regards to duties payable, the Customs and Excise Act provides that regulations may be made to provide for appropriate suspensions, rebates, remission, or refunds of duty in respect of goods donated for welfare or relief purposes.<sup>18</sup> Such regulations could not be located for the

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<sup>16</sup> Civil Aviation Act [Chapter 13:16] as amended by the Civil Aviation Amendment Act, 2018 (No. 10 of 2018).

<sup>17</sup> Customs and Excise Act [Chapter 23:02].

<sup>18</sup> Customs and Excise Act [Chapter 23:02], section 120(6)(e).

purpose of this research. In addition, the Commissioner may, under such conditions as he thinks fit, permit the temporary importation of goods without payment of duty thereon on importation for any purpose approved by him.<sup>19</sup>

### Food

The importation of food in Zimbabwe is primarily regulated by the Food and Food Standards Act,<sup>20</sup> and the regulations made thereto,<sup>21</sup> which do not provide for any special or simplified procedures to facilitate the import of food in disaster settings, as such, it appears that the normal rules and procedures applicable to the importation of foodstuffs would apply.

### Medicines

The import of medication in Zimbabwe is primarily regulated by the Medicines and Allied Substances Control Act [Chapter 15:03] and regulations thereto, particularly the Medicines and Allied Substances Control (Import and Export of Medicines) Regulations, neither of which provide special or simplified procedures to facilitate the import of medications in disaster settings.<sup>22</sup> As such, it appears that the normal rules and procedures applicable to the importation of medicines would apply.

### Rescue dogs

The Animal Health Act<sup>23</sup> read with the Animal Health (Import) Regulations, 1989, make it clear that an import permit is required to import dogs to Zimbabwe. There do not appear to be any exceptions for the import of rescue dogs in disaster settings. This may result in international disaster assisting actors facing delays or challenges when importing rescue dogs into the country.

### Vehicles

The Vehicle Registration and Licensing Act<sup>24</sup> provides that all vehicles in Zimbabwe are to be registered and licensed.<sup>25</sup> Although it does not explicitly state that it applies to international disaster assistance providers, section 40 allows for an exemption from the requirements of licensing and registration of vehicles for certain visitors, which may allow international assisting actors to easily use vehicles they have imported into the country. It provides that a person may bring a vehicle into Zimbabwe from another country for the purposes of a visit provided that it is validly registered and licensed in terms of the Convention,<sup>26</sup> on condition that, upon entering Zimbabwe, the vehicle's registration certificate is presented; and the vehicle bears the identification marks of the territory

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<sup>19</sup> Customs and Excise Act [Chapter 23:02], section 124.

<sup>20</sup> Food and Food Standards Act [Chapter 15:04].

<sup>21</sup> See for example, the Food and Food Standards (Import and Export) Regulations, 2015.

<sup>22</sup> See the Medicines and Allied Substances Control Act [Chapter 15:03] and regulations thereto, particularly the Medicines and Allied Substances Control (Import and Export of Medicines) Regulations, 2008 (S.I. No. 57 of 2008).  
<sup>23</sup> Animal Health Act [Chapter 19:01].

<sup>24</sup> Vehicle Registration and Licensing Act [Chapter 13:14].

<sup>25</sup> Vehicle Registration and Licensing Act [Chapter 13:14], sections 6 and 22.

<sup>26</sup> "Convention" is not defined in the Vehicle Registration and Licensing Act [Chapter 13:14], but it is defined in section 16 of the Road Traffic Act (Chapter 13:11) as the "the Convention on Road Traffic signed at Geneva on the 19 September 1949; or the Convention on Road Traffic signed at Vienna on the 8 November 1968, as may be appropriate".



where it was last registered.<sup>27</sup> Proof of insurance may also need to be presented in certain instances.<sup>28</sup> If these conditions are complied with, the vehicle may be used in Zimbabwe without being registered and licensed in the country.<sup>29</sup>

With regards to international and foreign driver's licences and permits, the Road Traffic Act provides for the recognition of foreign driver's licences and international driving permits of persons not ordinarily resident in Zimbabwe.<sup>30</sup>

### *Immigration*

The Immigration Act,<sup>31</sup> and regulations thereto<sup>32</sup> provide the framework for the immigration systems and processes in Zimbabwe. Neither the Immigration Act nor the regulations thereto make provision for the reduction of any restrictions for the entry of relief personnel in Zimbabwe. Section 29(1) provides that no person may be or remain in Zimbabwe unless he is in possession of a permit or a visitor's entry certificate. However, section 30 gives the Minister the power to exempt any person from this requirement, which may facilitate the expedited entry of international disaster assistance personnel into the country in disaster relief operations. In the absence of being granted specific facilities, international assisting actors may face challenges or delays in bringing personnel into the country, as in general, expatriates working in Zimbabwe must hold a valid work permit and a residence permit approved by the Chief Director of Immigration. Expatriates intending to work in Zimbabwe for a period less than six months must obtain a Temporary Employment Permit.<sup>33</sup> While there is no restriction on the number of foreigners that an entity may employ, it must be shown that the required skill cannot be sourced from within Zimbabwe.<sup>34</sup> In addition, expatriates are expected to be understudied by Zimbabweans and training programmes are to be conducted for local staff.<sup>35</sup>

Zimbabwe recognises privileges and immunity to diplomats and consular officials through the Privileges and Immunities Act,<sup>36</sup> which provides in sections 3 and 5 that the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations have force of law in Zimbabwe to the extent provided therein. Section 7 read with Schedule 3 of the Privileges and Immunities Act also makes provision for privileges and immunities of certain approved international organisations and persons connected

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<sup>27</sup> Vehicle Registration and Licensing Act [Chapter 13:14], section 40.

<sup>28</sup> Vehicle Registration and Licensing Act [Chapter 13:14], section 40(2)(c).

<sup>29</sup> Vehicle Registration and Licensing Act [Chapter 13:14], section 40.

<sup>30</sup> Provided their licence has been issued by a state party to the Convention on Road Traffic, 1949; or the Convention on Road Traffic, 1968) as well as holders of temporary or permanent residence permits. See section 18 of the Road Traffic Act [Chapter 13:11].

<sup>31</sup> Immigration Act [Chapter 4:02].

<sup>32</sup> See for example the Immigration Regulations, 1998.

<sup>33</sup> ENS, *Doing Business in Zimbabwe*, available at <https://www.ensafrica.com/doing-business/> (accessed 27 January 2021).

<sup>34</sup> ENS, *Doing Business in Zimbabwe*, available at <https://www.ensafrica.com/doing-business/> (accessed 27 January 2021).

<sup>35</sup> ENS, *Doing Business in Zimbabwe*, available at <https://www.ensafrica.com/doing-business/> (accessed 27 January 2021).

<sup>36</sup> Privileges and Immunities Act [Chapter 3:03].

therewith, which includes immunity from suit and legal process as well as tax exemptions and exemptions from restrictions on the importation and exportation of goods.

#### *Registration of international assisting actors*

NGOs in Zimbabwe are usually registered under the Private Voluntary Organisation Act (PVO Act).<sup>37</sup> Registration is done through the Department of Social Welfare under the Ministry of Public Service Labour and Social Welfare. A Private Voluntary Organisation (PVO) is defined as “any body or association of persons, corporate or unincorporate, or any institution, the objects of which include or are one or more of the following:

- the provision of all or any of the material, mental, physical, or social needs of persons or families;
- the rendering of charity to persons or families in distress;
- the prevention of social distress or destitution of persons or families;
- the provision of assistance in, or promotion of, activities aimed at uplifting the standard of living of persons or families;
- the provision of funds for legal aid;
- the prevention of cruelty to, or the promotion of the welfare of, animals;
- such other objects as may be prescribed;
- the collection of contributions for any of the foregoing.”<sup>38</sup>

Any organisation seeking to carry out work as defined under section 2 of the PVO Act must be registered. Section 9 of the PVO Act provides a list of documents required for the application. The PVO Act does not set out a special or simplified system for the registration of international assisting actors, although section 7 does allow the Minister to grant exemptions to organisations from certain requirements under the Act, upon application, which may allow such international assisting organisations to be exempted from the registration requirements.

Zimbabwean law also makes provision for the registration of trusts,<sup>39</sup> as well as for organisations to operate under the common law without registration (however, it is not clear whether this option is available to international assisting actors).

#### *Recognition of professional qualifications of foreign personnel*

Zimbabwean law does not appear to contain provisions for the speedy accreditation of foreign qualifications of foreign personnel in respect of international disaster response operations. As such, it would appear that the normal rules and procedures in this regard would apply.

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<sup>37</sup> Private Voluntary Organisation Act [Chapter 17:05] (PVO Act).

<sup>38</sup> PVO Act, section 2.

<sup>39</sup> Deeds Registries Act [Chapter 20:05].

### *Tax and currency exchange for disaster relief activities*

Zimbabwe has a source-based tax system, in terms of which both residents and non-residents are subject to tax on income earned from a source in Zimbabwe.<sup>40</sup> However, the Income Tax Act<sup>41</sup> is under review and the Income Tax Bill of 2012 makes provision for Zimbabwe to move to a residence based, instead of a source-based, tax system.<sup>42</sup>

The law does not provide any specific facilities related to tax or exchange control for international disaster assisting actors. However, the income of societies organised and operated solely for social welfare as well as the income of charitable organisations of a public character is generally exempt from income tax.<sup>43</sup> Furthermore, Schedule 3 makes provision for the income of certain international organisations as well as agencies of foreign governments to be exempt from income tax as well for income to be exempted from tax through agreements entered into by the Government of Zimbabwe with any other government or organisation.<sup>44</sup> Provision for relief of double taxation is also made by section 91 of the Income Tax Act, which provides for double taxation agreements to be entered into. Such agreements are in force with Botswana, Bulgaria, Canada, China, France, Germany, Kuwait, Malaysia, Mauritius, the Netherlands, Norway, Poland, South Africa, Sweden, and the United Kingdom, which may allow for tax relief for international assisting actors from these countries.<sup>45</sup>

Zimbabwe applies foreign exchange controls under the Exchange Control Act,<sup>46</sup> which is administered by the Reserve Bank of Zimbabwe. There are no special provisions relating to international disaster assistance in the Exchange Control Act, Exchange Control Regulations, 1996 or the Exchange Control (General Order), 1996, and therefore, in general, the normal rules relating to exchange control would apply to such actors.

### *Freedom of movement of international assisting actors during a disaster response*

Zimbabwean law does not appear to contain explicit provisions guaranteeing the freedom of movement of international assisting actors during a disaster response.

### *Safety and security of international assisting actors*

Zimbabwean law does not appear to contain explicit provisions on the safety and security of international assisting personnel and equipment during a disaster response. However, the Police Force and the Defence Force both have functions which may be relevant in this regard. The Police Force is responsible for *inter alia* detecting, investigating, and preventing crime; protecting and securing the lives of people and maintaining law and order in Zimbabwe.<sup>47</sup> In addition, the Defence Force, which is mandated to protect

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<sup>40</sup> ENS, *Doing Business in Zimbabwe*, available at <https://www.ensafrica.com/doing-business/> (accessed 27 January 2021).

<sup>41</sup> Income Tax Act [Chapter 23:06].

<sup>42</sup> Income Tax Bill, 2012.

<sup>43</sup> Income Tax Act, section 14 read with the Third Schedule of the Income Tax Act.

<sup>44</sup> Income Tax Act, schedule 3, sections 3(a) and 3(b).

<sup>45</sup> ENS, *Doing Business in Zimbabwe*, available at <https://www.ensafrica.com/doing-business/> (accessed 27 January 2021).

<sup>46</sup> Exchange Control Act [Chapter 22:05].

<sup>47</sup> Constitution of Zimbabwe, section 219. See also the Police Act [Chapter 11:10].

Zimbabwe, its people, its national security, and interests (section 211 of the Constitution), may be deployed in support of the Police Services in the event of a disaster.<sup>48</sup>

Question 6: Do Zimbabwe's laws and regulations set out quality standards for international assisting actors?

The CPA does not set out quality standards for international assisting actors. In general, international assisting actors would need to comply with relevant laws and standards applicable in Zimbabwe.

Question 7: Do Zimbabwe's laws and regulations set out eligibility requirements for international assisting actors to receive legal facilities?

The law does not set out eligibility requirements for international assisting actors to receive legal facilities in disaster situations.

Question 8: Do Zimbabwe's laws and regulations establish a specialised unit for expediting the entry of international disaster assistance?

The CPA does not make provision for a specialised unit for expediting the entry of international disaster assistance.

Question 9: Do Zimbabwe's laws and regulations provide adequate transparency, safeguards and accountability mechanisms governing international disaster relief and initial recovery assistance?

The financing of DRM in Zimbabwe is done through the National Civil Protection Fund (the NCP Fund) which is established by the CPA for the development and promotion of civil protection in Zimbabwe.<sup>49</sup> The NCP Fund consists of "such moneys as shall be payable to the Fund from moneys appropriated by Act of Parliament to the purposes of the Fund; advances made to the Fund, and any other moneys to which the Fund may be lawfully entitled, including gifts from any person".<sup>50</sup> This would presumably include donations from international assisting actors. The NCP Fund may be used for:

- research and training related to civil protection;
- the acquisition of land, equipment, materials and other assets and the construction of buildings in order to promote the objects of the NCP Fund;
- the cost of any scheme which the Minister considers to be in the interests of civil protection;
- meeting any expenses arising from the establishment and maintenance of the NCP Fund; and
- any purpose which the Minister considers to be in the interests of the development and promotion of civil protection.

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<sup>48</sup> Constitution of Zimbabwe, sections 211 and 21(2)(c).

<sup>49</sup> CPA, sections 29 and 32.

<sup>50</sup> CPA, section 29(2).

The CPA also makes provision for the accounting and auditing requirements of the NCP Fund.<sup>51</sup> Given that the NCP Fund appears to be able to accept donations from international assisting actors, international funds provided to the DM Fund would be subject to these transparency and accountability measures.

Question 10: Do Zimbabwe's laws and regulations outline procedures for international disaster assistance sent from and transiting through the country? Zimbabwean laws and regulations do not outline special procedures for international disaster assistance personnel sent from and transiting through the country, as such the normal rules and procedures relating to the transit of relief goods and personnel and the exportation of goods and equipment would apply.<sup>52</sup>

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<sup>51</sup> CPA, section 35.

<sup>52</sup> Section 234 (Goods in Transit) of the Customs and Excise Act provides that security must be given in respect of goods in transit and that all goods in transit shall be: entered in terms of section 39; and exported within such time as prescribed and shall not be diverted for local consumption without written authority of the Commissioner and without the duty due being paid and shall be subject to such provisions as may be prescribed. See part V for the rules on export. Also note that section 124 allows for the Commissioner to permit the temporary importation of goods without payment of duty thereon on importation for any purpose approved by him, and may finally remit the duties ordinarily payable on such goods if they are exported from Zimbabwe within a period fixed by him, which period shall not exceed twelve months.



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