

AFRICA UNIVERSITY

(A United Methodist-Related Institution)

**ASSESSING THE EFFECTIVENESS OF THE ZIMBABWE HUMAN
RIGHTS COMMISSION IN PROTECTING THE RIGHT TO A
HEALTHY ENVIRONMENT IN HWANGE, BULAWAYO AND
GWANDA**

BY

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Abstract

This study assesses the effectiveness of the Zimbabwe Human Rights Commission (ZHRC) in protecting the right to a healthy environment, specifically in the Hwange, Bulawayo, and Gwanda Districts. It examines the legal framework that empowers the ZHRC and assesses how well these provisions are implemented. Key criteria for evaluating effectiveness include timeliness, independence, transparency, and accountability. Through qualitative methods such as interviews and focus groups, the research gathered insights from community members, ZHRC officials, and civil society organisations. Findings indicate that while the ZHRC has made efforts, its complaint handling is often slow and inadequate, leading to mixed community perceptions and recognition of its role but frustration over ineffective remedies. The study highlights systemic challenges, including limited resources and political interference, which impede the ZHRC's accountability. Recommendations include establishing clear complaint procedures, enhancing community engagement, and raising awareness of rights. The research underscores the urgent need for stronger mechanisms to protect environmental rights and calls for greater government support to ensure the ZHRC can operate independently and effectively.

Declaration

I declare that this dissertation is my original work except where sources have been cited and acknowledged. The work has never been submitted, nor will it ever be submitted to another university for the award of a degree

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Dedication

This study is dedicated to the resilient communities of Hwange, Bulawayo, and Gwanda, whose unwavering commitment to environmental justice inspires this research. Their voices and experiences have been instrumental in highlighting the critical need for effective protection of the right to a healthy environment. I also dedicate this work to the advocates and organizations tirelessly working to uphold human rights in Zimbabwe, whose efforts remind us of the importance of accountability and transparency in safeguarding our planet for future generations. Their dedication fuels the hope for a healthier, more equitable environment for all.

List of Acronyms and Abbreviations

CSOs	Civil Society Organizations
EMA	Environmental Management Act
EMA	Environmental Management Agency
ERTWG	Environmental Rights Thematic Working Group
FGD	Focus Group Discussion
LRF	Legal Resources Foundation
NGOs	Non-Governmental Organizations
NHRIs	National Human Rights Institutions
ZELA	Zimbabwe Environmental Law Association
ZHRC	Zimbabwe Human Rights Commission
ZLHR	Zimbabwe Lawyers for Human Rights

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CHAPTER 1: INTRODUCTION AND BACKGROUND

1.1. Introduction

The intersection of human rights and environmental protection has gained increasing attention globally, particularly in regions where natural resources are under threat from industrial activities.¹ Zimbabwe, endowed with a rich natural environment, faces significant challenges as this environment is increasingly jeopardised by human activities such as mining, agriculture, and industrialisation. Districts in Matabeleland, including Hwange known for its coal mining activities experience severe environmental challenges, including air pollution and water contamination. Similarly, Pumula North in Bulawayo, recognised for urban quarry mining, and Gwanda District, noted for urban lithium mining, suffer from air pollution due to dust and noise from blasting.

In response to prevalent human rights violations, the ZHRC was established in 2009² and later enshrined in the Constitution of 2013³ as one of the Chapter 12 independent commissions supporting democracy and promoting human rights. This constitutional framework solidified the ZHRC's role as an independent hybrid national human rights institution, tasked with safeguarding human rights and protecting the public from abuses of power and maladministration.⁴ The inclusion of the environmental rights clause in the Constitution of 2013,⁵ marked a significant departure from the previous Lancaster House Constitution,⁶ reflecting the country's recognition of the critical importance of environmental rights in shaping effective environmental regulations.⁷ Before this constitutional advancement, the protection of the right to a healthy environment was primarily governed by the Environmental Management Act,⁸ highlighting the evolving legal landscape aimed at addressing the urgent

¹ Special Rapporteur on human rights and the environment. (n.d.). About human rights and the environment. Office of the High Commissioner for Human Rights. Retrieved from <https://www.ohchr.org/en/special-procedures/sr-environment/about-human-rights-and-environment>

² Section 100R of the Constitution of Zimbabwe Amendment (No. 19). (Hereinafter referred to as the Lancaster House Constitution).

³ Section 242 of the Constitution of Zimbabwe Amendment (No. 20) of 2013 (hereinafter referred to as the Constitution of 2013).

⁴ Section 242 of the Constitution of 2013.

⁵ Section 73 of the Constitution of 2013.

⁶ Constitution of Zimbabwe Amendment (No. 19).

⁷ Madebwe, T. (2015). A rights-based approach to environmental protection: The Zimbabwean experience. *African Human Rights Law Journal*, 15(1), 95-117.

⁸ Section 4 of the Environmental Management Act (Chapter 20:27). (Hereinafter referred to as EMA Act).

environmental challenges faced by communities such as Hwange, Bulawayo, and Gwanda Districts in Matabeleland.

The ZHRC, under its enabling Zimbabwe Human Rights Commission Act of 2012,⁹ is empowered with a broad mandate to proactively address human rights violations, including environmental rights, by initiating actions for redress either independently or in response to complaints. This includes the authority to pursue legal actions for individuals or groups affected by human rights abuses and seeking remedies through any competent court for violations. Despite these constitutional and legislative provisions, the ZHRC faces significant challenges in effectively delivering remedies to communities in Hwange, Pumula North, Bulawayo, and Gwanda Districts. These challenges hinder the realisation of protecting the right to a healthy environment, as local communities grapple with the adverse impacts of mining and industrial activities. This raises critical questions about the ZHRC's effectiveness in fulfilling its mandate to protect vulnerable populations from violations of their right to an environment that is not harmful to their health or well-being,¹⁰ and right to have the environment protected from pollution and ecological degradation.¹¹ This necessitates an assessment of the effectiveness of the ZHRC in protecting these rights and advocating for sustainable practices that safeguard the environment and the health of local communities.

This study employed a case study approach to explore the ZHRC's interventions within the context of Hwange, Bulawayo and Gwanda districts, analysing the ZHRC's strategies, challenges, and successes in protecting the right to an environment that is not harmful to their health or well-being, and right to have the environment protected from pollution and ecological degradation, this will be done through examining of specific instances of the violations to the right to a healthy environment in Hwange, Pumula North, Bulawayo and Gwand districts and the ZHRC's responses. The research aims to explore the gaps in its operational framework and assess its impact on vulnerable populations affected by pollution and ecological degradation and insights into the operational effectiveness of the ZHRC. Ultimately, the findings will contribute to the broader discourse on human rights and environmental governance in the three districts, offering recommendations for enhancing the ZHRC's role in protecting the healthy environment of vulnerable communities and offering effective remedies.

⁹ Zimbabwe Human Rights Commission Act of 2012 (Herein referred to as ZHRC Act)

¹⁰ Section 73 (1) (a) of the Constitution of 2013.

¹¹ Section 73 (1) (b) (i) of the Constitution of 2013.

1.2. Problem Statement

The effectiveness of the ZHRC in protecting environmental rights such as the right to an environment that is not harmful to their health or well-being, and the right to have the environment protected from pollution and ecological degradation. This is critically challenged by the severe environmental degradation, faced by communities in Hwange, Bulawayo, and Gwanda Districts, where mining activities such as coal mining, urban quarrying, and lithium extraction have led to significant air and water pollution. Despite the ZHRC's board constitutional mandate established in 2013 to safeguard human rights, including environmental rights, and its empowerment under the ZHRC Act to initiate legal actions for redress, the ZHRC struggles to provide effective remedies for affected populations. This inadequacy raises urgent concerns about the ZHRC's capacity to fulfil its role in protecting vulnerable communities from the adverse impacts of environmental violations, highlighting the need for a comprehensive assessment of its strategies, challenges, and overall effectiveness in advocating for sustainable practices that ensure the realisation of environmental rights in these critical regions.

1.3. Research Objective

The primary objective of this research is to assess the effectiveness of the ZHRC in protecting the right to a healthy environment in Hwange, Bulawayo, and Gwanda Districts, where mining activities pose significant threats to local communities and ecosystems. To achieve this, the study will pursue several sub-objectives.

1. To analyze the ZHRC's legal framework and mandate concerning environmental rights.
2. To examine what constitutes the effectiveness of ZHRC.
3. To evaluate the ZHRC's strategies and interventions in response to specific environmental rights violations.
4. To identify the challenges faced by the ZHRC in implementing its mandate effectively.
5. To gather perspectives from affected communities regarding the ZHRC's responsiveness and impact on their environmental rights and proffer recommendations.

In addressing these objectives, the research aims to provide a comprehensive understanding of the ZHRC's role and effectiveness in protecting the right to a healthy environment within the three districts.

1.4. Research Questions

To achieve the research objectives, the following research questions will guide the study

1. What legal provisions empower the ZHRC to address the right to a healthy environment, and how effectively are these provisions implemented?
2. What criteria are used to measure the ZHRC's effectiveness in protecting the right to a healthy environment, and how do the criteria align with its operational realities?
3. What strategies has the ZHRC used to address in protecting the right to a healthy environment in Hwange, Bulawayo, and Gwanda, and what outcomes have resulted? What obstacles hinder the ZHRC's effectiveness in fulfilling its mandate?
4. How do local communities view the ZHRC's efforts in protecting the right to a healthy environment, what impacts have they experienced, and what recommendations can be made?

1.5. Assumptions/Hypotheses

In exploring the effectiveness of the ZHRC in protecting the right to a healthy environment in Hwange, Bulawayo, and Gwanda Districts, several key assumptions and hypotheses are established. It is assumed that environmental rights are recognized within Zimbabwe's legal framework and that the ZHRC has the necessary authority and resources to address violations effectively. The research hypothesizes that a significant correlation exists between community awareness of protecting the right to a healthy environment and the ZHRC's effectiveness, suggesting that informed communities are more likely to engage with the commission. Additionally, it posits that the availability of resources directly impacts the ZHRC's operational capacity, while external factors such as political stability and community involvement also

influence its effectiveness. Ultimately, the study aims to determine whether the ZHRC's interventions lead to measurable improvements in community well-being.

1.6. Significance of Study

The significance of this study lies in its potential to illuminate the critical role of the ZHRC in protecting the right to a healthy environment, particularly in the context of Hwange, Bulawayo, and Gwanda Districts, where environmental degradation and air and water pollution pose significant threats to community well-being and livelihoods. By assessing the effectiveness of the ZHRC, this research aims to identify gaps in its operations and highlight best practices that could enhance its impact. Furthermore, the findings could inform policymakers, civil society, and local communities about the importance of protecting the environment. This study not only contributes to academic discourse but also serves as a vital resource for advocacy efforts aimed at strengthening environmental protections in the three districts.

1.7. Delimitation of Study

This study is limited to analysing the functions and challenges of the ZHRC in protecting the right to a healthy environment in Hwange, Pumula North, Bulawayo and Gwanda districts. It focuses primarily on the ZHRC's effectiveness in fulfilling its mandate, excluding broader human rights violations in the country. This study specifically assesses the effectiveness of the ZHRC within its designated functions related to protecting the right to a healthy environment.

1.8. Research Methodology

This study employed a qualitative research methodology to assess the effectiveness of the ZHRC in protecting the right to a healthy environment in Hwange, Bulawayo, and Gwanda Districts. Qualitative methods include in-depth interviews, focus group discussions, and document analysis. These will be utilised to gather rich, contextual data from various stakeholders, such as community members, ZHRC officials, government departments and CSOs. This approach allows for an exploration of personal experiences, perceptions, and the nuanced dynamics surrounding environmental rights and the ZHRC's interventions. By analysing these qualitative data, the research aims to uncover underlying themes and patterns

that reflect the ZHRC's impact, challenges, and successes in protecting the right to a healthy environment.

1.9. Chapter Outlines

1.9.1. Chapter 1: Introduction

This chapter introduced the study's focus on assessing the effectiveness of the ZHRC in protecting the right to a healthy environment, specifically within the contexts of Hwange, Bulawayo, and Gwanda Districts in Matabeleland. It outlines the research problem, emphasising the critical intersection of human rights and environmental protection, where environmental degradation and air and water pollution pose significant threats to local communities. The chapter also presents the research objectives, questions, and significance of the study, highlighting its potential contributions to policy and practice in the realm of human rights.

1.9.2. Chapter 2: Literature Review

The literature review critically examines existing scholarship on human rights, environmental rights, and the role of national human rights institutions like the ZHRC. It explores theoretical frameworks that underpin the relationship between human rights and environmental protection. This chapter identifies gaps in the current literature, particularly regarding the ZHRC's specific role and effectiveness in protecting the right to a healthy environment, thereby justifying the need for this research. It also discusses relevant legal frameworks and policies that govern ZHRC and protect the right to a healthy environment in Hwange, Pumula North, Bulawayo and Gwanda districts, providing a comprehensive backdrop for the study.

1.9.3. Chapter 3: Methodology

This chapter outlines the qualitative research methodology employed to assess the ZHRC's effectiveness in protecting the right to a healthy environment. It details the research design, including the selection of case study areas in Hwange, Bulawayo, and Gwanda and the rationale behind this choice. The chapter examines data collection methods, such as in-depth interviews with stakeholders, focus group discussions with affected communities, and document analysis,

emphasising the importance of capturing diverse perspectives. Ethical considerations, including informed consent and confidentiality, are also addressed to ensure the integrity of the research process. Finally, the chapter explains the data analysis techniques, focusing on thematic analysis to identify key patterns and insights.

1.9.4. Chapter 4: Findings and Discussion

In the chapter, the findings from the qualitative data collection were presented and analysed. The results were organised thematically to reflect the key insights regarding the ZHRC's effectiveness in protecting environmental rights. This chapter discusses the implications of the findings concerning the research questions and existing literature, exploring the challenges and successes faced by the ZHRC. It also highlights the role of community awareness, resource allocation, and external factors in shaping the ZHRC's impact, providing a nuanced understanding of its operations within the selected districts.

1.9.5. Chapter 5: Conclusion and Recommendations

The final chapter summarised the main findings of the study, reiterating the ZHRC's effectiveness in protecting the right to a healthy environment and the factors influencing its performance. It offers practical recommendations for enhancing the ZHRC's capacity and outreach, including strategies for improving community engagement and resource allocation. Additionally, the chapter suggests areas for future research, emphasising the need for ongoing assessment of the ZHRC's role in protecting the victims of the violation of the right to a healthy environment. This chapter aims to contribute to the broader discourse on human rights and in protecting the right to a healthy environment in the three districts by concluding with actionable insights.

1.10. Limitation of Study

This study on the effectiveness of the ZHRC in protecting the right to a healthy environment in Hwange, Bulawayo, and Gwanda Districts faces several limitations that impacted the findings and their generalisability. Firstly, the qualitative nature of the research means that the results may not be statistically representative of all communities in three districts, as the

insights are drawn from a specific sample of stakeholders. Additionally, access to certain communities may be restricted due to logistical challenges or political sensitivities, potentially leading to a lack of diverse perspectives. Furthermore, the reliance on self-reported data from interviews and focus groups may introduce biases, as participants might provide socially desirable responses rather than candid assessments of the ZHRC's effectiveness. Lastly, the dynamic nature of protecting the right to a healthy environment and the ZHRC's evolving role may mean that findings are context-specific and subject to change over time, limiting their applicability to future scenarios.

CHAPTER 2: LITERATURE REVIEW

2.1 Introduction

This chapter presents a comprehensive literature review that establishes the theoretical and legal frameworks guiding the assessment of the effectiveness of the Zimbabwe Human Rights Commission (ZHRC) in protecting the right to a healthy environment, particularly within the context of Hwange, Bulawayo, and Gwanda Districts in Matabeleland. Theoretical perspectives such as the human rights approach, institutional theory, and effectiveness theory will be explored to elucidate their relevance to the study's objectives. Additionally, an examination of pertinent legal frameworks including the Constitution of Zimbabwe, the ZHRC Act, and the Environmental Management Act (EMA) will highlight how these laws underpin and inform the operational capacity of the ZHRC in safeguarding the right to a healthy environment. By integrating both theoretical insights and legal contexts, this chapter aims to provide a robust foundation for understanding the complexities surrounding human rights protection and environmental governance.

2.2 Theoretical Frameworks

2.2.1. Institutional theory

Human Rights Institutions (NHRIs) are government-established bodies defined by law or constitution, tasked with promoting and protecting human rights.¹² Pohjolainen defines, NHRIs as permanent and independent bodies, which governments have established for the specific purpose of promoting and protecting human rights.¹³ The study employs an institutional theory framework to investigate the establishment and effectiveness of NHRIs. This theory entails a set of formal rules, norms, and beliefs that organisations and individuals must follow.¹⁴ One school of thought (institutionalism) suggests that normative pressures influence

¹² United Nations Centre for Human Rights. (1995). Professional Training Series No. 4: National Human Rights Institutions – A Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights. New York and Geneva: United Nations. (hereinafter UN Handbook 1995), para 39.

¹³ Pohjolainen, A. (2006). The Evolution of National Human Rights Institutions - The Role of the United Nations. The Danish Institute for Human Rights, 9. (Hereinafter referred to as A Pohjolainen (2006)).

¹⁴ Wang, H. K., Tseng, J. F., & Yen, Y. F. (2014). How do institutional norms and trust influence knowledge sharing? An institutional theory. *Innovation: Management, Policy & Practice*, 16(3), 375-376.

organisations.¹⁵ These influences are either external or internal and may be overt or subtle. Change due to these influences may occur through coercion, mimicry, or conformance.¹⁶

The institutional theory places institutions at the centre of the analysis of organisations' design and conduct, emphasising how their structure, processes, and interactions influence outcomes.¹⁷ This perspective is crucial for understanding how the ZHRC operates within the Hwange, Pumula North Bulawayo and Gwanda district's socio-political context, including its institutional framework, mandate, resources, and external influences that may affect its performance.

2.2.2. Human rights-based approach (HRBA)

The Human Rights-Based Approach (HRBA) is a conceptual framework utilised by NHRIs to promote and protect human rights following international standards.¹⁸ It places human rights and the corresponding obligations of the state at the core of policymaking, empowering vulnerable populations to participate in decision-making processes and holding duty-bearers accountable.¹⁹ The HRBA has two main objectives: first, to empower rights-holders, who are individuals or groups entitled to specific rights; and second, to enhance the capacity of duty-bearers, who are responsible for respecting and fulfilling these rights.²⁰ Underpinned by five key principles participation, accountability, non-discrimination and equality, empowerment, and legality, the HRBA ensures that all individuals can claim their rights, that duty-bearers are held accountable for violations, and that policies align with domestic and international legal standards.

On the other hand, the human rights-based approach is anchored in international human rights standards and aims to promote and protect these rights throughout development processes.²¹

¹⁵ DiMaggio, P. J., & Powell, W. W. (1991). New institutionalism in organizational analysis. Chicago: University of Chicago Press. (pp.1-38).

¹⁶ Hsing-Kuo Wang, Jung-Feng Tseng & Yu-Fang Yen, "How to do Institutional Norms," 375-376.

¹⁷ Berthod, O. (2023). Institutional Theory. In Encyclopedia of Management Theory (pp. 1-6). Springer. https://link.springer.com/10.1007/978-3-031-25984-5_389

¹⁸ European Network of National Human Rights Institutions (ENNHRI). (n.d.). Human rights-based approach. Retrieved from <https://ennhri.org/about-nhris/human-rights-based-approach/>

¹⁹ European Network of National Human Rights Institutions (ENNHRI). (n.d.). Human rights-based approach. Retrieved from <https://ennhri.org/about-nhris/human-rights-based-approach/>

²⁰ (ENNHRI). (n.d.). <https://ennhri.org/about-nhris/human-rights-based-approach/>

²¹ UN SDG. (n.d.). Human Rights-Based Approach. United Nations Sustainable Development Goals. <https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach>

By analysing global and regional benchmarks for NHRIs alongside a detailed assessment of the ZHRC's capabilities and limitations, this evaluation will critically examine how effectively the ZHRC can advocate for and protect environmental rights in Hwange, Bulawayo and Gwanda districts.

The normative framework governing NHRIs derives from the UN Principles Relating to the Status of National Human Rights Institutions 1993.²² The Paris Principles provide NHRIs part of their legitimacy within the international human rights framework.²³ The Paris Principles provide a broad normative framework for the status, powers, and functioning of NHRIs. These are classified into four categories: competence and responsibilities, composition and guarantees of independence and pluralism, methods and operation, and principles regarding the status of quasi-judicial competence.²⁴ The Paris Principles are widely recognised as the benchmark for evaluating NHRIs, offering a foundational basis for assessing their effectiveness and performance. Despite not being legally binding, these principles hold significant political and moral influence due to their widespread acceptance within the international community.²⁵

2..2.2. Effectiveness Criteria

One would not expect an NHRI to be “*the panacea for all society's ills*”.²⁶ To what degree can NHRI be marked as “effective”? Institutional effectiveness, as defined by Underdal,²⁷ Refers to how well an organisation performs a specific function or the degree to which it accomplishes its intended goals and objectives. It encompasses the institution's ability to efficiently and successfully achieve desired outcomes, reflecting its overall performance and impact within a given context.²⁸ Therefore, the effectiveness of an NHRI can be assessed based on its capacity to efficiently address human rights violations, promote awareness and education on human

²² UN Principles Relating to the Status of National Human Rights Institutions 1993 (Hereinafter referred to as Paris Principles) https://www.humanrights.dk/files/media/dokumenter/about_us/The%20Paris%20Principles.pdf

²³ Cardenas, S. (2014). Chains of justice: The global rise of state institutions for human rights. Philadelphia: University of Pennsylvania Press. pp. 39-44.

²⁴ Paris Principles.

²⁵ Pohjolainen, A. (2006). The Evolution of National Human Rights Institutions - The Role of the United Nations. The Danish Institute for Human Rights, 9. (Hereinafter referred to as A Pohjolainen (2006)).

²⁶ Murray, R. (2007). National human rights Institutions criteria and factors for assessing their effectiveness. Netherlands Quarterly of Human Rights, 25(2), 189-192.

²⁷ Underdal, A. (2004) Regime consequences: Methodological Challenges and Research Strategies in the Study of Regime Effectiveness.p27 <https://www.semanticscholar.org/paper/Regime-consequences-%3A-methodological-challenges-and-Underdal-Young/5d0a8005a28184aa7aa110611567b21465a24816>

²⁸ Underdal, A. (2004). p27

rights issues, advocate for policy changes, engage with stakeholders, and contribute to the protection and promotion of human rights.

The European Commission against Racism and Intolerance (ECRI),²⁹ defines effectiveness as means that the equality body implements its functions and competencies in a way and to a scale and standard that make a significant impact on the achievement of equality and the elimination of discrimination and intolerance.³⁰ The Report on Assessing the Effectiveness of National Human Rights Institutions³¹ Examines factors that contribute to the effectiveness of NHRIs. The Report³² states that NHRIs tend to be more effective when they enjoy public legitimacy, are accessible, have an open organizational culture, ensure the integrity and quality of their members, have diverse membership and staff, consult with civil society, have a broad mandate, have an all-encompassing jurisdiction, have the power to monitor compliance with their recommendations, treat human rights issues systemically, have adequate budgetary resources, develop effective international links handle complaints speedily and effectively.³³

Julie Mertus³⁴ has categorized three main approaches for evaluating the effectiveness of NHRIs namely structural, mandate-based, and impact-based approaches. The structural approach focuses on the institutional setup, independence, resources, and composition of an NHRI. They are based upon the assumption that a predetermined set of formal criteria constitutes the most appropriate measure of effectiveness,³⁵ The mandate-based approach assesses how well an NHRI fulfils its legal mandate and functions in line with international human rights standards. A mandate-based approach to evaluation differs from a structural approach in that it is not concerned with compliance with a set of external criteria but rather measures how far the NHRI succeeds in implementing its mandate.³⁶ This approach is the one that most NHRIs will adopt

²⁹ Council of Europe. (2017). ECRI, General policy recommendation no. 2: Equality bodies to combat racism and intolerance at the national level. CRI (2018)06, Article 16. Retrieved from <https://rm.coe.int/ecri-general-policy-/16808b5a23>

³⁰ Council of Europe. (2017)., Article 16.

³¹ Carver, R. (2005). Assessing the Effectiveness of National Human Rights Institutions. Versoix, Switzerland: International Council on Human Rights Policy, Office of the United Nations High Commissioner for Human Rights.p7

³² Carver, R. (2005).p7

³³ Carver, R. (2005).p7

³⁴ Mertus, J. (2012). Evaluating NHRIs: Considering Structure, Mandate, and Impact. In Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions Cambridge University Press. p.75

³⁵ Carver, R. (2014). Measuring the Impact and Development Effectiveness of National Human Rights Institutions: A Proposed Framework for Evaluation. Global Campus Human Rights Journal, 2(1), 58-75.

³⁶ Carver, R. (2014).p10

when they are evaluating their work, perhaps when identifying indicators as part of planning the institution's work.³⁷ However, mandate-based approaches to evaluation do have important uses. Aside from being an important tool for the self-evaluation of NHRIs, mandate-based evaluation is important because it considers the fact that many NHRIs may be quite legitimately non-compliant with the Paris Principles.³⁸

Lastly, the impact-based approach evaluates the tangible outcomes and influence of an NHRI's work on promoting and protecting human rights within its jurisdiction. An impact-based evaluation would concern itself not with the compliance of an institution with the Paris Principles, nor with its success in fulfilling its mandate.³⁹ Equally, it would not focus solely on institutional outputs or performance. The chief concern is to determine what effect the NHRI's presence and work has had on the actual enjoyment of human rights.⁴⁰ These distinct approaches provide a comprehensive framework for analysing and measuring the effectiveness of NHRIs in advancing human rights globally.⁴¹ To effectively evaluate an NHRI, it is essential to integrate all three key approaches, to enable one to holistically understand the NHRI's legal compliance, institutional integrity, and real-world impact, thereby enabling more informed strategies for improvement and greater overall effectiveness.

Full compliance with the Paris Principles is consistently emphasised whenever NHRIs are mentioned due to their significance. However, Rachel Murray⁴² has critiqued the Paris Principles, highlighting that while they are essential for evaluating NHRIs' effectiveness, they primarily focus on the establishment criteria rather than assessing their performance post-creation and their external perception. She argues further that the Paris Principles do not adequately address how NHRIs can contribute to advancing substantive rights issues.⁴³ Murray also emphasizes that mere compliance with these principles does not guarantee the effectiveness of NHRIs but rather signifies the attainment of certain characteristics associated with effective NHRIs.⁴⁴

³⁷ Carver, R. (2014).p10

³⁸ Carver, R. (2014).p10 & 11

³⁹ Carver, R. (2014).p10

⁴⁰ Carver, R. (2014).p11

⁴¹ Mertus J (2012) p89.

⁴² Murray, R. (2007) 189.

⁴³ Murray, R (2007) p189.

⁴⁴ Murray, R (2007) p189.

2.2.3. Accessibility of NHRIs

Accessibility of NHRIs is a crucial aspect of their effectiveness, as outlined in the Paris Principles.⁴⁵ According to Mohammand-Mahmoud Mohamedou,⁴⁶ accessibility is evaluated based on factors such as the physical location of the NHRI's office, a commitment to transparency and inclusivity through a consultative approach, and the provision of services in multiple languages. Mohamedou further argues that the establishment of local or regional sections to assist further enhances accessibility and ensures that the NHRI can effectively reach and serve all individuals within its jurisdiction.⁴⁷ Murray emphasizes the necessity of evaluating NHRIs based on their attention to the most vulnerable populations, highlighting the importance of dedicating more focus and resources towards enhancing accessibility and support for marginalized groups within society.⁴⁸ This research will measure the effectiveness of the ZHRC by measuring its accessibility to the populace.

2.2.4. Mandate

Mandate refers to the explicit aims, activities, and authorities that are given in legal sources.⁴⁹ The mandate of an NHRI can concern both protection and promotion, corresponding to regulative and constitutive activities, such as investigations and outreach, respectively.⁵⁰ In general, the formal mandate of an institution may guide and limit its activities and shape conduct, especially as some actions are justifiable and others are not.⁵¹ Therefore a mandate is an important factor for effectiveness. A broad mandate can be advantageous because an institution can handle complaints with multiple dimensions of violations or maladministration.⁵² An unrestricted jurisdiction means that an institution can address all bodies that commit violations,⁵³ something that can directly increase effectiveness.

⁴⁵ Item (e) under "Methods of Operation" of the Paris Principles.

⁴⁶ Mohamedou, Mohammand-Mahmoud, (2000) "The effectiveness of national human rights institutions", in Lindsnaes, Lindholt and Yigen, op. cit., n. 101, p 52.

⁴⁷ Mohamedou, Mohammand-Mahmoud, (2000) p52

⁴⁸ Murray, R (2007) p.217.

⁴⁹ Hanretty, Chris, and Christel Koop. 2012. "Measuring the Formal Independence of Regulatory Agencies." *Journal of European Public Policy* 19(2): 198–216.

⁵⁰ Cárdenas, S. (2012). National Human Rights Institutions and State Compliance. In R. Goodman & T. Pegram (Eds.), *Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions* (pp. 29-51). Cambridge: Cambridge University Press.

⁵¹ Linos, K., & Pegram, T. (2017). What Works in Human Rights Institutions? *American Journal of International Law*, 111(3), 628-688.

⁵² Linos, K., & Pegram, T. (2017).

⁵³ Carver, R. (2011). One NHRI or Many? How Many Institutions Does It Take to Protect Human Rights? - Lessons from the European Experience. *Journal of Human Rights Practice*, 3(1), 1-24.

2.2.5. Independence in Institutional Design

The significance of independence in institutional design, particularly in the context of NHRIs, cannot be overstated. The assertion that “*A commission without strong and independent commissioners is voiceless and powerless*”⁵⁴, encapsulates the critical role autonomy plays in ensuring the efficacy and credibility of NHRIs. Independence is fundamental for NHRIs to make decisions free from external influence, thereby safeguarding their integrity and ability to fulfil their mandates effectively.⁵⁵ It is submitted that NHRIs risk being compromised in their mission to protect human rights and diminish their authority within a society. Carver⁵⁶ Argues that the effectiveness of the NHRI is directly dependent upon the quality and independence of its leadership. This requires an independent appointment process as it is more likely to ensure the right calibre of leaders and members.

According to Richard Carver,⁵⁷ The independence of NHRIs is shaped by several key factors. These include the statutory framework under which they operate, the process of their appointment, criteria for selecting members, the duration of their terms, provisions addressing conflicts of interest, remuneration structures, immunities granted to members, restrictions on receiving government instructions, and procedures for member removal.⁵⁸ The interplay of these elements collectively determines the autonomy and effectiveness of NHRIs in upholding human rights standards within their respective jurisdictions.⁵⁹

2.2.6. Independence through Legal and Operational Autonomy

The independence of NHRIs through legal and operational autonomy significantly impacts their effectiveness. The establishment of NHRIs through a constitution or legislative act, as

⁵⁴ Human Rights Watch. (2013). Nepal: Appoint Independent Rights Commissioners with Terms Expired, HR Protections in Limbo. Retrieved from <https://www.hrw.org/news/2013/09/19/nepal-appoint-independent-rights-commissioners>.

⁵⁵ Mehryar, M. (2013). NHRIs' independence and accountability. Danish Institute for Human Rights. Retrieved from <https://www.humanrights.dk/node/8975>.

⁵⁶ Carver, R. (2012). National Human Rights Institutions in Central and Eastern Europe: The Ombudsman as Agent of International Law. Human Rights, (1).p181.

⁵⁷ Carver, R. (2014). Measuring the Impact and Development Effectiveness of National Human Rights Institutions: A Proposed Framework for Evaluation. UNDP, Bratislava Regional Ctr, 22. Retrieved from https://www.academia.edu/27945167/Measuring_the_impact_and_development_effectiveness_of_national_human_rights_institutions_a_proposed_framework_for_evaluation. (Hereinafter referred to as Carver. R, (2014).

⁵⁸ Carver. R, (2014) p.22

⁵⁹ Carver. R (2014) p.22

recommended by the Commonwealth Secretariat,⁶⁰ provides a robust statutory foundation that safeguards the institution's independence by clearly defining its powers and mandates in a legally binding manner. This approach, advocated by Anne Smith,⁶¹ ensures that NHRIs have formal independence, reducing susceptibility to government influence and enhancing resilience against potential abolishment compared to those established through executive orders or decrees. Legal and operational autonomy is, therefore, essential for NHRIs to fulfil their crucial role in protecting human rights without undue interference, thereby enhancing their effectiveness in advancing human rights causes.

2.2.7. Independence through Financial Autonomy

Adequate budgetary resources and autonomy play a crucial role in enhancing the effectiveness of NHRIs. Financial self-sustainability is a core recommendation of the Paris Principles.⁶² An NHRI's independence is subject to budgetary non-interference from any of the government branches.⁶³ Carver and Korotaev⁶⁴ argue that public funds for NHRIs should be allocated through a mechanism independent of direct governmental control, like a parliamentary vote. They further argue that the budget for NHRIs should be specified within the public budget, allowing NHRIs to manage their spending within this allocation while ensuring financial transparency through regular public financial reporting and independent audits, such as annual reviews.⁶⁵ It is submitted that this approach by Carver and Korotaev aims to balance autonomy in spending decisions with accountability and oversight to maintain financial integrity within NHRIs.

2.2.8. Accountability

Accountability plays a crucial role in determining the effectiveness of NHRIs. Schedler et al.⁶⁶ assert that accountability encompasses subjecting power to potential sanctions, ensuring

⁶⁰ Commonwealth Secretariat. (2001). National Human Rights Institutions: Best Practice. Legal and Constitutional Affairs Division. Retrieved from <http://www.thecommonwealth.org>.

⁶¹ Smith, A. (2006). 930.

⁶² Principle 2, under the 'Composition and guarantees of Independence and Pluralism' of the Paris Principles

⁶³ H Beblawi, The Rentier State in the Arab World (1990) in ; G Luciani (ed), The Arab State, vol 24 (Routledge 1990)

⁶⁴ Carver, R., & Korotaev, A. (2007). Assessing the Effectiveness of National Human Rights Institutions. UNDP.

⁶⁵ Carver, R., & Korotaev, A. (2007).

⁶⁶ Schedler, A., Diamond, L., & Plattner, M. F. (1999). Restraining the State: Conflicts and Agents of Accountability: The Self-Restraining State: Power and Accountability in New Democracies. Cited in the paper presented by Pegram, T. at the REPLA II Annual Workshop, Nuffield College, on March 27, 2008, (p. 10).

transparency in decision-making processes, and compelling justification for actions taken. Murray⁶⁷ contends that mechanisms such as reporting to the legislature enhance accountability, with annual reports serving as opportunities for comprehensive engagement with Parliament. Smith⁶⁸ further elaborates on the dual nature of NHRI accountability, highlighting both downward accountability to internal stakeholders like staff and civil society, and upward accountability to elected representatives in Parliament. Smith alludes that this two-way accountability structure not only fosters trust and legitimacy within the institution but also enhances autonomy through positive public and governmental perceptions.⁶⁹ Therefore, by upholding robust accountability standards, NHRIs can bolster their effectiveness by promoting transparency, responsiveness, and credibility in their human rights protection endeavours.

2.2.9. NHRI Complaint-handling and Investigation

The role of NHRIs in handling complaints is a significant aspect of their functionality, contributing significantly to an institution's overall effectiveness. Complaint handling is not explicitly stated as part of the formal mandate of NHRIs in the Paris Principles;⁷⁰ however, this creates uncertainty due to its optional nature in the Paris Principles.⁷¹ Despite this, its importance in fostering organizational effectiveness cannot be overstated. Effective complaint handling allows NHRIs to respond to individual concerns while also identifying and addressing systemic issues that require more strategic interventions.⁷² NHRIs may have complaint-handling responsibilities, which function similarly to that of courts, known as "quasi-judicial."⁷³ However, NHRIs cannot make binding, enforceable decisions, though they can receive complaints, seek evidence, and attempt to resolve disputes by conciliation or mediation.⁷⁴ In cases where the dispute is not resolved, NHRIs can refer the complaint to a

⁶⁷ Murray, R (2007).p. 213.

⁶⁸ Smith, A (2006) p.909.

⁶⁹ Smith, A (2006) p.908

⁷⁰ The Paris Principles p4

⁷¹ The Paris Principles p.4 under the Additional principles concerning the status of commissions with quasi-judisdictional competence.

⁷² Linos, K., & Pegram, T. (2018). What Works in Human Rights Institutions. *American Journal of International Law*, 112(3), 6.

⁷³ Asia Pacific Forum. (n.d.). Fact Sheet 7: Responsibilities and functions of NHRIs: Complaint handling. Retrieved from <https://www.asiapacificforum.net/members/what-are-nhris/fact-sheet-7-complaint-handling/>

⁷⁴ Asia Pacific Forum. (n.d.). Retrieved from <https://www.asiapacificforum.net/members/what-are-nhris/fact-sheet-7-complaint-handling/>

court for trial and final determination, along with their findings of fact and remedies recommendations in some cases.⁷⁵

2.2.10 Enforceability of Remedies

Enforcement prerogatives in NHRIs are rare, and they usually are a characteristic of particularly strong NHRI mandates.⁷⁶ NHRIs play a significant role in upholding human rights, and they may be granted the power to make legally enforceable orders and binding decisions.⁷⁷ This allows the NHRI to hold parties accountable for their actions. In cases where parties refuse to comply with the orders issued by an NHRI, the institution can approach a higher body such as a tribunal, court, or prosecutor's office for enforcement.⁷⁸ While the enforcement procedures may be carried out by another entity, the power to make enforceable orders considerably strengthens the authority of NHRIs when it comes to complaints of human rights violations.⁷⁹ This is because parties are more likely to comply with an order that carries legal consequences.⁸⁰ The granting of such power to NHRIs is an essential step towards ensuring that human rights are respected and protected at all times.

Brodie, M however, contends that most NHRIs can only offer non-legally binding remedies, posing significant limitations. One obvious risk of unenforceable remedies is that rightsholders are subject to a less timely, more drawn-out remedy process that could be ineffective in the end.⁸¹ While there are many other avenues for NHRIs to provide remedies (including recommendations to the government, provision of legal aid, settlement, release of public statements, etc.), most remedies that depend on recommendations alone may limit actual or perceived access to effective remedies. Parties may also be discouraged from seeking redress through NHRIs.⁸²

⁷⁵ Asia Pacific Forum. (n.d.). Retrieved from <https://www.asiapacificforum.net/members/what-are-nhris/fact-sheet-7-complaint-handling/>

⁷⁶ Linos, K. and T. Pegram (2017). What Works in Human Rights Institutions? American Journal of International Law, 112(3), p. 637.

⁷⁷ United Nations. (2010). National Human Rights Institutions History, Principles, Roles and Responsibilities. New York and Geneva. Retrieved from https://www.ohchr.org/sites/default/files/Documents/Publications/PTS-4Rev1-NHRI_en.pdf

⁷⁸ United Nations. (2010).p91

⁷⁹ United Nations. (2010).p91

⁸⁰ United Nations. (2010).p91

⁸¹ Brodie, M. (2011). Pushing the Boundaries: The Role of National Human Rights Institutions in Operationalising the “Protect, Respect and Remedy” Framework, p. 264

⁸² Brodie, M. (2011). p. 264

By investigating complaints thoroughly and impartially, NHRIs can enhance their credibility, build trust with the public, and ultimately fulfil their mandate of promoting and protecting human rights.⁸³ Therefore, the effective handling and investigation of complaints by NHRIs play a crucial role in upholding human rights standards, ensuring accountability, and strengthening the overall impact and legitimacy of these institutions

2.2.11. NHRIs Public accountability- Reporting annually on all aspects of their work

NHRIs are legally required to report regularly on their work, usually annually.⁸⁴ The line of accountability should extend not only to the state body to which the NHRIs report directly (such as a parliamentary committee) but also to the public.⁸⁵ Annual reports are an essential element of accountability. However, they need to be presented in the main national language(s) and different formats if they are to be accessible to a wide public. Short summaries, media releases, and public presentations should all be considered.⁸⁶

2.3. Relevance of the Theoretical Frame to the Study

The theoretical frameworks of Institutional Theory, Human Rights-Based Theory, and Effectiveness Criteria are highly relevant to assessing the ZHRC's effectiveness in protecting environmental rights in Hwange, Bulawayo, and Gwanda Districts. Institutional Theory highlights how the ZHRC's operations are shaped by formal structures, norms, and rules, allowing for a critical analysis of its legal mandates and organisational culture. This perspective is essential for understanding the commission's capacity to advocate for environmental rights and engage with stakeholders. Human Rights-Based Theory further enriches the analysis by framing environmental rights as fundamental human rights, emphasising the need for accountability, participation, and the inclusion of marginalised voices in decision-making processes. Lastly, Effectiveness Criteria provide specific indicators to evaluate the ZHRC's performance, focusing on its ability to enforce laws, respond to community needs, and influence policy changes. These frameworks offer a comprehensive lens to analyse the ZHRC's

⁸³ Linos, K., & Pegram, T. (2018). p.6

⁸⁴ International Council on Human Rights Policy. (2005).p31

⁸⁵ International Council on Human Rights Policy. (2005).p31

⁸⁶ International Council on Human Rights Policy. (2005).p31

role in addressing environmental injustices and enhancing sustainable governance in the three districts.

2.6. The Legal Framework

The ZHRC was established and composed by the Constitution of 2013.⁸⁷ The constitutional framework adheres to the Paris Principles, which require an NHRI to be “*clearly outlined in a constitutional or legislative text, specifying its composition and its sphere of competence.*”⁸⁸ While the constitutional provisions providing for the establishment and functions of the ZHRC are indeed clearly set forth, the ZHRC Act.⁸⁹ The ZHRC Act empowers the ZHRC to have regulations prescribing how complaints may be made.⁹⁰ It further provides that the ZHRC shall make regulations to enable it to carry out its mandate.⁹¹

In addition, the Constitution of 2013 includes an environmental rights clause,⁹² enshrined in its Declaration of Rights, which reflects comparative approaches to environmental conservation.⁹³ Murombo⁹⁴ asserts that constitutional protection of environmental rights is a crucial strategy for achieving effective environmental protection.

2.6.2 The mandate of the ZHRC

The mandate of the ZHRC as defined in the Constitution⁹⁵ outlines its focus on promoting and protecting human rights, as well as shielding the public from power abuse and maladministration. The ZHRC is granted the authority to receive and consider public complaints, taking appropriate action thereafter.⁹⁶ It also holds jurisdiction to investigate human rights violations committed by any individual or authority.⁹⁷ This power enables the ZHRC to initiate investigations upon receipt of a complaint⁹⁸ or upon identifying conduct that

⁸⁷ Sections 242 & 243 of the Constitution of 2013

⁸⁸ Principle 2 of the Paris Principles

⁸⁹ Section 4 of the ZHRC Act.

⁹⁰ Section 10 of the ZHRC Act.

⁹¹ Section 23(1)(a) of the ZHRC Act.

⁹² Section 73 of the Constitution of 2013.

⁹³ The Declaration of Rights is embodied in Chapter 4 of the Constitution of 2013.

⁹⁴ Murombo, T. (2011). The utility of environmental rights to sustainable development in Zimbabwe: A contribution to the constitutional reform debate. *African Human Rights Law Journal*, 11(1), 120-146. (p. 21)

⁹⁵ Section 243 of the Constitution of 2013.

⁹⁶ Section 234(1)(f) of the Constitution of 2013.

⁹⁷ Section 234(1)(f) of the Constitution of 2013.

⁹⁸ Section 9(1) of the ZHRC Act

constitutes a human rights violation.⁹⁹ Following the Paris Principles, cases may be brought before the ZHRC by individuals, their representatives, and third parties.

However, Madebwe¹⁰⁰ argues that Zimbabwe's experience suggests that the focus of the ZHRC is likely to be on more traditionally defined rights, such as rights to life, privacy, and expression, and maybe minority rights, which have increasingly become a prominent facet of the country's rights debate, and it is highly unlikely that any attention would be given to environmental rights. This observation by Madebwe seems to be correct because, since the establishment of the new Constitution, the ZHRC has dealt with a few inquiries related to environmental rights violations. However, having comprehensive constitutional legal provisions is one thing, and compliance and enforcement remain another.¹⁰¹

2.6.3. Public accountability

The legal framework of the ZHRC ensures public accountability through various measures. The Constitution provides that the ZHRC submits reports to Parliament through the Minister of Justice, Legal, and Parliamentary Affairs, which includes two types of reports. Firstly, the ZHRC may submit reports to Parliament on specific matters related to human rights that require attention.¹⁰² Secondly, the ZHRC is obligated to submit annual reports to Parliament.¹⁰³ These reports create an avenue for the ZHRC to account to the public and inform stakeholders, including civil society, about its activities.

2.6.4. Receiving and dealing with complaints and petitions

The ZHRC derives its investigative powers from the Constitution¹⁰⁴ and the ZHRC Act.¹⁰⁵ The ZHRC Act empowers the ZHRC to act for the redress of human rights violations, including environmental rights. Following the completion of an investigation into a human rights

⁹⁹ Section 9(1) of the ZHRC Act

¹⁰⁰ Madebwe, T. (2015). A rights-based approach to environmental protection: The Zimbabwean experience. *African Human Rights Law Journal*, 15(1), 110-128.
https://www.ahrlj.up.ac.za/images/ahrlj/2015/Chapter%205_1_2015.pdf

¹⁰¹ Dhliwayo, M. (2016). A Critical Examination of the Scope, Content, and Extent of Environmental Rights in the Constitution of Zimbabwe (LLM Dissertation, Midlands State University).

¹⁰² Section 244(2) of the Constitution of 2013.

¹⁰³ Section 323 of the Constitution of 2013.

¹⁰⁴ Section 243 (1) (f) of the Constitution of 2013.

¹⁰⁵ Section 9 (1) of the ZHRC Act.

violation, either initiated by the ZHRC itself or based on a complaint. The ZHRC can also pursue legal action in any court of competent jurisdiction to seek redress for the violation.¹⁰⁶ This includes the ability to act on behalf of complainants or classes of complainants, being cited as a joint party with them in such cases.

In protecting victims of the violations of the right to a healthy environment,¹⁰⁷ the ZHRC may also institute proceedings in a court of law to actively seek justice and remedies for individuals or groups affected by such violations for resolution of the complaint.¹⁰⁸ The ZHRC further has the power where there is criminal conduct in the human rights violation, to direct the Commissioner General of Police to investigate,¹⁰⁹ and also recommend the prosecution of offenders, where human rights or freedoms have been violated.¹¹⁰ Consequently, the ZHRC plays a crucial role in safeguarding environmental rights and holding perpetrators accountable.

Furthermore, apart from section 15 of the ZHRC Act confers litigation powers to the ZHRC to address human rights violations, including environmental rights. The ZHRC can employ constitutional provisions on the right to access the courts by any individual whose rights have been infringed, by persons acting in their interests, on behalf of another person, as a group or class, in the public interest, and as an association acting in the interests of its members.¹¹¹ Madebwe¹¹² argues that if section 85 of the Constitution is read with section 73 of the Constitution these rights ensure that necessary substantive and procedural rights for enjoying the right to a healthy environment are available to all citizens, with the result that the issue of *locus standi* ceases to be a factor in accessing environmental justice.¹¹³

The EMA Act provides a legal framework for civil litigation as an enforcement tool for environmental rights violations.¹¹⁴ This mechanism is integrated into the rest of the Act,¹¹⁵ enabling third parties to initiate civil proceedings against individuals or entities responsible for causing environmental harm. The ZHRC can utilise this provision to seek redress for violations

¹⁰⁶ Section 15 of the ZHRC Act.

¹⁰⁷ Section 73 of the Constitution of 2013.

¹⁰⁸ Section 15 of the ZHRC Act.

¹⁰⁹ Section 243 (1)(h) of the Constitution of 2013.

¹¹⁰ Section 243 (1) (g) of the Constitution of 2013.

¹¹¹ Section 85 of the Constitution of 2013

¹¹² Madebwe, T. (2015). 115.

¹¹³ Madebwe T. (2015) p. 115.

¹¹⁴ Section 4 (2) (g) of the EMA Act.

¹¹⁵ Section 4 of the EMA Act.

of a right to a healthy environment and ensure the protection of the environment. The EMA Act¹¹⁶ and the Constitution¹¹⁷ share identical provisions, implying that their meanings are interchangeable.

2.7. Relevance of the Legal Framework to the Study

The legal framework is vital for assessing the effectiveness of the ZHRC in protecting environmental rights in Hwange, Bulawayo, and Gwanda Districts. Established by the Constitution of 2013, the ZHRC operates under a framework that adheres to the Paris Principles, ensuring its functions and composition are clearly defined. The Constitution includes an environmental rights clause, which is essential for promoting effective environmental protection, as noted by Murombo. The ZHRC's mandate allows it to receive complaints and investigate violations, including those related to environmental issues, although critiques suggest it may prioritize traditional rights over environmental concerns. Additionally, the legal framework mandates public accountability through regular reporting to Parliament, which informs stakeholders about the ZHRC's activities. The ZHRC is empowered to take legal action against human rights violations, including environmental rights, and can utilize the EMA Act to seek redress for environmental harm. This comprehensive legal structure is crucial for enabling the ZHRC to fulfil its mandate and effectively protect environmental rights.

2.8. Summary

The chapter provided an in-depth literature review of the theoretical and legal frameworks guiding the assessment of the ZHRC's effectiveness in protecting environmental rights. The chapter explored the relevance of institutional theory, human rights-based theory, and effectiveness criteria to the study's objectives, highlighting how they shape the ZHRC's operational capacity and influence their ability to safeguard environmental rights. The legal framework, which includes the Constitution of Zimbabwe, the ZHRC Act, and the Environmental Management Act, was discussed, focusing on the ZHRC's mandate, public accountability, and complaint handling. The chapter identified several key factors that contribute to the effectiveness of the ZHRC, such as its accessibility, independence, financial

¹¹⁶ Section 4 of the EMA Act.

¹¹⁷ Section 73 of the Constitution of 2013.

autonomy, accountability standards, complaint handling procedures, and enforcement prerogatives. The chapter concludes that the integration of both theoretical insights and legal contexts provides a robust foundation for understanding the complexities surrounding human rights protection concerning environmental governance.

CHAPTER 3: METHODOLOGY

3.1. Introduction

The chapter discusses the research methodology, design, target population, sampling procedure, data collection tools, and data analysis strategies employed in the research. A research methodology describes the techniques and methods used to identify and analyse information regarding a specific research topic.¹¹⁸ It is a process by which researchers design their study to achieve their objectives using the selected research instruments. It includes all the important aspects of research, including research design, data collection methods, data analysis methods, and the overall framework within which the research is conducted.

Newing H,¹¹⁹ defines a methodology as essentially a plan that details how a specific research project will be carried out to address the overarching aim. Schwartz,¹²⁰ defines it as a theory of how an inquiry should proceed. It involves an analysis of the assumptions, principles, and procedures in a particular approach to inquiry. This research aims to determine the effectiveness of the Zimbabwe Human Rights Commission (ZHRC) in protecting the right to a healthy environment in Hwange, Pumula North, Bulawayo and Gwanda districts. The study will employ a qualitative research methodology.

3.2. The Research Design

The research design served as a crucial roadmap for conducting a study, establishing the framework necessary for data collection and analysis. According to Leedy¹²¹, the research design is a plan that outlines how a study will be executed. Babbie and Mouton,¹²² further elaborate on this concept by describing it as a “plan or blueprint” that guides researchers in their investigative endeavours. It is essential to state that this study adopted a qualitative

¹¹⁸ Paperpal. (2023). What is Research Methodology? Definition, Types, and Examples. Paperpal. <https://paperpal.com/blog/academic-writing-guides/what-is-research-methodology>

¹¹⁹ Newing, H. (2011) *Conducting Research in Conservation: Social Science Methods and Practice*. New York: Routledge.

¹²⁰ Schwardt, T.A. (2007). *The SAGE Dictionary of Qualitative Inquiry* (3rd ed.). University of Illinois, Urbana-Champaign.

¹²¹ Leedy, P. and Ormrod, J. (2001) *Practical Research: Planning and Design*. 7th Edition, Merrill Prentice Hall and SAGE Publications, Upper Saddle River, NJ and Thousand Oaks, CA.

¹²² Babbie, E. and Mouton, J. (2001) *The Practice of Social Research*. South Africa Oxford University Press, Cape Town.

research design to assess the effectiveness of the ZHRC in protecting the right to a healthy environment. To achieve an understanding of this issue, various qualitative methodologies were utilised, which were instrumental in gathering and analysing non-numeric data such as textual, visual, or auditory materials. This approach allowed the researcher to delve into abstract concepts, diverse perspectives, and personal experiences related to protecting the right to a healthy environment,¹²³ thereby providing rich insights into the operational efficacy of the ZHRC.

3.2.1. Justification of the qualitative research design

Creswell,¹²⁴ indicated that qualitative research offers opportunities for conducting explanatory and descriptive research that uses the context and setting of the phenomenon to search for a deeper understanding of the persons being studied. Qualitative research was particularly suited for exploring complex social phenomena and understanding the experiences, perceptions, and motivations of individuals involved in or affected by environmental rights issues. A qualitative research approach was applied because it ensured the researcher understood people's perceptions of protecting the right to a healthy environment.

Furthermore, qualitative research enabled the researcher to engage with participants in their natural settings, fostering a more holistic view of how the ZHRC operates within this context and how its actions impact environmental rights. This design was particularly suitable for capturing the lived experiences of individuals affected by violations of the right to a healthy environment in Hwange, Pumula North, Bulawayo and Gwanda districts, thereby providing rich insights that quantitative methods may overlook.

3.2.2. Research Approach

Considering the research questions, this study used a case study research design and desktop approach as the methodological framework and employed a qualitative research design. A research approach refers to the plan, structure and strategy of investigation used to obtain the

¹²³ Bhandari, P. (2023) What Is Qualitative Research? Methods & Examples. Retrieved from <https://www.scribbr.com/methodology/qualitative-research>

¹²⁴ Creswell, J. W. (2011). Educational Research: Planning, Conducting, and Evaluating Quantitative and Qualitative Research. New Jersey: Pearson Education International.

answers to the research questions.¹²⁵ The research approach involved a desk review, interviews, observations and focus group discussions.

3.2.3. Study site

The study was conducted in Hwange, Pumula North, Bulawayo, and Gwanda, located in the Matabeleland region. This diverse selection of districts offered a unique opportunity to collect data from urban and rural environments, facilitating a comprehensive analysis of the ZHRC's effectiveness in protecting the right to a healthy environment. The combination of settings allowed for a nuanced exploration of the ZHRC's effectiveness across different contexts.

3.3. Population and Sampling

3.3.1. Target Population

The target population, as defined by Parahoo,¹²⁶ refers to the comprehensive group of units from which data can be gathered, encompassing individuals, organisations, artefacts, or events relevant to a specific study. In this research, the target population included community members whose rights have been violated, local leaders, representatives from civil society organisations (CSOs) focused on environmental rights protection, and officials from government departments such as the Ministry of Justice and the Ministry of Environment. Additionally, staff members of the ZHRC, particularly those in the Environmental Rights Thematic Working Group (ERTWG), were included due to their roles in policymaking and enforcement related to environmental rights. A total of fifteen participants were interviewed to ensure a range of perspectives. By engaging these diverse groups, the research aimed to assess the effectiveness of the ZHRC in fulfilling its constitutional mandate to protect the right to a healthy environment across the three districts.

3.3.2 Sampling

¹²⁵ Khushal Vibhute, and Filipos Aynalem, 2009, Legal Research Methods Teaching Material, Prepared under the Sponsorship of the Justice and Legal System Research Institute, p. 47.

¹²⁶ Parahoo. K. (1997) Nursing Research: Principles, Process and Issues. Macmillan, Basingstoke.

Sampling entails selecting a portion of the population to represent the entire population, as it is sometimes impossible to study an entire population.¹²⁷ This implies that sampling is part of the research design concerned with selecting research participants. There are various sample designs, but they can generally be categorised into two main types probability sampling and non-probability sampling.

Probability sampling¹²⁸ is a technique that involves selecting samples based on random selection methods, ensuring that every individual has an equal chance of being chosen. It is often used when researchers aim to generalise findings to a larger population. However, in qualitative research focused on specific experiences or perspectives, probability sampling may not be as applicable.¹²⁹ Methods of probability sampling include simple random sampling and stratified random sampling,

In contrast, non-probability sampling¹³⁰ does not give all individuals an equal chance of being selected. Instead, it relies on subjective judgment rather than random selection. This method is useful in qualitative research where the goal is to gain insights into specific phenomena or experiences rather than generalise findings across a broader population.¹³¹

This study is qualitative, employing non-probability sampling techniques would be more appropriate. A purposive sampling technique was used to select participants who directly experienced or had knowledge regarding environmental rights issues in the three districts. This approach allowed for the selection of individuals based on specific characteristics relevant to the research questions, rather than random selection. The sample comprised the local community, ZHRC staff, government officials and representatives from CSOs. Utilising purposive sampling, the study gathered rich, detailed insights into the effectiveness of the ZHRC in protecting the right to a healthy environment within these three districts. This method

¹²⁷ Grove, S.K., Burns, N. and Gray, J.R. (2013) *The Practice of Nursing Research—Appraisal, Synthesis, and Generation of Evidence*. 7th Edition, Elsevier Saunders, St. Louis.

¹²⁸ J Wretman (2010). Reflections on probability vs nonprobability sampling, *Official Stat. Honour Daniel Thorburn*. 29–35 retrieved from <https://officialstatistics.wordpress.com/wp-content/uploads/2010/05/bok03.pdf>

¹²⁹ J Wretman (2010) 35 retrieved from <https://officialstatistics.wordpress.com/wp-content/uploads/2010/05/bok03.pdf>

¹³⁰ Shorten, C., & Moorley, C. (2014). Selecting the sample. *Evidence-Based Nursing*, 17 <https://ebn.bmj.com/content/17/2/32.short>

¹³¹ Shorten, C., & Moorley, C. (2014).p17

was particularly useful in qualitative research as it enabled researchers to focus on individuals who could provide in-depth information pertinent to the study's objectives.

Non-probability sampling techniques were chosen over probability techniques for this study context as these methods align with the goals of qualitative research such as exploring complex social phenomena and understanding participant perspectives strengthening the methodology's credibility.

3.3.2.1. Sampling size

Holloway and Wheeler,¹³² asserts that sample size does not influence the importance or quality of the study and emphasises that there are no definitive guidelines for determining sample size in qualitative research. Unlike quantitative studies, where predetermined sample sizes are often critical for statistical validity, qualitative researchers typically do not establish the number of participants before the research process.¹³³ Instead, the sample size may evolve as the study progresses, adapting to the emerging insights and themes. This flexibility is a hallmark of qualitative research, allowing researchers to explore complex phenomena deeply and contextually. The sampling process continues until saturation has been achieved, which is the point at which no new information or themes are being generated from additional data collection.¹³⁴ This approach underscores the qualitative paradigm's focus on depth over breadth, prioritising rich, detailed understanding over numerical representation.

The study was restricted to only three districts, because of the limited resources and time. The sample size for the study was determined through purposive sampling, where participants were selected based on their relevance to the study. The sample size included 15 participants, comprising ZHRC officials, government agencies, CSO representatives, and community members and members.

3.3.2.2. Sampling process

¹³² Holloway, I. and Wheeler, S. (2002) Qualitative research in nursing. Blackwell Science, Oxford. p.128

¹³³ Holloway, I. and Wheeler, S. (2002), p.128

¹³⁴ Holloway, I. and Wheeler, S. (2002), p.142

Burns and Grove¹³⁵ defined sampling as a systematic process of selecting a specific group of individuals, events, or behaviours to conduct research, which is crucial for obtaining relevant data. Polit et al.¹³⁶ further elaborated on this concept by emphasising that effective sampling involves choosing a subset that accurately represents the larger population from which it is drawn. This representation was vital as it directly influenced the generalisability of the study's findings; if the sample does not adequately reflect the population, the results may not be applicable beyond the sampled group. In this study, the researcher employed a non-probable and purposive sampling method, meaning that participants were selected based on specific characteristics or criteria relevant to the research objectives rather than a random selection. This approach allowed for a more focused investigation into phenomena but may limit the extent to which findings can be generalised to a broader context.

3.3.2.3. Data Collection Procedure - Non-probable and Purposive Sampling Method

According to Parahoo,¹³⁷ in non-probability sampling, researchers use their judgment to select the subjects to be included in the study based on their knowledge of the phenomenon. In this study, purposive sampling was employed as a strategic method where the researcher intentionally selected participants deemed most likely to provide relevant and insightful data regarding the research questions. Parahoo¹³⁸ defined purposive sampling as “a method of sampling where the researcher deliberately chooses whom to include in the study based on their ability to provide necessary data.” This approach is useful when the researcher aims to gain a deeper understanding of specific characteristics or experiences related to a phenomenon, as it allows for a targeted selection of individuals who possess insights or expertise. The rationale behind using purposive sampling in this study is that the researcher sought comprehensive knowledge about the effectiveness of ZHRC, ensuring that selected participants contributed valuable information that aligns with the research objectives.

3.4. Data Collection Instruments

¹³⁵ Burns, N. & Grove, S.K. 2003. Understanding nursing research. 3rd ed. Philadelphia: Saunders Company. https://www.academia.edu/39306017/Burns_and_Groves_The_Practice_of_Nursing_Research_8th_Edition

¹³⁶ Polit, D.F., Beck C.T. & Hungler. B.P. (2001) Essentials of Nursing Research: Methods, Appraisal and Utilization. 5th Edition, Lippincott. Williams &Wilkins, Philadelphia. p.234

¹³⁷ Parahoo, K. (1997). Nursing Research: Principles, Process and Issues. Macmillan. p. 223

¹³⁸ Parahoo, K. (1997).p.232

Parahoo¹³⁹ asserts that a research instrument is a tool used to collect data and is essential for conducting thorough and reliable research. Data was meticulously gathered through various methods including interviews (semi-structured interviews), focus groups, document analysis and personal observations. These approaches allowed for the collection of primary and secondary data, ensuring a comprehensive understanding of the subject matter. The research employed diverse techniques to gather information from a wide range of respondents with varying experiences to minimise bias and enhance the validity of the findings.

3.4.1 Primary data

Saunders¹⁴⁰ defined primary sources of data as information that the researcher has collected personally, emphasising the direct involvement of the researcher in gathering original data. Creswell,¹⁴¹ states that primary data refers to original information that remains unchanged and unpublished, highlighting its authenticity and relevance to specific research inquiries. The primary data sources to be utilised include participatory observations, where the researcher engaged with subjects in their natural environment to gain insights into behaviours. Collectively, these methods ensured a rich collection of firsthand data that is critical for understanding the nuances of the research topic.

3.4.1.1. Focus Group Discussions (FGDs)

Focus group discussions (FGDs) are structured group interviews that facilitate the collection of qualitative data through guided conversations among participants. As defined by Newing,¹⁴² FGDs are “pre-arranged group interviews that usually follow an interview guide,” which ensures that discussions remain focused on specific topics while allowing for the exploration of participants’ perspectives and experiences. Although there is no universally accepted standard for the number of participants in FGDs, it is commonly recommended to include between six and eight individuals to foster a dynamic yet manageable conversation. The duration of FGDs ranges from one to three hours, providing ample time for in-depth

¹³⁹ Parahoo, K. (1997). p.325

¹⁴⁰ Saunders, M., Lewis, P. and Thornhill, A. (2000) Collecting Primary Data through Observation. In: Saunders, M.N.K., Lewis, P. and Thornhill, A., Eds., Research Methods for Business Students, Financial Times/Prentice Hall, Harlow, 218-236.

¹⁴¹ Creswell, J. W. (2003). Research design: Qualitative, quantitative, and mixed methods approach (2nd ed.)

¹⁴² Newing, H. (2011) Conducting research in conservation: a social science perspective. Routledge, England.

dialogue.¹⁴³ One significant advantage of utilising FGDs is their efficiency, as noted by Babbie & Mouton,¹⁴⁴ they can save both time and financial resources compared to individual interviews, making them a cost-effective method for gathering rich qualitative insights.

3.4.1.2. *Semi-Structured Interviews*

Denscombe¹⁴⁵ underscored the value of using semi-structured interviews by noting that they allow the researcher to be flexible in ordering the topics for discussion with the interviewee. This is particularly beneficial in qualitative research contexts where depth and nuance are essential.¹⁴⁶ This flexibility enables researchers to adapt their questioning based on the flow of conversation, thereby facilitating a more natural dialogue that can uncover rich insights.¹⁴⁷ In this study, a recorder will be employed to accurately capture the interviews, ensuring that all verbal exchanges were documented for thorough analysis. The semi-structured format promoted open-ended questions, which encouraged participants to elaborate on their thoughts and experiences, thus allowing for a comprehensive exploration of various aspects regarding assessing the ZHRC's protection of environmental rights. This approach enhanced the quality of data collected and empowered interviewees to express their perspectives freely, contributing to a more holistic understanding of the issues.

3.4.1.3. *Participatory Observations*

Creswell¹⁴⁸ described observation as the systematic and structured explanation of the events, activities, and artefacts present within a chosen social setting for study. This method allows researchers to capture and articulate situations using their five senses, effectively creating a detailed written account or “photograph” of the investigated environment.¹⁴⁹ The study employed participant observation, as the researcher actively engaged with sites where

¹⁴³ Newing, H. (2011).

¹⁴⁴ Babbie, E. and Mouton, J. (2001) *The Practice of Social Research*. South Africa Oxford University Press, Cape Town.

¹⁴⁵ Denscombe, M. (2010). *The good research guide: For small-scale social research projects* (4th ed.). Open University Press. p.175
<https://www.researchgate.net/file.PostFileLoader.html?id=582a0dbf217e20276533f5a5&assetKey=AS:428404664213506@1479151039119>

¹⁴⁶ Denscombe, M. (2010) p 175.

¹⁴⁷ Denscombe, M. (2010). p.175.

¹⁴⁸ Creswell, J. W. (2009). *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (3rd ed.)

¹⁴⁹ Babbie, E., & Mouton, J. (2008). **The practice of social research**. Oxford University Press.

environmental rights infringement activities. This approach facilitated a deeper understanding of the context and enhanced the data analysis collected during these observations. The researcher being in the field gathered nuanced insights that might be overlooked in more detached research methods, thereby enriching the overall findings and conclusions drawn from the study.

3.4.2. Secondary data

Hinds¹⁵⁰ defines secondary data as the utilisation of pre-existing information to address research questions different from those posed in the original. This research utilised various dissimilar secondary data sources to obtain data. Documentary evidence from published journals, reports, textbooks, newspaper articles, policy documents, gazettes, and online pertinent sources was used in this study. The desktop research was critical in data collection as the information the respondents had forgotten during the face-to-face interviews was acquired from analysing the published documents.

3.4.2.1. Textbooks and Journals

A comprehensive review of relevant textbooks and published journals was integral to the study, as it provided a robust foundation for understanding the multifaceted perspectives on the effectiveness of the ZHRC in protecting the right to a healthy environment. The researcher utilised traditional print resources and modern digital formats, including e-books and e-journals, which broadened access to a wide range of scholarly articles and critical analyses. This methodological approach enriched the research by incorporating various viewpoints and ensured the findings were grounded in credible academic discourse.

3.4.2.2. Internet

The internet played a vital role in this study, enabling the researcher to gather a diverse array of data without the need to consult physical books. The internet served as an invaluable tool that gave access to vast resources quickly and efficiently. This accessibility saved time and

¹⁵⁰ Hinds, P.S., Vogel, R.J. and Clarke-Steffen, L. (1997) The Possibilities and Pitfalls of Doing a Secondary Analysis of a Qualitative Data Set. *Qualitative Health Research*, 7, 408-424.
<https://doi.org/10.1177/104973239700700306>

enhanced the breadth of information available for analysis, allowing for a more comprehensive understanding of the subject matter. The internet provided real-time updates and access to the latest research findings and publications, keeping the researcher informed about current trends and developments in the study. The ability to cross-reference multiple sources instantaneously also strengthened the validity of research outcomes by providing diverse perspectives and data points.

3.5. Analysis and Organisation of Data

Data analysis is the process through which researchers make sense of their data.¹⁵¹ Vaismoradi, Turunen & Bondas¹⁵² defines qualitative data analysis as a systematic coding and categorising approach used for large amounts of textual information to determine trends and patterns of words used, their frequency, their relationships, and the structures and discourses of communication. This method is essential in qualitative research as it allows researchers to interpret complex data sets by breaking down the information into manageable segments.¹⁵³ Through coding, researchers can identify recurring themes and concepts within the text, with a deeper understanding of the underlying meanings and contexts.¹⁵⁴ By employing this structured approach, qualitative data analysis enhanced the rigour of research findings and contributed significantly to knowledge generation in various fields.

The study employs Narrative Thematic Analysis as its chosen approach, with the data analysed manually. Data analysis commenced after conducting the first interview. In conducting a qualitative analysis, the researcher first gathered data through various methods such as interviews, focus groups, and document reviews. This involved evaluating the ZHRC's policies, reviewing public reports, and analysing case studies where it was made interventions. Key themes to explore include the ZHRC's responsiveness to environmental grievances, collaboration with civil society organisations, and its influence on legislative frameworks regarding environmental protection. Analysing stakeholder perceptions, particularly from affected communities provided insights into the ZHRC's credibility and impact. The thematic

¹⁵¹ Pranee Liamputtong, ed., *Research Methods in Health: Foundations for Evidence-based Practice* 2nd Edition, (Oxford: Oxford University Press, 2013), 366.

¹⁵² Vaismoradi, M., Bondas, T., & Turunen, H. (2013). Content Analysis and Thematic Analysis: Implications for Conducting a Qualitative Descriptive Study. *Journal of Nursing & Health Sciences*, 15, 398-405. <https://pubmed.ncbi.nlm.nih.gov/23480423/>

¹⁵³ Vaismoradi, M., Bondas, T., & Turunen, H. (2013).

¹⁵⁴ Vaismoradi, M., Bondas, T., & Turunen, H. (2013).

organising of data allowed for a clearer understanding of strengths and weaknesses in ZHRC's approach and led to recommendations for enhancing its role in protecting the right to a healthy environment.

3.6. Ethical Consideration

Ethical considerations relate to standards associated with the research process and respect for the subjects of the research.¹⁵⁵ The researcher adhered to key ethical principles: generosity, which promotes participant well-being; non-maleficence, which avoids harm; autonomy, which respects informed choices; confidentiality, which protects personal information; and justice, which ensures fair treatment for all participants.¹⁵⁶ The study used these principles to protect the dignity of individuals and communities affected by water and air pollution, and environmental degradation, in Hwange, Pumula, Bulawayo, and Gwanda.

To ensure voluntary participation in this study, all prospective respondents were provided with information consent detailing the study's purpose and data collection procedures. Written informed consent was obtained from participants. Hard copies of this information were also distributed for review and signature before the interview began. Participants were advised that the research was strictly for academic purposes and that the researcher was a master's candidate. Interviews will be conducted at locations and times convenient for the participants to ensure their comfort. The collected information was used per the terms of the consent form, ensuring that no participants' names were included in the report. Findings were presented so that responses could not be traced back to individuals. To maintain confidentiality, all collected data was stored on password-protected devices and destroyed after the research was completed.

3.6.1 Ethical approval to conduct the study

To conduct this study involving human participants, it was essential to obtain ethical approval from the appropriate research ethics committees, specifically the Africa University Research Ethics Committee and the ZHRC Executive Secretary. This process ensured that the study adheres to established ethical standards and protects the rights and welfare of participants.

¹⁵⁵ Elizabeth DePoy and Laura Gitlin, "Research Ethics," in *Introduction to Research: Understanding and Applying Multiple Strategies*, 5th Edition, (St Louis: Elsevier Inc., 2016), 24 <https://doi.org/10.1016/B978-0-323-26171-5.00036-7>

¹⁵⁶ Streubert, H.J. and Carpenter, D.R. (2011). p.62

Furthermore, before recruiting study participants, permission was sought from individuals in authority, including representatives from the ZHRC, various CSOs, government departments and community leaders. To facilitate this process, formal letters detailing the purpose of the study and requesting interviews with designated representatives were drafted and sent via email to the appropriate institutional or organisational authorities. This approach fostered transparency and built trust with stakeholders involved in the research.

3.7 Summary

The chapter discussed the methodology used in the study to assess the effectiveness of the ZHRC in protecting environmental rights in Hwange, Pumula North, Bulawayo, and Gwanda districts. The chapter covered the research design, target population of 15 participants, sampling procedure, data collection tools, and data analysis strategies used in the research. The study utilised a qualitative research methodology, employing various data collection methods, including interviews, focus groups, observations, and document analysis. Non-probability purposive sampling was used as the method of participant selection. Ethical considerations were thoroughly addressed, seeking informed consent, ensuring confidentiality and anonymity, and complying with ethical standards. The study utilised Narrative Thematic Analysis as the data analysis tool and carefully followed ethical principles such as beneficence, non-maleficence, autonomy, confidentiality, and justice throughout the research process.

CHAPTER 4: DATA PRESENTATION, ANALYSIS AND INTERPRETATION

4.1. Introduction

This chapter delved into the data presentation, analysis, and interpretation concerning the effectiveness of the Zimbabwe Human Rights Commission (ZHRC) in safeguarding environmental rights, in the districts of Hwange, Bulawayo, and Gwanda. This chapter is structured around key research questions that guide the inquiry into the ZHRC's legal empowerment, effectiveness criteria, strategic interventions, and community perceptions.

The analysis draws on qualitative data from various sources, including interviews with stakeholders, focus group discussions with local communities and a review of ZHRC reports and case studies of environmental rights violations. By integrating these insights, the chapter seeks to critically evaluate how effectively the ZHRC fulfils its mandate to protect the right to a healthy environment, the challenges it encounters, and the tangible impacts of its efforts on the communities it serves. This thorough examination offers a detailed understanding of the ZHRC's role in safeguarding the right to a healthy environment across the three districts, emphasising its successes and areas that need improvement.

4.2. Data Presentation and Analysis

4.2.1. Presentation of Findings from Semi-Structured Interviews

4.2.1.1. *ZHRC Staff Hwange*

Interviews with representatives from the ZHRC in Hwange revealed a solid understanding by the respondents of the ZHRC's constitutional mandate to protect, enforce, and promote human rights, including environmental rights. Despite this awareness, the Respondents noted that the ZHRC has faced challenges in effectively protecting the right to an environment that is not harmful to the Hwange community's health or well-being and the right to an environment protected from pollution and ecological degradation. A respondent gave a notable case involving the Lubimbi community, which is currently in dispute with the Hwange Rural District Council over evictions due to a dam wall construction. While the ZHRC engaged in this matter, the overall effectiveness of its interventions remains limited as the matter has taken a long time without the community getting an effective remedy.

The respondent from the ZHRC in Hwange outlined several key strategies employed by the commission in Matabeleland North. These strategies include stakeholder engagements, monitoring missions, and providing recommendations to the violators and those whose rights have been infringed. Despite these efforts, the respondent highlighted significant resource challenges, particularly in human capital, noting that only one official is responsible for the entire Matabeleland North province. This limitation is compounded by the fact that the ZHRC office in the region is relatively new, having been established just two years ago, which may contribute to a lack of community awareness regarding its initiatives and efforts.

Furthermore, while the ZHRC collaborates with non-governmental organisations through memoranda of understanding (MOUs), it faces procedural and policy-related challenges that hinder its effectiveness in addressing environmental rights. The respondent indicated that the ZHRC has not yet established a litigation unit to manage cases requiring court intervention. However, the commission has formed an Environmental Rights Thematic Working Group (ERTWG) dedicated to environmental issues. To enhance the ZHRC's role in protecting environmental rights, the respondent recommended increasing the capacity of statutory entities like the Environmental Management Agency (EMA) and advocating for more resources. Overall, these findings provide valuable insights into the ZHRC's effectiveness and underscore critical areas for improvement in its operations.

4.2.1.2. ZHRC Staff Bulawayo

Interviews with four knowledgeable respondents from the ZHRC in Bulawayo highlighted the ZHRC's constitutional mandate to promote, protect, and enforce human and environmental rights. The respondents noted that the ZHRC had effectively engaged with stakeholders on issues related to coal fires in Hwange, producing a special report with recommendations for improvement. However, there was uncertainty regarding these recommendations, particularly concerning compensation for the victims of coal fires. Additionally, the ZHRC intervened in Gwanda to address pollution and hazardous conditions, and it investigated human-wildlife conflicts in Hwange, leading to some relief for affected communities.

The respondents outlined several strategies employed by the ZHRC to protect environmental rights, including investigations, monitoring, advocacy, public awareness campaigns, and

providing policy advice to the government promoting sustainable development. Despite these efforts, one respondent noted that ZHRC currently does not offer direct litigation services to affected communities, relying instead on MOUs with civil society organisations such as the Zimbabwe Environmental Law Association (ZELA) and Habakkuk Trust to assist in legal matters. The respondents also identified several challenges faced by the ZHRC, such as resource constraints (both manpower and financial), political pressures and interference that hinder access to information, weak enforcement mechanisms, and limited community awareness of environmental rights. To enhance the ZHRC's effectiveness, respondents recommended increasing stakeholder engagement, boosting the ZHRC's budget and establishing a dedicated environmental rights division within the ZHRC with specialists knowledgeable in environmental issues.

4.2.1.3. CSOs Respondents interviewed – Bulawayo

The key informant interviews conducted with representatives from the Zimbabwe Lawyers for Human Rights (ZLHR), Legal Resources Foundation (LRF), and ZELA provided critical insights into the effectiveness of the ZHRC in protecting environmental rights in Bulawayo. The respondents acknowledged the ZHRC's constitutional mandate to safeguard these rights but expressed concerns about its effectiveness, noting that many victims of environmental rights violations struggle to obtain adequate remedies. They identified several challenges in their interactions with the ZHRC, including political interference, insufficient funding and staffing, and a lack of trust from local communities.

The respondents from ZLHR pointed out that the ZHRC has primarily focused on awareness campaigns and community education regarding environmental rights violations. However, the respondents criticised this approach for not providing timely remedies, especially for the Pumula North and Hwange communities. All three organisations noted that the ZHRC often refers cases to civil society organisations for litigation, which they viewed as an abdication of its constitutional responsibilities. To address this, ZLHR suggested that the ZHRC should engage in self-litigation for environmental rights violations to establish legal precedents and strengthen collaborations with local civil society organisations and community-based organisations.

To enhance the ZHRC's effectiveness, the respondents recommended that the government prioritise financial and human resources for the commission. The LRF representatives proposed that the ZHRC learn from its South African counterparts on effective dialogue and litigation strategies for environmental rights protection. Additionally, ZLHR suggested that the ZHRC should decentralise its operations to district levels within the Matabeleland region, arguing that having only two offices limits its ability to fulfil its constitutional mandate effectively. These recommendations highlight the need for more robust responsiveness of ZHRC to serve the communities it is mandated to protect.

4.2.1.4 CSOs Respondents interviewed – Hwange District

Key informant interviews conducted with representatives from Vostile Creatives Trust, the LRF, and the Hwange Residents Association (HRA) provided valuable insights into the effectiveness of the ZHRC in protecting environmental rights in the district. The respondents acknowledged the ZHRC's constitutional mandate which included addressing environmental rights violations but expressed concerns about its ineffectiveness in securing redress and effective remedies for victims. The LRF representative cited specific examples of violations, such as forced displacements of villagers due to pollution of the Deka River and air quality due to activities by Chinese mining companies, despite bringing this to the attention of the ZHRC no adequate responses to these issues were received.

The respondents from the Hwange Residents Association identified political interference and insufficient human resources as significant barriers to the ZHRC's effectiveness in the region. They noted a pervasive lack of trust in government departments affiliated with the ruling party, with local chiefs often neglecting the needs of marginalised communities in Hwange. To enhance the ZHRC's effectiveness, the respondents recommended that it operate independently, particularly regarding financing and the resolution of rights violations. Additionally, the Vostile Creatives Trust respondent suggested that the ZHRC should allocate more resources to increase its staffing levels, thereby improving its capacity to attend to issues of environmental rights violations.

Furthermore, the LRF respondent mentioned that the ZHRC had formed partnerships with various stakeholders, including LRF, ZELA, and the Environmental Management Agency (EMA), to raise awareness of violations of a healthy environment and conduct mobile legal aid

clinics in remote areas. However, the respondents expressed disappointment that these collaborations had not resulted in timely remedies for affected communities. The respondents emphasised the need for the ZHRC to adopt more effective strategies that lead to meaningful outcomes in addressing violations of the right to a healthy environment, underscoring the importance of proactive engagement and resource allocation to fulfil its constitutional mandate.

4.1.2.5. Government Department respondents interviewed in Bulawayo

Key informant interviews with two respondents from the Legal Aid Directorate provided limited insights into the effectiveness of the ZHRC in protecting environmental rights in Bulawayo. While the respondents acknowledged the ZHRC's constitutional mandate to safeguard these rights, they expressed concerns about its effectiveness in redressing Pumula North victims of rights violations. The respondents noted that they often received referrals from the ZHRC for cases that either fell outside their mandate or were too resource-intensive for them to handle.

Additionally, the respondents did not know the strategies or mechanisms the ZHRC employed to protect the right to a healthy environment. The respondents showed knowledge of the ZHRC's collaborations with organisations such as the LRF and the ZELA in conducting legal educational awareness initiatives and mobile legal clinics.

4.1.2.6. Government Department respondents interviewed in Gwanda District

Key informant interviews with staff from the Legal Aid Directorate in Gwanda, Matabeleland South, revealed that the respondents were aware of the ZHRC constitutional mandate to protect environmental rights. They noted that their interactions with the ZHRC typically occurred through a referral system; however, they expressed concern that they had not encountered any cases where the ZHRC intervened to provide litigation or resolve environmental rights violations in Matabeleland South.

The respondents also mentioned that the ZHRC has been conducting mobile legal aid clinics in collaboration with the LRF in Beit Bridge. These clinics have helped raise awareness about the ZHRC's mandate and provided information on mitigating human-wildlife conflicts. However, the respondents emphasised the need for the ZHRC to increase its visibility in

Matabeleland South by establishing local offices. Currently, the province relies on the Bulawayo office, which is too far for marginalised communities to access effectively when facing human rights violations.

4.2.2. Presentation of Findings from Focus Group Discussions

4.2.2.1. Pumula North, Bulawayo Focus Group Discussion Findings

The focus group discussion in Pumula North indicated that the nine participants understood environmental rights and recognised their importance to their community. However, only two individuals knew the ZHRC's role in protecting the right to a healthy environment. Furthermore, the study found that none of the respondents knew that the ZHRC was involved in handling environmental rights violations. Despite significant media attention on the damage caused by Chinese mining operations in the area, participants expressed frustration that institutions such as the ZHRC had not taken any action to assist residents in protecting their right to a healthy environment. The participants noted that the disconnect between the Pumula North community and ZHRC highlighted the urgent need for the ZHRC to implement awareness campaigns and legal education initiatives to inform the community about how to report violations and access available resources.

Recommendations from the discussion emphasised the importance of conducting targeted awareness campaigns and legal education programs to clarify the ZHRC's role in environmental rights protection. By increasing visibility and outreach efforts, the participants felt the ZHRC could significantly improve access to justice for victims of environmental rights violations, fostering a more informed and empowered Pumula North community.

4.2.2.2. Gurambira Village, Hwangge Focus Group Discussion Findings

The focus group discussion in Gurambira Village revealed that all participants were familiar with environmental rights and recognised their importance for promoting health and well-being within their community. However, only one participant was aware of the ZHRC, while the others were completely unfamiliar or confused with another organisation. This lack of awareness indicates a significant gap in knowledge regarding the ZHRC's role in protecting environmental rights.

Furthermore, none of the participants had ever seen or interacted with the ZHRC in their community, and they were unaware that there were independent institutions such as the ZHRC that could protect against their right to a healthy environment being violated. Participants expressed frustration that they had not seen any actions by the ZHRC to assist with issues like water and air pollution caused by Chinese mining operations in the area, highlighting that the ZHRC was not visible.

The participants expressed scepticism about existing laws that protected the environment. Only one participant could cite the Constitution of Zimbabwe, and they noted that their awareness of it stemmed primarily from political campaigns and local gatherings. The participants recommended that the ZHRC conduct more awareness sessions in remote areas like Gurambira Village to clarify its role and actively engage with communities facing environmental rights violations. They emphasised the importance of bridging the gap between the ZHRC and community members to develop effective mechanisms for reporting violations and seeking justice.

4.2.3. Review of the Legal Framework Governing the ZHRC

4.2.3.1. *Zimbabwe Constitution of 2013*

The Review of the Constitution of Zimbabwe of 2013¹⁵⁷ reflects that the ZHRC was by the constitution, outlining its composition and functions in detail. The ZHRC is tasked with several key responsibilities to promote and protect human rights and freedoms in the country. These responsibilities include raising awareness and fostering respect for human rights across all levels of society, monitoring compliance with human rights standards, and addressing public complaints about rights violations.

Additionally, the ZHRC is empowered to investigate allegations of abuse by authorities, ensuring accountability and recommending appropriate remedies, including prosecuting offenders.¹⁵⁸ The ZHRC can also direct the Commissioner-General of Police to investigate suspected criminal violations. Furthermore, it researches various human rights issues. Overall, the Constitution of 2013 solidified the ZHRC's role as an independent hybrid human rights

¹⁵⁷ Sections 242 & 243 of the Constitution of 2013

¹⁵⁸ Section 243 (1) (g) of the Constitution of 2013.

commission with a mandate to safeguard human rights and shield the public from abuses of power and maladministration

The Constitution of 2013 further empowers the ZHRC,¹⁵⁹ in safeguarding environmental rights.¹⁶⁰ By explicitly enshrining the right to a healthy environment, the Constitution affirms that individuals are entitled to an environment that supports their well-being, which must be preserved for current and future generations. This constitutional provision¹⁶¹ mandates the implementation of reasonable legislative measures to prevent pollution, combat ecological degradation, promote conservation, and ensure sustainable development and responsible resource use.

4.2.3.2. *Zimbabwe Human Rights Commission Act of 2012 (ZHRC Act)*

The Zimbabwe Human Rights Commission Act of 2012¹⁶² provides the ZHRC with a comprehensive mandate to protect human rights, including enforcing these rights through litigation.¹⁶³ The ZHRC Act empowers the ZHRC to proactively address human rights violations by initiating legal actions independently or in response to complaints.¹⁶⁴ This means that the ZHRC can pursue remedies for individuals or groups affected by human rights abuses, allowing them to seek justice in any competent court. Notably, this framework enables communities and individuals whose environmental rights have been violated by the state or non-state actors to find recourse through the ZHRC. Additionally, the ZHRC Act establishes Thematic Working Groups¹⁶⁵ that focus on specific areas, including protecting the rights to a healthy environment, thereby enhancing the ZHRC's protective role in this critical domain.

4.2.3.3. *Environmental Management Act (Chapter 20:27)*

The review of the Environmental Management Act reflects that the Act serves as the primary legislative framework for environmental conservation and protection in Zimbabwe. An examination of the Act indicates that its enforcement approach is predominantly criminal-

¹⁵⁹ Section 243 (1) of the Constitution of 2013.

¹⁶⁰ Section 73 of the Constitution of 2013.

¹⁶¹ Section 73 (2) of the Constitution of 2013.

¹⁶² Zimbabwe Human Rights Commission Act [Chapter 10:30] (*hereinafter referred to as ZHRC Act*).

¹⁶³ Section 15 of the ZHRC Act.

¹⁶⁴ Section 15 (1) (a) – (b) of the ZHRC Act.

¹⁶⁵ ZHRC Act [Chapter 10:30] First Schedule.

based,¹⁶⁶ focusing on penalising violations of environmental laws. However, the Act also incorporates provisions for civil litigation, enabling third parties to initiate legal proceedings against those responsible for environmental harm. This dual enforcement mechanism improves accountability and permits individuals and communities to pursue justice for environmental violations.

4.2.4. Review of the ZHRC Annual Reports of 2015 to 2023

A review of the ZHRC Annual Reports from 2015 to 2023 revealed that the commission established seven thematic working groups,¹⁶⁷ comprising representatives from government agencies, civil society organisations, and faith-based groups, each focusing on various thematic areas. Among these is the Environmental Rights Thematic Working Group (ERTWG). The ERTWG has two primary objectives in the environmental sector: to safeguard the environment for the benefit of both current and future generations and to promote sustainable ecological development and the responsible use of natural resources while fostering economic and social development.¹⁶⁸

The review of the ZHRC Annual Reports for 2015,¹⁶⁹ and 2016¹⁷⁰ reveals that the ZHRC collaborated with OXFAM and was instrumental in documenting the adverse impacts of mining on local communities, leading to the production of an advocacy video and a policy brief that outlined actionable recommendations for relevant government entities. Additionally, the ZHRC engaged in various workshops to enhance community awareness regarding their environmental, socio-economic, and cultural rights. This included implementing pilot projects to educate these communities about their rights and conducting mobile legal clinics to provide accessible legal support. A significant focus was placed on deliberating the critical issue of access to safe drinking water,¹⁷¹ underscoring the ZHRC's commitment to advocating for constitutional rights related to this essential resource. Overall, the findings indicate that the

¹⁶⁶ Section 4 (2) (g) of the EM Act

¹⁶⁷ Zimbabwe Human Rights Commission Thematic Working Group. (n.d.). Retrieved [on 15 June 2024] from <https://www.zhrc.org.zw/thematic-working-groups/>.

¹⁶⁸ Zimbabwe Human Rights Commission, Annual Report 2015. (hereinafter referred to as ZHRC 2015 Annual Report)

¹⁶⁹ ZHRC 2015 Annual Report p.46

¹⁷⁰ Zimbabwe Human Rights Commission, Annual Report 2016. (hereinafter referred to as ZHRC 2016 Annual Report)

¹⁷¹ ZHRC 2015 Annual Report p.46

ZHRC prioritised education and advocacy efforts within mining communities, to empower them to assert their environmental rights.¹⁷²

The review of the ZHRC 2016 Annual Report,¹⁷³ highlighted that the ZHRC formed partnerships with organisations like OXFAM and ZELA to produce advocacy materials such as videos, policy briefs, and position papers focused on environmental conservation.¹⁷⁴ Furthermore, the ZHRC prioritised educating mining communities on environmental, socio-economic, and cultural rights while also planning to advocate for the constitutional right to access safe and clean drinking water.¹⁷⁵

The review of the ZHRC 2017 Annual Report.¹⁷⁶ reflected that the ZHRC engaged with environmental rights violations when it launched an investigation into a complaint filed by the Mazvihwa community in Zvishavane on behalf of Albert Chiwenga against Murowa Diamonds, a mining company.¹⁷⁷ The complaint pointed out violations of environmental and health rights caused by excessive dust from mining blasts, which polluted the environment and damaged the structures of community members' homes.¹⁷⁸ The ZHRC conducted individual interviews with relevant parties and substantiated the community's claims with evidence.¹⁷⁹ Despite this, the ZHRC recommended further investigation by independent consultants to assess the full extent of the damage caused and its implications on the affected community's health. Despite showcasing a commitment to ensuring comprehensive environmental rights protection through diligent fact-finding and expert consultation, no effective remedy was offered, as the victims of an unhealthy environment have not yet been compensated.

The review of the ZHRC 2019 Annual Report reflected that the ZHRC through ERTWG only organised a consultative meeting on a model National Action Plan (NAP) on Business and Human Rights, which resulted in the generation of recommendations for Zimbabwe's NAP

¹⁷² ZHRC 2016 Annual Report p.41

¹⁷³ Zimbabwe Human Rights Commission, Annual Report 2016. (hereinafter referred to as ZHRC 2016 Annual Report)

¹⁷⁴ ZHRC 2016 Annual Report pp.40-41

¹⁷⁵ ZHRC 2016 Annual Report p.41

¹⁷⁶ ZHRC 2016 Annual Report.p41

¹⁷⁷ ZHRC 2017 Annual Report.p44 Also see Mazvihwa Community and Murowa Diamonds Pvt Ltd file ref ZHRC/CI/0149/16 accessible on

<http://www.zhrc.org.zw/download/mazvihwa-community-v-murowa-diamonds/>.

¹⁷⁸ ZHRC 2017 Annual Report.p44

¹⁷⁹ ZHRC 2017 Annual Report p.44

development process.¹⁸⁰ Furthermore, the ERTWG facilitated mobile human rights clinics in Marange, Mhondongori, and Mapanzure to educate communities on environmental rights.¹⁸¹

The review of the ZHRC 2020 Annual Report¹⁸² The ZHRC, through the ERTWG, raised awareness of its initiatives on environmental and labour rights in the mining and farming sectors during the COVID-19 pandemic by participating in TV and radio programs and conducting community training sessions.¹⁸³

The review of the ZHRC 2020¹⁸⁴ and 2021 Annual Reports¹⁸⁵ the ZHRC effectively raised awareness about environmental and labour rights within the mining and farming sectors during the COVID-19 pandemic through the ERTWG. This was accomplished by leveraging online Information and Communication Technology (ICT) services, which hosted the virtual webinars and radio shows broadcasted via Hwange FM Radio. Additionally, mobile legal clinics were organised in mining communities to deliver human rights education,

The examination of the ZHRC 2022 Annual Report,¹⁸⁶ the ZHRC closely monitored the neglected underground coal fires in Hwange, which posed a significant threat to the lives of residents. The state-run mining company's failure to extinguish these raging underground blazes left the community in fear and uncertainty. The situation raised concerns about the urgent need for compensation for the victims affected by these fires.¹⁸⁷ Despite a commitment to ensuring environmental rights protection in Hwange, there is no report from the ZHRC on the compensation of victims or any effective remedial action received by victims of underground coal fires by the mining company.

¹⁸⁰ Zimbabwe Human Rights Commission, Annual Report 2019.p63. (Hereinafter referred to as ZHRC 2019 Annual Report).

¹⁸¹ ZHRC 2019 Annual Report p.63

¹⁸² Zimbabwe Human Rights Commission, Annual Report 2020.p60 (Hereinafter referred to as ZHRC 2020 Annual Report).

¹⁸³ ZHRC 2020 Annual Report p.60

¹⁸⁴ Zimbabwe Human Rights Commission, Annual Report 2022.p.50 (Hereinafter referred to as (ZHRC 2022 Annual Report).

¹⁸⁵ Zimbabwe Human Rights Commission, Annual Report 2021. p58 (Hereinafter referred to as ZHRC 2021 Annual Report).

¹⁸⁶ Zimbabwe Human Rights Commission, Annual Report 2022.p.50 (Hereinafter referred to as (ZHRC 2022 Annual Report).

¹⁸⁷ ZHRC 2022 Annual Report p.50

The examination of the ZHRC 2023 Annual Report,¹⁸⁸ The ERTWG engaged with Resident Associations in Masvingo and Bulawayo in July and December 2023, respectively. The primary goals of these interactions were to familiarise the Resident Associations and select Civil Society Organizations with the ZHRC and the ERTWG, to pinpoint environmental challenges affecting these specific communities.¹⁸⁹ The meetings served as platforms for discussions on a range of pressing environmental issues, including concerns such as unsecured pits left behind by mining companies, air contamination stemming from silo bursts, lack of adherence to Environmental Impact Assessments, and structural damage to homes caused by blasting activities.¹⁹⁰

4.2.5. Analysis of Finding

The interviews with ZHRC staff reveal a clear understanding of the commission's constitutional mandate to protect environmental rights, yet significant challenges hinder effective implementation. In Hwange, the ongoing disputes involving the Lubimbi community over evictions related to dam construction illustrate the limitations of the ZHRC's interventions, as affected residents have not received adequate remedies despite the commission's engagement. Resource constraints are particularly pressing, with only one official managing the entire Matabeleland North province, which, along with the office's recent establishment, has likely contributed to low community awareness of ZHRC initiatives. In Bulawayo, while the ZHRC has successfully engaged stakeholders on issues like coal fires, uncertainties regarding the enforcement of recommendations, especially concerning victim compensation, highlight critical gaps in operational capacity. The reliance on civil society organisations for legal support rather than providing direct litigation services further underscores this issue. Overall, these findings emphasise the need for strategic improvements, including increased stakeholder engagement, enhanced funding, and the establishment of a dedicated environmental rights division, to empower the ZHRC in fulfilling its mandate and ensuring better protection of environmental rights for the communities it serves.

Interviews with representatives from CSOs in Bulawayo, including the ZLHR, LRF, and ZELA, reveal significant concerns about the effectiveness of the ZHRC in safeguarding

¹⁸⁸ Zimbabwe Human Rights Commission, Annual Report 2023, pp57&58. (Hereinafter referred to as ZHRC 2023 Annual Report)

¹⁸⁹ ZHRC 2023 Annual Report p.58.

¹⁹⁰ ZHRC 2023 Annual Report p.58.

environmental rights. While acknowledging the ZHRC's constitutional mandate, respondents highlighted persistent challenges such as political interference, inadequate funding, and a lack of trust from local communities, which hinder the commission's ability to provide timely remedies for victims of environmental violations. The ZLHR criticised the ZHRC's focus on awareness campaigns, arguing that this approach has not been translated into meaningful action, particularly in Pumula North and Hwange. Additionally, the reliance on civil society for litigation was seen as a failure to fulfil its constitutional responsibilities, prompting calls for the ZHRC to engage in self-litigation to set legal precedents. In Hwange, similar sentiments were echoed, with respondents citing specific environmental violations that have gone unaddressed, emphasising the need for the ZHRC to operate independently and increase its staffing to enhance its capacity. These findings underscore the urgent need for a more robust and proactive ZHRC to effectively fulfil its mandate and better serve the communities it intends to protect.

Interviews with staff from the Legal Aid Directorate in both Bulawayo and Gwanda provide critical insights into the perceived effectiveness of the ZHRC in protecting environmental rights. While respondents acknowledged the ZHRC's constitutional mandate, they expressed significant concerns regarding its operational effectiveness, particularly in addressing rights violations in Pumula North and Matabeleland South. In Bulawayo, respondents noted that many cases referred to them by the ZHRC either fell outside their mandate or were too resource-intensive to handle, indicating a disconnect between the ZHRC's referrals and the actual needs of victims. Furthermore, there was a lack of familiarity with the specific strategies employed by the ZHRC, although respondents recognised its collaborations with organisations like LRF and ZELA for legal education initiatives.

In Gwanda, while respondents were aware of the ZHRC's mandate, they reported no instances of the commission intervening in environmental rights violations, highlighting a gap in its practical engagement. The establishment of mobile legal aid clinics has raised awareness. The respondents emphasise the need for the ZHRC to enhance its visibility and accessibility by opening local offices, as reliance on the distant Bulawayo office limits supports marginalised communities facing human rights violations. These findings underscore that the ZHRC strengthens its operational capacity and community engagement to fulfil its mandate effectively.

The focus group discussions in Pumula North and Gurambira Village reveal a critical gap in awareness regarding the ZHRC's role in protecting environmental rights, despite participants' understanding of these rights. In Pumula North, only two out of nine participants were aware of the ZHRC's involvement, and none recognised its role in addressing environmental violations, particularly considering ongoing issues related to Chinese mining operations. This disconnect has led to frustration among community members, who feel unsupported in their efforts to protect their rights. Similarly, in Gurambira Village, while all participants acknowledged the significance of environmental rights, only one was aware of the ZHRC, highlighting a significant lack of visibility and engagement from the commission. Participants expressed scepticism about existing environmental laws and recommended that the ZHRC conduct targeted awareness campaigns and legal education initiatives to clarify its role and improve access to justice. These findings underscore the need for the ZHRC to enhance its outreach and establish stronger connections with communities to address environmental rights violations.

The review of the legal framework governing the ZHRC highlights its robust constitutional and legislative foundations, which are essential for protecting environmental rights. The 2013 Constitution explicitly enshrines the right to a healthy environment, mandating the ZHRC to promote and safeguard this right through awareness-raising, monitoring compliance, and addressing violations. This constitutional provision empowers the ZHRC to investigate abuses and recommend remedies, reinforcing its role as an independent body against power abuses. Additionally, the ZHRC Act of 2012 further enhances the ZHRC's mandate by allowing it to initiate legal actions on behalf of victims of rights violations, including environmental harms, thereby facilitating access to justice. The Environmental Management Act complements these frameworks by providing a dual enforcement mechanism criminal and civil—allowing communities to hold violators accountable. However, despite these strong legal provisions, the effectiveness of the ZHRC in operationalising this right remains a challenge to issues such as resource constraints and limited community awareness, underscoring the need for strategic improvements in its implementation efforts.

The review of the ZHRC Annual Reports from 2015 to 2023 highlights the ZHRC's ongoing efforts to address environmental rights by establishing thematic working groups, particularly the ERTWG. This group has focused on safeguarding the environment for current and future generations while promoting sustainable resource use. The reports indicate that the ZHRC has

engaged in significant advocacy and educational initiatives, such as collaborating with OXFAM to document the impacts of mining on local communities and conducting mobile legal clinics to enhance awareness of environmental rights. However, despite these efforts, the reports reveal persistent challenges, including inadequate responses to specific environmental violations, such as the underground coal fires in Hwange, where victims have not received compensation. The findings underscore a critical gap between the ZHRC's commitments and the actual outcomes for affected communities, emphasising the need for more effective remedial actions and increased visibility in addressing environmental rights violations. The ZHRC has made strides in advocacy and education, but its effectiveness in providing tangible support and justice for environmental rights remains limited.

4.3. Discussion and Interpretation

The findings from the interviews with ZHRC staff, civil society organisations (CSOs), and government department representatives, alongside focus group discussions in Pumula North, Bulawayo, and Hwange, reveal a complex landscape regarding the effectiveness of the ZHRC in protecting environmental rights. While there is widespread recognition of the ZHRC's constitutional mandate, notable gaps remain in its operational effectiveness. Many respondents expressed frustration over the ZHRC's limited visibility and engagement within communities, particularly in areas heavily impacted by environmental degradation, such as mining activities. This disconnect highlights the need for the ZHRC to enhance its outreach efforts and establish stronger connections with local populations to ensure that communities know their rights and the mechanisms available for redress.

The review of the ZHRC Annual Reports from 2015 to 2023 further underscores the commission's commitment to advocacy and education, particularly through thematic working groups like the ERTWG. These reports indicate that the ZHRC has engaged in various initiatives to raise awareness about environmental rights and provide legal support to affected communities. However, despite these efforts, the reports also reveal a troubling trend: while the ZHRC has documented numerous environmental violations, the remedial actions have often been inadequate. For instance, cases involving serious ecological harm, such as the underground coal fires in Hwange, have not resulted in effective compensation or support for victims, suggesting a gap between the ZHRC's advocacy efforts and tangible outcomes for affected individuals.

Moreover, the legal framework governing the ZHRC, including the 2013 Constitution and the Zimbabwe Human Rights Commission Act of 2012, provides a solid foundation for protecting environmental rights. However, the effectiveness of these legal provisions is undermined by practical challenges such as political interference, resource constraints, and a lack of community trust in governmental institutions. The findings from focus group discussions indicate that many community members are unaware of the ZHRC's role and the legal protections available, further complicating the ZHRC's ability to fulfil its mandate. To address these challenges, the ZHRC must implement targeted awareness campaigns and legal education initiatives that inform communities about their rights and empower them to engage with the ZHRC.

The ZHRC has made strides in promoting environmental rights through advocacy and community engagement, but significant barriers hinder its effectiveness. The insights gathered from interviews, focus groups, and the review of annual reports highlight the need for a more proactive and responsive approach from the ZHRC. By strengthening its outreach efforts, enhancing its operational capacity, and ensuring that legal frameworks are effectively implemented, the ZHRC can better serve the communities it is mandated to protect, ultimately fostering a more just and equitable environment for all.

4.4. Summary

The chapter presented, analysed, and interpreted the study findings on the effectiveness of the ZHRC in safeguarding environmental rights in Hwange, Bulawayo, and Gwanda. This analysis is grounded in qualitative data from the interviews, focus group discussions and a thorough review of ZHRC reports and case studies of environmental rights violations. The findings indicate a general acknowledgement of the ZHRC's constitutional mandate; however, significant gaps persist in its operational effectiveness, exacerbated by resource constraints and a lack of community trust in governmental institutions. The analysis underscores the need for targeted awareness campaigns and legal education initiatives to empower communities. While the ZHRC has made notable strides in promoting environmental rights through advocacy and community engagement, substantial barriers hinder its effectiveness, highlighting the necessity for strategic improvements to serve the communities it is mandated to protect.

CHAPTER 5: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter provides a comprehensive summary of the findings from the study assessing the effectiveness of the Zimbabwe Human Rights Commission (ZHRC) in protecting environmental rights, focusing on the case studies in Hwange, Bulawayo, and Gwanda districts in Matabeleland. It synthesises the key insights from qualitative data collected through interviews, focus group discussions, and the review of ZHRC reports and its legal framework. The chapter also outlines the conclusions drawn from the analysis, discusses the implications of these findings, and offers recommendations for enhancing the ZHRC's effectiveness in protecting environmental rights in the three districts.

5.2 Discussion

The findings of this study underscore the difficulties the ZHRC encounters in fulfilling its constitutional mandate to promote and uphold human rights, especially the right to a healthy environment. Despite being a hybrid national human rights institution with a broad mandate, the ZHRC's operational effectiveness is significantly hampered by resource constraints, including inadequate funding and staffing. Stakeholders, including ZHRC staff, CSOs, and community members, expressed concerns about political interference and ZHRC's handling of complaints related to environmental rights violations is not enough, with delays and inadequate responses being reported by victims of violations. The study also highlighted the ZHRC's inadequate enforcement power and a pervasive lack of trust in governmental institutions. The above factors contribute to the ZHRC's limited capacity to address pressing environmental issues, underscoring the need for a more robust support system to enhance its functionality.

Moreover, the study reveals a critical disconnect between the ZHRC's initiatives and community awareness, particularly in focus group discussions held in Hwange and Pumula, Bulawayo. Many participants were unaware of the ZHRC's role in addressing environmental violations and lacked knowledge about their rights to a healthy environment. This gap in awareness highlights the urgent need for targeted awareness campaigns and legal education initiatives by the ZHRC to empower communities. By enhancing public awareness of

environmental rights and the processes for seeking redress, the ZHRC can cultivate greater community engagement and trust, which are crucial for protecting these rights.

The study emphasises that the effective protection of environmental rights necessitates collaboration among various stakeholders, including government agencies, NGOs, and local communities. While the ZHRC has engaged with these entities, bureaucratic hurdles often limit its impact. Additionally, although Zimbabwe has laws supporting environmental protection, the enforcement of these laws remains weak, further undermining the ZHRC's ability to influence policy changes. Political dynamics and a lack of governmental support further complicate the ZHRC's efforts.

The study has several limitations. Firstly, the research primarily relies on qualitative data from interviews and focus group discussions, which, while rich in context, may not fully capture the broader quantitative aspects of the ZHRC's impact. Additionally, the study is geographically limited to Hwange, Bulawayo, and Gwanda, which may not represent the experiences of communities in other regions of Zimbabwe.

5.3 Conclusions

The research concludes that while the ZHRC has made progress in promoting environmental rights through advocacy and community engagement, its effectiveness is hampered by operational challenges. Key issues include gaps in capacity, insufficient resources, low community awareness, and inadequate responses to violations. These findings highlight the need for the ZHRC to adopt a more proactive approach and enhance its visibility to build trust and empower communities to assert their rights.

5.4 Implications

The implications of this study are profound, as they highlight the urgent need for the ZHRC to adopt a more proactive and responsive approach to environmental rights protection. The findings suggest that without significant improvements in operational capacity and community engagement, the ZHRC risks failing to meet its constitutional obligations. This situation not only undermines the rights of affected communities but also poses broader risks to environmental sustainability and social justice in the three districts.

5.5 Recommendations

To effectively address the challenges identified in the study several key recommendations are proposed

- The government should prioritise adequate funding and staffing for the ZHRC to enhance its operational capacity. This will enable the commission to respond promptly and effectively to environmental rights violations.
- The ZHRC should develop and execute comprehensive awareness campaigns to educate communities about their environmental rights and the mechanisms available for reporting violations. This will empower individuals to assert their rights and seek redress.
- Establishing local offices in key districts such as Gwanda, Plumtree, and Lupane will strengthen community engagement and improve accessibility. This decentralisation will foster stronger relationships between the ZHRC and local communities, enhancing trust and collaboration.
- The ZHRC should establish a dedicated litigation unit that handles environmental rights cases. This will reduce reliance on civil society organisations for legal recourse and ensure that the ZHRC can effectively advocate for victims of environmental violations.
- Enhancing partnerships with civil society organisations, local governments, and community-based groups will improve the ZHRC's outreach and effectiveness in addressing environmental issues. Collaborative efforts can amplify advocacy and support for affected communities.
- The government should allocate resources to support the independent operations of the ZHRC, increasing its visibility and operational effectiveness. This will help build community trust in the commission and its initiatives.

- Proposing amendments to the ZHRC Act to establish specialized environmental courts that will provide a structured approach to handling cases related to ecological protection and sustainability. This will facilitate more effective legal remedies for environmental rights violations.

By implementing these recommendations, the ZHRC can enhance its effectiveness in safeguarding the right to a healthy environment and better serve Hwange, Bulawayo, and Gwanda communities.

5.6 Suggestions for Further Research

While the study provides valuable insights into the effectiveness of the ZHRC in protecting environmental rights, further research is needed to contribute to ongoing discussions in this area. For instance, more research should explore cases of environmental violations in other regions beyond Hwange, Bulawayo, and Gwanda. Additionally, comparative studies with similar human rights commissions such as South Africa could provide valuable insights into best practices and strategies for enhancing the effectiveness of the ZHRC.

REFERENCES

- Amnesty International & Groundwork South Africa Trust. (2019). *Dirty Air: How Coal Mining Harms Communities' Health in Hwange District*. Retrieved from <https://www.amnesty.org/en/documents/AFR63/8436/2019/en/>
- Asia Pacific Forum. (n.d.). Fact Sheet 7: Responsibilities and functions of NHRIs: Complaint handling. Retrieved from <https://www.asiapacificforum.net/members/what-are-nhris/fact-sheet-7-complaint-handling/>
- Babbie, E. and Mouton, J. (2001) *The Practice of Social Research*. South Africa Oxford University Press, Cape Town.
- Berthod, O. (2023). Institutional Theory. In *Encyclopaedia of Management Theory* (pp. 1-6). Springer. Retrieved from https://link.springer.com/10.1007/978-3-031-25984-5_389
- Bhandari, P. (2023) *What Is Qualitative Research? Methods & Examples*. Retrieved from <https://www.scribbr.com/methodology/qualitative-research>
- Cardenas, S. (2014). *Chains of justice: The global rise of state institutions for human rights*. Philadelphia: University of Pennsylvania Press. 39-44.
- Carver, R. (2005). *Assessing the Effectiveness of National Human Rights Institutions*. Versoix, Switzerland: International Council on Human Rights Policy, Office of the United Nations High Commissioner for Human Rights.
- Carver, R. (2011). One NHRI or Many? How Many Institutions Does It Take to Protect Human Rights? - Lessons from the European Experience. *Journal of Human Rights Practice*, 3(1), 1-24.
- Carver, R. (2014). Measuring the Impact and Development Effectiveness of National Human Rights Institutions: A Proposed Framework for Evaluation. *Global Campus Human Rights Journal*, 2(1), 58-75.
- Carver, R. (2014). *Measuring the Impact and Development Effectiveness of National Human Rights Institutions: A Proposed Framework for Evaluation*. UNDP, Bratislava Regional Ctr, 22. Retrieved from https://www.academia.edu/27945167/Measuring_the_impact_and_development_effectiveness_of_national_human_rights_institutions_a_proposed_framework_for_evaluation.
- Chikwanha, A.B. (2009). *The trajectory of human rights violations in Zimbabwe*. Institute for Security Studies Monograph Series, No. 175, 1-48.p1 Retrieved from <https://issafrica.org/research/papers/the-trajectory-of-human-rights-violations-in-zimbabwe>
- Constitution of Zimbabwe Amendment (No. 19).
- Constitution of Zimbabwe Amendment (No. 20) of 2013.

- Council of Europe. (2017). *ECRI, General policy recommendation no. 2: Equality bodies to combat racism and intolerance at the national level*. CRI (2018)06, Article 16. Retrieved from <https://rm.coe.int/ecri-general-policy-/16808b5a23>
- Creswell, J. W. (2011). *Educational Research: Planning, Conducting, and Evaluating Quantitative and Qualitative Research*. New Jersey: Pearson Education International.
- Dam, S. (2007). *Lessons from National Human Rights Institutions around the World for State and Local Human Rights Commissions in the United States*. HR Commissions and Criminal Justice Executive Session Paper, 1. Retrieved from <http://www.protectcivilrights.org/pdf/docs/Dam,%20Lessons%20from%20National%20Human%20Rights%20Commissions%20Around%20the%20World.pdf>
- De Beco, G., & Murray, R. (2015). *A Commentary on the Paris Principles on National Human Rights Institutions*. Cambridge, UK: Cambridge University Press. 20.
- Pegram, T. (2008). Democracies. Paper presented at REPLA II Annual Workshop, Nuffield College, March 27. Retrieved from <https://core.ac.uk/download/pdf/222929691.pdf>
- Dhliwayo, M. (2016). *A Critical Examination of the Scope, Content, and Extent of Environmental Rights in the Constitution of Zimbabwe* (LLM Dissertation, Midlands State University). Retrieved from https://www.academia.edu/30866133/A_CRITICAL_EXAMINATION_OF_THE_SCOPE_CONTENT_AND_EXTENT_OF_ENVIRONMENTAL_RIGHTS_IN_THE_CONSTITUTION_OF_ZIMBABWE_Final_Thesis_for_Mutuso_Dhliwayo_Candidate_Number_159623X_4
- DiMaggio, P. J., & Powell, W. W. (1991). *New institutionalism in organizational analysis*. Chicago: University of Chicago Press. 1-38.
- Dinokopila, B.R. (2008). Beyond paper-based affiliate status: National human rights institutions and the African Commission on Human and Peoples' Rights. *African Human Rights Journal Law*, 8(2), 31-47.
- Environmental Management Act (Chapter 20:27). Retrieved from <https://ucaz.org.zw/wp-content/uploads/2019/08/ENVIRONMENTAL-MANAGEMENT-ACT.pdf>
- Grove, S.K., Burns, N. and Gray, J.R. (2013) *The Practice of Nursing Research—Appraisal, Synthesis, and Generation of Evidence*. (7th ed), Elsevier Saunders, St. Louis. https://www.academia.edu/39306017/Burns_and_Groves_The_Practice_of_Nursing_Research_8th_Edition
- Hanretty, Chris, and Christel Koop. 2012. "Measuring the Formal Independence of Regulatory Agencies." *Journal of European Public Policy* 19(2): 198–216.
- Human Rights Watch. (2013). *Nepal: Appoint Independent Rights Commissioners with Terms Expired, HR Protections in Limbo*. Retrieved from <https://www.hrw.org/news/2013/09/19/nepal-appoint-independent-rights-commissioners>.

- Human Rights Watch. (2023). *Zimbabwe: Joint Statement Calling on Authorities to Investigate the Escalation of Abductions, Torture and Killing of Political Activists*. Retrieved from <https://www.hrw.org/news/2023/11/15/zimbabwe-joint-statement-calling-authorities-investigate-escalation-abductions>
- Informea. (n.d.). National Human Rights Institutions (NHRIs) and Environmental Rights. Retrieved from <https://www.informea.org/en/national-human-rights-institutions-nhris-and-environmental-rights>
- International IDEA. (2013). *Democracy and Human Rights: The Role of the United Nations*. Retrieved from <https://www.idea.int/sites/default/files/publications/democracy-and-human-rights-the-role-of-the-united-nations.pdf>
- Linos, K., & Pegram, T. (2017). What Works in Human Rights Institutions. *American Journal of International Law*, 112(3), 16.
- Macheka, M.T. (2021). Environmental management and practices in Zimbabwe's Chivi district: A political ecology analysis. *Journal of Developing Societies*, 37(2), 227-250.
- Madebwe, T. (2015). A rights-based approach to environmental protection: *The Zimbabwean experience*. *African Human Rights Law Journal*, 15(1), 95-117.
- Mhlanga, P. (2007). The trajectory of human rights violations in Zimbabwe. Retrieved from <https://www.files.ethz.ch/isn/111691/P202.pdf>
- Munguma, C. (2019). The Role of the Zimbabwe Human Rights Commission in the Promotion and Protection of Human Rights. Raoul Wallenberg Institute. https://www.researchgate.net/publication/333631402_The_Role_of_the_Zimbabwe_Human_Rights_Commission_in_the_Promotion_of_Fundamental_Rights_and_Free_doms
- Mohamedou, Mohammad-Mahmoud, (2000) “*The effectiveness of national human rights institutions*”, in Lindsnaes, Lindholt and Yigen, op. cit., n. 101, 52
- Murombo, T. (2011). The utility of environmental rights to sustainable development in Zimbabwe: A contribution to constitutional reform debate. *African Human Rights Law Journal*, 11, 121.
- Murray R (2007). “National Human Rights Institutions: Criteria and Factors for Assessing Their Effectiveness.” *Netherlands Quarterly of Human Rights*, 25(2), 194.
- Mushayavanhu, D. (2012). A review of the Draft COPAC Constitution with regard to Environmental, Economic, Social and Cultural Rights. (Unpublished master's thesis). Retrieved from https://www.academia.edu/30866133/A_CRITICAL_EXAMINATION_OF_THE_SCOPE_CONTENT_AND_EXTENT_OF_ENVIRONMENTAL_RIGHTS_IN_THE_CONSTITUTION_OF_ZIMBABWE_Final_Thesis_for_Mutuso_Dhliwayo_Candidate_Number_159623X_4
- Ncube, A. (2021). *Human Rights Violations in Post-Independent Zimbabwe: Causes and Consequences*. *African News Studies and Current Affairs*, 3(1), 1-18.

- Paperpal. (2023). What is the Research Methodology? Definition, Types, and Examples. Paperpal. <https://paperpal.com/blog/academic-writing-guides/what-is-research-methodology>
- Pohjolainen, A. (2006). The Evolution of National Human Rights Institutions - The Role of the United Nations. *The Danish Institute for Human Rights*. Retrieved from <https://www.humanrights.dk/publications/evolution-national-human-rights-institutions-0>
- Pranee Liamputtong, ed., *Research Methods in Health: Foundations for Evidence-based Practice* (2nd ed), Oxford: Oxford University Press, 2013, 366.
- Razavi, M. E., & Moyo, T. (2021). Enshrining environmental rights in the Zimbabwean Constitution: A step towards environmental justice. *Asia Pacific Journal of Environmental Law*, 21(1), 1-22.
- Remoundou, K., & Koundouri, P. (2009). Environmental effects on public health: an economic perspective. *National Institute of Health (NIH)*. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2738880/>
- Saunders, M., Lewis, P. and Thornhill, A. (2000) *Collecting Primary Data through Observation*. In: Saunders, M.N.K., Lewis, P. and Thornhill, A., Eds., *Research Methods for Business Students*, Financial Times/Prentice Hall, Harlow, 218-236.
- Schedler, A., Diamond, L., & Plattner, M. F. (1999). Restraining the State: Conflicts and Agents of Accountability: The Self-Restraining State: Power and Accountability in New The Constitutional History and the 2013 Referendum of Zimbabwe” *Nordem Special Report*, available <https://ntjwg.uwazi.io/api/files/1549889058172g6l7ypho7at.pdf>
- Smith, A. (2006). The Unique Position of National Human Rights Institutions: A Mixed Blessing. *Human Rights Quarterly*, 28, 904.
- The Danish Institute for Human Rights. (n.d.). The Paris Principles and NHRIs. Retrieved from <https://www.humanrights.dk/learning-hub/content-topic/national-human-rights-institutions/paris-principles-nhris>.
- Tsabora, J. (2020). Unpacking the Environmental Rights Clause in the Zimbabwean Constitution. Retrieved from <https://zimlii.org/akn/zw/doc/book-chapter/2020-06-30/chapter-12-unpacking-the-environmental-rights-clause-in-the-zimbabwean-constitution/eng@2020-06-30/source>
- U.N. Centre for Human Rights. (1995). *National Human Rights Institutions: A Handbook on the establishment and strengthening of National Human Rights Institutions for promotion and protection of Human Rights*. United Nations. Retrieved from <https://www.refworld.org/reference/manuals/un/1995/en/97867>
- Underdal, A. (2004) *Regime consequences: Methodological Challenges and Research Strategies in the Study of Regime Effectiveness*. <https://www.semanticscholar.org/paper/Regime-consequences-%3A-methodological-challenges-and-Underdal-Young/5d0a8005a28184aa7aa110611567b21465a24816>

- United Nations. (2010). *National Human Rights Institutions History, Principles, Roles and Responsibilities*. New York and Geneva. Retrieved from https://www.ohchr.org/sites/default/files/Documents/Publications/PTS-4Rev1-NHRI_en.pdf
- United Nations. (1993) *UN Principles Relating to the Status of National Human Rights Institutions*. Retrieved from https://www.humanrights.dk/files/media/dokumenter/about_us/The%20Paris%20Principles.pdf
- UN SDG. (n.d.). Human Rights-Based Approach. United Nations Sustainable Development Goals. Retrieved from <https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach>
- VeritasZim. (n.d.). Constitutional Amendment Bill HB-2-2020. Retrieved from <https://www.veritaszim.net/node/4301>
- Wang, H. K., Tseng, J. F., & Yen, Y. F. (2014). *How do institutional norms and trust influence knowledge sharing? An institutional theory*. *Innovation: Management, Policy & Practice*, 16(3), 375-376.
- Zimbabwe Human Rights Commission Act [Chapter 10:30]
- Zimbabwe Human Rights Commission. (2015). Annual report 2015. Retrieved from <https://www.zhrc.org.zw/annual-reports/>
- Zimbabwe Human Rights Commission. (2016). Annual report 2016. Retrieved from <https://www.zhrc.org.zw/annual-reports/>
- Zimbabwe Human Rights Commission. (2017). Annual report 2017. Retrieved from <https://www.zhrc.org.zw/annual-reports/>
- Zimbabwe Human Rights Commission. (2018). Annual report 2018. Retrieved from <https://www.zhrc.org.zw/annual-reports/>
- Zimbabwe Human Rights Commission. (2019). Annual report 2019. Retrieved from <https://www.zhrc.org.zw/annual-reports/>
- Zimbabwe Human Rights Commission. (2020). Annual report 2020. Retrieved from <https://www.zhrc.org.zw/annual-reports/>
- Zimbabwe Human Rights Commission. (2021). Annual report 2021. Retrieved from <https://www.zhrc.org.zw/annual-reports/>
- Zimbabwe Human Rights Commission. (2022). Annual report 2022. Retrieved from <https://www.zhrc.org.zw/annual-reports/>
- Zimbabwe Human Rights Commission. (2023). Annual report 2023. Retrieved from <https://www.zhrc.org.zw/annual-reports/>
- Zimbabwe Lawyers for Human Rights. (2022). *Public interest litigation and social change in Zimbabwe*. Retrieved from <https://www.zlhr.org.zw/wp->

[content/uploads/2022/08/Public-Interest-Litigation-and-Social-Change-In-Zimbabwe.pdf](#)

APPENDICES

APPENDIX: 1 Informed Consent Guide

My name is Given Sibanda, a final year Master's in Human Rights Peace and Development student from Africa University. I am carrying out a study on "***Assessing the effectiveness of the ZHRC in the protection of the environment in Hwange, Pumula, Bulawayo and Gwanda.***" I am kindly asking you to participate in this study by answering questions /filling in the questionnaire.

Participation is voluntary and I can only proceed with this group discussion if you agree to be part of the discussions. I will also be grateful if you can participate in the discussions because your contributions together with those of others will inform other future researchers in this regard. The information you provide will be confidential and will be used only for purposes of the assessment.

What you should know about the study:

Purpose of the study:

The purpose of this study is to assess the effectiveness of the ZHRC in safeguarding environmental rights within Zimbabwe, focusing on its adherence to the Paris Principles, which provide a framework for the functioning of national human rights institutions. This assessment will explore how alignment with these principles influences the ZHRC's capacity to fulfil its mandate regarding environmental rights protection. Additionally, the study will establish criteria for evaluating acceptable standards of effectiveness and analyse how well the ZHRC meets these benchmarks. It will also investigate the handling of complaints related to environmental rights violations by the ZHRC and whether such actions have led to effective remedies for victims. Finally, recommendations will be made on how the ZHRC can effectively address environmental rights violations and ensure that victims receive enforceable and meaningful remedies.

You were selected for the study because of your unique insights and experiences related to environmental rights protection OR your district/community has been identified as having a higher incidence of environmental rights violations and your unique experiences and insights are invaluable to understanding these violations and their impacts. Alongside you, there are a total of 15 other participants involved in this study, each bringing valuable knowledge and experience that will enrich the findings.

Procedures and Duration

If you choose to participate, you will engage in a structured interview or focus group discussion lasting approximately 45 minutes. This session will assess the effectiveness of the ZHRC in safeguarding environmental rights both nationally and within your specific locality and explore your contributions to the protection of environmental rights in Zimbabwe. It is important to note that this data collection process is a one-time event; you will only be interviewed once for the specified duration.

Risks and Discomforts

No inherent risks are associated with this research study; the primary requirement is your time to participate. The data collection will take place either at your office or at the home of traditional leaders, ensuring a familiar and comfortable environment for participants. While participation is voluntary and can be withdrawn at any time without consequence, it is important to acknowledge that some individuals may experience minor discomfort related to discussing personal or sensitive topics during the data collection process. However, measures will be in place to ensure confidentiality and support throughout the study.

Benefits and/or Compensation

The benefits of the study will be to illuminate gaps in current practices and highlight areas for improvement, leading to enhanced enforcement of environmental rights that directly affect communities reliant on natural resources. The improved protection of these rights will foster greater public awareness and engagement in environmental rights protection, ultimately contributing to addressing environmental rights violations and providing enforceable and effective remedies for victims. Furthermore, insights from this research will inform policymakers and civil society organizations, enabling them to advocate more effectively for stronger legal frameworks and accountability mechanisms that safeguard environmental rights in Zimbabwe.

Confidentiality

The responses collected through the questionnaire/ focus group discussions will be recorded without any identifying information, ensuring that your name does not appear on the form. All data gathered during this study will be managed under stringent confidentiality protocols, which include the removal or anonymization of personal identifiers to eliminate any potential link to individual responses.

Voluntary participation

Participation in this study is entirely voluntary, meaning you have the right to choose whether to take part without any repercussions. Should you opt out, your decision will not influence your relationship with the researcher or Africa University in any way. If you choose to participate, you retain the freedom to withdraw your consent and discontinue your involvement at any point during the study without facing any penalties.

Offer to answer questions

Before you sign this form, please feel free to ask any questions regarding any part of this study that may not be clear to you. It is important that you fully understand the information provided before deciding. You are encouraged to take as much time as you need to consider your options and clarify any doubts or concerns you might have.

Authorisation

If you have decided to participate in this study, please sign this form in the space provided below as an indication that you have read and understood the information provided above and have agreed to participate. This signature signifies your informed consent, confirming that you are aware of the study's purpose, procedures, potential risks, and benefits and that you voluntarily agree to take part in it.

Name of Research Participant (please print)

Date

Signature of Research Participant or legally authorised representative

If you have any questions concerning this study or consent form beyond those answered by the researcher including questions about the research, your rights as a research participant, or if you feel that you have been treated unfairly and would like to talk to someone other than the researcher, please feel free to contact the Africa University Research Ethics Committee on telephone (020) 60075 or 60026 extension 2156 email aurec@africau.edu

Name of Researcher – Given Sibanda

APPENDIX 2: Key Informant Interview

My name is Given Sibanda, a final year Master's in Human Rights Peace and Development student from Africa University. I am carrying out a study on "*Assessing the effectiveness of the ZHRC in the protection of the right to a healthy environment in Hwange, Pumula Bulawayo and Gwanda* "

Interviewer_____	District: _____
Date: _____	Province: _____

Ethical Considerations	Consent -X	
1. Your participation in this interview is entirely voluntary.	Y	N
2. I will not share information that identifies you.	Y	N
3. Your answers will be only for this research.	Y	N
4. Your answers will be kept confidential.	Y	N
5. I will be recording your responses during the interview	Y	N

Consent (Respondent's Signature):

KII Designation	M/F	Province	District

- Can you describe your role and involvement with the Zimbabwe Human Rights Commission (ZHRC)? How long have you been involved, and what has been your focus
-
- How would you define the role of the ZHRC in protecting environmental rights within Zimbabwe?
-
- In your view, how effective has the ZHRC been in addressing environmental rights issues? Can you provide specific examples of successful interventions or cases?
- What are the main strategies or mechanisms employed by the ZHRC to protect environmental rights? How effective have these strategies been in practice?
- Can you discuss any specific challenges or obstacles that the ZHRC has faced in its efforts to safeguard environmental rights?
- How do local communities perceive the ZHRC's efforts in protecting their environmental rights? Have you observed any changes in their level of trust or engagement with the Commission?
- What role do other stakeholders (government agencies, NGOs, private sector) play in supporting or hindering the ZHRC's efforts in environmental protection?

- How does the ZHRC collaborate with other governmental or non-governmental bodies in protecting environmental rights? Are there any formal or informal agreements in place?
- What are the procedural or policy-related challenges that the ZHRC encounters when addressing environmental rights complaints or issues?
- Does the ZHRC have adequate resources (financial, human, technical) to effectively address environmental rights issues? If not, what are the most critical areas needing improvement?
- How does the ZHRC prioritize environmental rights among its other responsibilities? Are there any resource allocation issues affecting its ability to address these rights effectively?
- What measurable outcomes or indicators does the ZHRC use to assess the effectiveness of its interventions in environmental rights?
- In your opinion, what improvements could be made to enhance the effectiveness of the ZHRC in protecting environmental rights? Are there any best practices or models from other countries that could be applied in Zimbabwe?
- Can you share any personal experiences or insights that illustrate the successes or limitations of the ZHRC in dealing with environmental rights issues?
- What recommendations would you make for strengthening the role of the ZHRC in the protection of environmental rights in Zimbabwe?

APPENDIX 3: Focus Group Discussion Guide

My name is Given Sibanda, a final year Master's in Human Rights Peace and Development student from Africa University. I am carrying out a study on ***“Assessing the effectiveness of the ZHRC in the protection of the right to a healthy environment in Hwange, Pumula, Bulawayo and Gwanda”***.

Introduction

Welcome to our focus group discussion! Today, we will talk about the effectiveness of the Zimbabwe Human Rights Commission (ZHRC) in protecting environmental rights in Zimbabwe. Your opinions and experiences are very important to us, and they will help improve how environmental rights are protected in your community.

Section 1: Understanding Environmental Rights

1. What do you understand by the term “environmental rights”?
 - Can you give examples of what these rights might include?
2. How important do you think environmental rights are for your community?
 - Why do you feel this way?

Section 2: Awareness of ZHRC

3. Are you familiar with the Zimbabwe Human Rights Commission (ZHRC)?
 - If yes, how did you learn about it?
 - If no, what do you think its role might be based on its name?
4. Have you ever interacted with the ZHRC?
 - If yes, can you describe your experience?
 - If no, why do you think that is?

Section 3: Effectiveness of ZHRC in Protecting Environmental Rights

5. In your opinion, how effective is the ZHRC in protecting environmental rights?
 - Can you provide specific examples or incidents that support your view?
6. What actions has the ZHRC taken that you believe have helped protect environmental rights?

7. Have there been any instances where you feel the ZHRC has not been effective?
 - What were those instances, and what could have been done differently?

Section 4: Community Involvement and Feedback

8. How does your community engage with the ZHRC regarding environmental issues?
 - Are there any platforms or methods through which people can voice their concerns?
9. What improvements would you suggest for the ZHRC to better protect environmental rights in your area?
10. Do you think there are barriers preventing people from accessing help from the ZHRC?
 - If so, what are those barriers?
 -

Conclusion

Thank you for sharing your thoughts today! Your feedback is crucial for understanding how well the ZHRC is doing and how it can improve its efforts to protect environmental rights in Zimbabwe.

1/21/24, 12:52 PM

Africa University Mail - Re: Request for Permission to Conduct Key Informant Interviews with Matabeleland ZHRC Staff



Given Sibanda <sibandag@africau.edu>

Re: Request for Permission to Conduct Key Informant Interviews with Matabeleland ZHRC Staff

Delis Mazambani <zhrces@gmail.com>
To: Given Sibanda <sibandag@africau.edu>

Thu, Oct 3, 2024 at 1:40 PM

Good day Mr Sibanda

Permission to conduct research has been granted. Please share the findings after the research. They can assist the Commission to strengthen its capacity.

Dr. D. Mazambani
Executive Secretary
Zimbabwe Human Rights Commission
144 Samora Machel Avenue
Harare
Zimbabwe
Tel: +263 783 343 873/+263 718 342 278
Email: zhrces@gmail.com

On Thu, Oct 3, 2024 at 1:38 PM Delis Mazambani <zhrces@gmail.com> wrote:
Noted, Chair. Thank you.

Dr. D. Mazambani
Executive Secretary
Zimbabwe Human Rights Commission
144 Samora Machel Avenue
Harare
Zimbabwe
Tel: +263 783 343 873/+263 718 342 278
Email: zhrces@gmail.com

On Thu, Oct 3, 2024 at 12:45 PM F J Majome <fjmajome@mweb.co.zw> wrote:

Dear ES
Please consent on condition that the university lets us have a copy of the completed research work as it is entirely about us.
Kind regards
FJM
Sent from my iPhone

On 03 Oct,2024, at 12:24, Delis Mazambani <zhrces@gmail.com> wrote:

Good day Chair

We received a request from Mr Given Sibanda, a student at Africa University to interview ZHRC staff on environmental rights as part of his studies.

I recommend approval of the key informant interviews.

Find attached the relevant documents,

Dr. D. Mazambani
Executive Secretary