

The logo is a circular emblem. It features a green outer ring with the text 'Labour and Economic Development Research Centre' in a light grey font. Inside the ring is a map of Zimbabwe, colored with a gradient from yellow to red. The map is set against a white background.

# ***FUNDAMENTAL SOCIAL AND ECONOMIC RIGHTS FRAMEWORK***

***THE INTERNATIONAL  
PERSPECTIVE***

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## ***INTRODUCTION***

The necessities of life such as food, health, education, housing, basic public utilities (water, electricity, sanitation etc), transport and decent work are socio-economic rights: but this is seldom known. These rights are entrenched in international law instruments such as the African Charter of Human and Peoples' Rights, the UN Charter. In South Africa they are enshrined in the Bill of Rights section of their constitution. Zimbabwe has not legally adopted these rights, neither does it practice a rights-based approach to development.

### ***The Socio-Economic Context***

Zimbabwe inherited from colonialism a dual and enclave economy: a developed and diversified formal economy sitting alongside an underdeveloped peasant-based subsistence rural economy. In 1980, the formal sector employed only 20% of the labour force, 17% of which were female.

Overtime, with the collapse of the formal sector, and growth of the informal economy, dualism has deepened. Formal sector employment declined from 14% of the population in 1980 to 10% by 2004 and 6% by 2006. Now 4 out of 5 jobs are informalised. The levels of poverty increased from 55% of the population in 1995 to 72% by 2003 and an estimated 90% now. Social services, (esp. health & education) have collapsed.

### **Every human right entails the following obligations:**

**Respect:** government to refrain from interfering directly or indirectly with the enjoyment of rights.

**Protect:** governments to prevent third parties (e.g. corporations) from interfering in any way with the enjoyment of all rights.

**Fulfill:** governments to adopt the necessary measures to achieve the full realisation of all rights.

### **Towards a Human Rights Approach to Development.**

Human rights are universal and indivisible. They are public goods (non-excludable). Hence, human rights should not be put on the market, which discriminates, especially against the poor, but should be in the public domain. Their enjoyment is facilitated by the adoption and implementation of people-centred and driven development strategies, implying a human rights approach to development is essential.

It is therefore a right of all Zimbabweans to participate in decision-making processes that affect their lives ('nothing about us without us')

An economic strategy that empowers the poor through redistribution of the means of production (land, skills, capital, technology) enhances the integrability of hitherto marginalised groups and sectors into the mainstream of the economy, helping to redress the inherited dual economy in Zimbabwe thereby facilitating broad-based and inclusive growth.

## ***The Right to Food***

The right to food guarantees all people the ability to feed themselves. It also obliges states to cooperate in the equitable distribution of world supplies of food. It is also part of the more general right to an “adequate standard of living”, thereby contributing to the broader issue of living in basic dignity. People have a right to the basic amount of food necessary for survival, and also to food of high enough quality and quantity to live in adequate dignity.

### ***The minimum requirements:***

**Availability:** food must be available either directly or by access to a well-functioning distribution, processing, and marketing system that responds to demand.

**Dietary needs:** food must satisfy dietary needs. A diet is a mix of nutrients, calories and proteins necessary for physical and mental health and growth.

**No adverse substances:** food must be free from adverse substances: government must set and enforce health and safety standards for food quality.

**Cultural acceptability:** food must be culturally acceptable – it is necessary to take into account non-nutrient-based values for judging the acceptability of food, including informing consumers.

**Accessibility:** food must be accessible: i) economically affordable and ii) physically available.

### ***International Instruments on the right to food:***

- ✓ The UN International Covenant on Economic, Social and Cultural Rights: Article 25 decrees: ***“Everyone has the right to a standard of living adequate for***

***the health and well-being of himself and of his family, including food.***” Freedom from hunger and equitable distribution of food.

- ✓ African Commission on Human and Peoples' Rights recognizes the right to food under African Charter on Human and Peoples' Rights.
- ✓ Committee on Economic, Social and Cultural Rights (ECOSOC): General Comment 12 on the Right to Food.
- ✓ Convention on the Rights of the Child, Articles 24 & 27.
- ✓ Political Commitments: Universal Declaration on the Eradication of Hunger and Malnutrition.
- ✓ Commission on Human Rights Resolution 2003/25 – affirms right of everyone to access to safe and nutritious food.
- ✓ General Assembly Resolution 155 (2001): reaffirms the right of everyone to have access to safe and nutritious food.
- ✓ 1996 Rome Declaration of the World Food Summit: commitment to achieving food security for all.

## ***Right to Health***

Health is one of the components of an adequate standard of living. Every woman, man, youth and child has the human right to the highest attainable standard of physical and mental health without discrimination. The right to health includes access to adequate health care (medical, preventative, & mental), nutrition, sanitation, and to clean water and air. It also includes occupational health. Enjoyment of the right to health is vital to all aspects of a person's life and well-being, and is critical to the realisation of many other fundamental human rights and freedoms.

### ***Minimum requirements:***

**Availability:** public health care facilities must exist in sufficient quantity – including safe drinking water, adequate sanitation, hospitals and clinics, trained medical personnel receiving competitive domestically competitive salaries, and essential drugs.

**Accessibility:** health care must be physically and economically affordable – must be provided to all on a non-discrimination basis. Information on how to obtain services must be freely available.

**Acceptability:** all health facilities must be respectful of medical ethics, and they must be culturally appropriate.

**Quality:** health facilities, goods & services must be scientifically & medically appropriate & of good quality – at a minimum, this requires skilled medical personnel, scientifically approved & unexpired drugs & hospital equipment, safe water & adequate nutrition.

**Provisions of human rights law that guarantee everyone the human right to health include:**

- ✓ Universal Declaration of Human Rights, Article 25 states that ***"Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family..."***.
- ✓ African Charter on Human Rights and People's Rights, Article 16.
- ✓ The International Covenant on Economic, Social and Cultural Rights, Article 12.
- ✓ The Convention on the Elimination of All Forms of Discrimination Against Women.
- ✓ The Convention on the Elimination of All Forms of Racial Discrimination.
- ✓ The Convention on the Rights of the Child.
- ✓ Commitments by Governments to ensuring the human right to health include:
  - ✓ The Earth Summit in Rio.
  - ✓ The International Conference on Population and Development in Cairo.
  - ✓ The World Summit for Social Development in Copenhagen.
  - ✓ The Habitat II conference in Istanbul.
  - ✓ The Beijing Platform for Action.



## ***The Right to Education***

The right to education is two fold:

- (i) it requires free and compulsory primary level, and
- (ii) it requires equal access to every level of education.

### ***The minimum requirements include:***

**Availability:** there must be adequate school facilities and buildings.

**Accessible:** education must be available to all and free from discrimination. Schools must be in physical proximity to students, and education must be affordable for all students.

**Acceptable:** Schools must have trained teachers receiving domestically competitive salaries and good quality teaching materials that respect cultural differences. Discipline must respect a child's dignity.

**Adaptable:** schools must adapt or change to meet the needs of children from different communities, children who do not speak English in their homes and children with disabilities.

### ***International instruments on the right to education include:***

- ✓ The Universal Declaration of Human Rights, Article 26.
- ✓ African Charter on Human Rights and People's Rights, Article 17.
- ✓ International Covenant on Economic, Social and Cultural Rights.
- ✓ Committee on Economic, Social and Cultural Rights: General Comment 13: The Right to Education.
- ✓ International Convention on the Elimination of All Forms of Racial Discrimination and
- ✓ International Convention on the Right of the Child and Against Discrimination in Education

## ***The Right to Work***

The right to work gives everyone the opportunity to earn a living wage in a safe environment. It also provides for the freedom to organise and bargain collectively. However, it does not guarantee that every person will have a job: governments are required to take effective steps to realise the right over time. States violate the right when they fail to take those steps or when they make the situation worse. This right prohibits the use of compulsory or forced labour.

### ***The minimum requirements include:***

**Freedom of association:** everyone has a right to join trade unions, which have the right to strike and function freely.

**No discrimination:** Discrimination in access to employment is prohibited.

**Adequate minimum wage:** there must be machinery for fixing, monitoring and enforcing minimum wage levels that are based on a living wage (the Poverty Datum Line).

**Right to rest:** rest and leisure, hence need for reasonable limitation of working hours.

**No arbitrary dismissal.**

**Equal pay for equal work.**

**Equal opportunity for promotion.**

### ***The International instruments on the right to work include:***

- ✓ Universal Declaration of Human Rights: Article 23 asserts: ***“Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.”***

- ✓ International Convention on the protection of the Rights of All Migrant Workers and Members of Their Families.
- ✓ International Covenant on Economic, Social and Cultural Rights.
- ✓ International Covenant on Civil and Political Rights
- ✓ Convention on the Rights of the Child
- ✓ Convention on the Elimination of All Forms of Discrimination against Women.
- ✓ International Convention on the Elimination of All Forms of Racial Discrimination.
- ✓ Copenhagen Declaration: commits governments to promote full employment as a priority of economic and social policies.
- ✓ ILO Declaration on Fundamental Principles & Rights at work adopted by the ILO in 1998.
- ✓ The 8 core ILO Conventions are:
  - Convention 87: Freedom of Association & Collective Bargaining;
  - Convention 98: The Right to Organise & Bargain Collectively;
  - Conventions 29 & 105: The Elimination of all Forms of Forced & Compulsory Labour;
  - Conventions 138 & 182: The Effective abolition of Child Labour;
  - Conventions 100 & 111: The Elimination of Discrimination in respect of occupations & Employment.

## ***The Right to a Healthy Environment***

The right to a healthy environment requires a healthy human habitat, including clean water, air, and soil that are free of toxins or hazards that threaten human health. The most developed human rights standard-setting in this area involves the right to water. Water is a critical element of health and a healthy environment. The right to water includes the right access to adequate amounts of water, for both consumption and sanitation.

Water is also a requirement for the most basic activities vital to sustaining human life, including agriculture, cooking, and sanitation. Violations of the right to water come in many forms, including industrial pollution of water sources, failure to provide purification and sanitation for the urban poor, and pricing of water delivery beyond the reach of the rural poor.

### ***The basic components of the right to water include:***

**Quantity:** drinking, cooking, sanitation (to prevent water-washed diseases), food, and to guarantee the right to development.

**Accessibility:** water must be within reasonable distance from places of abode, work; accessing water should not put the withdrawer in physical danger; accessing water should not expose withdrawer to threat of violence; water should be accessible to those with disabilities; and access to water must be available to all, with no discrimination.

**Affordability:** the price of water or water delivery should never put its purchase beyond the means of poorest sections of society; the price of water or water delivery should not

compromise poor people's ability to enjoy other rights, such as the right to food and education.

**Self-determination:** all peoples should have a right to control their watershed, in keeping with sustainable, ecological practice. Water should never be used as a weapon of war or occupation; transboundary watersheds should be shared in a fair and equitable manner.

**Women:** women's right to water has an interdependent relationship with their enjoyment of other rights. Their political participation is hampered by the labour required to draw water; their right to water is compromised by their political and economic disempowerment. Affirmative steps need to be taken to ensure women's participation in decision-making over water related issues.

**Sustainability:** usage of water should not compromise the ability of ecosystems to sustain life. Contemporary uses of water should not compromise the right of future generations to adequate supplies of clean water. Subsistence uses of water (drinking, sanitation, cooking or agriculture) should take priority over other uses. Large scale diversions of water across watershed lines and within watersheds should be avoided.

***International instruments on the right to a healthy environment include:***

- ✓ Universal Declaration on Human Rights.
- ✓ International Covenant on Economic, Social and Cultural Rights.

- ✓ General Comment No. 4 & 15, Committee on Economic, Social and Cultural Rights.
- ✓ Convention on the rights of the child.
- ✓ International Convention on the Elimination of All Forms of Racial Discrimination.
- ✓ Convention on the Elimination of all Forms of Discrimination against Women.
- ✓ Political instruments: 1994 Draft Declaration of Principles on Human Rights and the Environment; General Assembly Resolution 45/94 (1990); Stockholm Declaration of 1972.



## ***The Right to Housing***

Much more than simply a roof over one's head. Housing needs a habitable space that fulfills the basic needs of humans to personal space, security and protection from the weather. Right to housing means people must have equal access to a safe, habitable, and affordable home. It also means people must be protected against forced evictions.

### ***The minimum requirements include:***

**Legal security of tenure:** protects people from eviction, harassment, and other threats. State must enforce security of tenure in consultation with affected groups.

**Availability of services, materials, facilities, and infrastructure:** there must be safe drinking water, energy for cooking, heating, sanitation facilities, refuse disposal, storage and emergency services.

**Affordability:** the cost of housing should not compromise the satisfaction of other basic needs.

**Habitability:** housing must protect its inhabitants from cold, damp, heat, rain, or other health threats and structural hazards. It must also provide adequate space.

**Accessibility:** all people are entitled to adequate housing, and disadvantaged groups must be accorded full and sustainable access to housing.

**Location:** housing should be located in areas with access to employment options, healthcare services, schools, child care, and other social facilities in both urban and rural areas. Housing should not be built on or near polluted sites or sources of pollution.

**Cultural adequacy:** activities geared towards development or modernisation of housing should ensure that the cultural dimensions of housing are not sacrificed, while simultaneously ensuring modern technical facilities.

***International instruments on the right to housing include:***

- ✓ Universal Declaration of Human Rights, Article 11.
- ✓ International Covenant on Economic, Social and Cultural Rights.
- ✓ Committee on Economic, Social and Cultural Rights: General Comment 4 & 7.
- ✓ Convention on the Elimination of All Forms of Discrimination against Women.
- ✓ International Convention on the Elimination of All Forms of Racial Discrimination.





### ***Right to Adequate Standard of Living***

The right to an adequate standard of living encompasses several more specific rights: the right to food, the right to health, the right to water, the right to necessary social services, the right to clothing, and the right to housing. The right to an adequate standard of living requires governments to consistently improve these rights. Such 'progressive realisation' means that any legal or political developments that diminish current protections are prohibited. Legally, this right is protected by Article 11 of the International Covenant on Economic, Social and Cultural Rights and Article 25 of the Universal Declaration of Human Rights Obligations under all rights



***The Centre for Economic and Social Rights is a  
useful source:***

<http://cesr.org/food>

<http://cesr.org/food/instruments>

<http://www.cesr.org/health>

<http://academic.udayton.edu/health/07HumanRights/health>

<http://cesr.org/education>

<http://cesr.org/education/instruments>

<http://cesr.org/work>

<http://cesr.org/work/instruments>

<http://cesr.org/healthyenvironment>

<http://cesr.org/healthyenvironment/instruments>

<http://cesr.org/housing>

<http://cesr.org/housing/instruments>

<http://cesr.org/adequate>

